

SENATE AMENDMENTS

2nd Printing

By: Zerwas

H.B. No. 4635

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Orchard Management District No. 1;
3 providing authority to issue bonds; providing authority to impose
4 assessments, fees, and taxes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle C, Title 4, Special District Local Laws
7 Code, is amended by adding Chapter 3792 to read as follows:

8 CHAPTER 3792. ORCHARD MANAGEMENT DISTRICT NO. 1

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 3792.0101. DEFINITIONS. In this chapter:

11 (1) "Board" means the district's board of directors.

12 (2) "Commission" means the Texas Commission on
13 Environmental Quality.

14 (3) "County" means Fort Bend County.

15 (4) "Director" means a board member.

16 (5) "District" means the Orchard Management District
17 No. 1.

18 Sec. 3792.0102. CREATION AND NATURE OF DISTRICT; IMMUNITY.

19 (a) The district is a special district created under Section 59,
20 Article XVI, Texas Constitution.

21 (b) The district is a governmental unit, as provided by
22 Section 375.004, Local Government Code.

23 (c) This chapter does not waive any governmental or
24 sovereign immunity from suit, liability, or judgment that would

1 otherwise apply to the district.

2 Sec. 3792.0103. PURPOSE; DECLARATION OF INTENT. (a) The
3 creation of the district is essential to accomplish the purposes of
4 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
5 Texas Constitution, and other public purposes stated in this
6 chapter.

7 (b) By creating the district, the legislature has
8 established a program to accomplish the public purposes set out in
9 Sections 52 and 52-a, Article III, Texas Constitution.

10 (c) The creation of the district is necessary to promote,
11 develop, encourage, and maintain employment, commerce,
12 transportation, housing, tourism, recreation, the arts,
13 entertainment, economic development, safety, and the public
14 welfare in the district.

15 (d) This chapter and the creation of the district may not be
16 interpreted to relieve the county or a municipality from providing
17 the level of services provided as of the effective date of the Act
18 enacting this chapter to the area in the district. The district is
19 created to supplement and not to supplant county or municipal
20 services provided in the district.

21 Sec. 3792.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

22 (a) All land and other property included in the district will
23 benefit from the improvements and services to be provided by the
24 district under powers conferred by Sections 52 and 52-a, Article
25 III, and Section 59, Article XVI, Texas Constitution, and other
26 powers granted under this chapter.

27 (b) The district is created to serve a public use and

1 benefit.

2 (c) The creation of the district is in the public interest
3 and is essential to further the public purposes of:

4 (1) developing and diversifying the economy of the
5 state;

6 (2) eliminating unemployment and underemployment; and

7 (3) developing or expanding transportation and
8 commerce.

9 (d) The district will:

10 (1) promote the health, safety, and general welfare of
11 residents, employers, potential employees, employees, visitors,
12 and consumers in the district, and of the public;

13 (2) provide needed funding for the district to
14 preserve, maintain, and enhance the economic health and vitality of
15 the district territory as a community and business center;

16 (3) promote the health, safety, welfare, and enjoyment
17 of the public by providing pedestrian ways, road facilities,
18 transit facilities, parking facilities, rail facilities,
19 recreational facilities, and public art objects and by landscaping
20 and developing certain areas in the district, which are necessary
21 for the restoration, preservation, and enhancement of scenic
22 beauty; and

23 (4) provide for water, wastewater, and drainage
24 facilities for the district.

25 (e) Pedestrian ways along or across a street, whether at
26 grade or above or below the surface, and street lighting, street
27 landscaping, parking, and street art objects are parts of and

1 necessary components of a street and are considered to be a street
2 or road improvement.

3 (f) The district will not act as the agent or
4 instrumentality of any private interest even though the district
5 will benefit many private interests as well as the public.

6 Sec. 3792.0105. INITIAL DISTRICT TERRITORY. (a) The
7 district is initially composed of the territory described by
8 Section 2 of the Act enacting this chapter.

9 (b) The boundaries and field notes contained in Section 2 of
10 the Act enacting this chapter form a closure. A mistake in the
11 field notes or in copying the field notes in the legislative process
12 does not affect the district's:

13 (1) organization, existence, or validity;

14 (2) right to issue any type of bonds for the purposes
15 for which the district is created or to pay the principal of and
16 interest on the bonds;

17 (3) right to impose or collect an assessment or tax; or

18 (4) legality or operation.

19 Sec. 3792.0106. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
20 All or any part of the area of the district is eligible to be
21 included in:

22 (1) a tax increment reinvestment zone created under
23 Chapter 311, Tax Code;

24 (2) a tax abatement reinvestment zone created under
25 Chapter 312, Tax Code;

26 (3) an enterprise zone created under Chapter 2303,
27 Government Code; or

1 (4) an industrial district created under Chapter 42,
2 Local Government Code.

3 Sec. 3792.0107. APPLICABILITY OF MUNICIPAL MANAGEMENT
4 DISTRICTS LAW. Except as otherwise provided by this chapter,
5 Chapter 375, Local Government Code, applies to the district.

6 Sec. 3792.0108. LIBERAL CONSTRUCTION OF CHAPTER. This
7 chapter shall be liberally construed in conformity with the
8 findings and purposes stated in this chapter.

9 Sec. 3792.0109. CONFLICTS OF LAW. This chapter prevails
10 over any provision of general law, including a provision of Chapter
11 375, Local Government Code, or Chapter 49, Water Code, that is in
12 conflict or inconsistent with this chapter.

13 SUBCHAPTER B. BOARD OF DIRECTORS

14 Sec. 3792.0201. GOVERNING BODY; TERMS. (a) The district is
15 governed by a board of five directors elected or appointed as
16 provided by this chapter and Subchapter D, Chapter 49, Water Code.

17 (b) Except as provided by Section 3792.0203, directors
18 serve staggered four-year terms.

19 Sec. 3792.0202. COMPENSATION. A director is entitled to
20 receive fees of office and reimbursement for actual expenses as
21 provided by Section 49.060, Water Code. Sections 375.069 and
22 375.070, Local Government Code, do not apply to the board.

23 Sec. 3792.0203. TEMPORARY DIRECTORS. (a) On or after the
24 effective date of the Act enacting this chapter, the owner or owners
25 of a majority of the assessed value of the real property in the
26 district according to the most recent certified tax appraisal roll
27 for the county may submit a petition to the commission requesting

1 that the commission appoint as temporary directors the five persons
2 named in the petition. The commission shall appoint as temporary
3 directors the five persons named in the petition.

4 (b) The temporary directors shall hold an election to elect
5 five permanent directors as provided by Section 49.102, Water Code.

6 (c) Temporary directors serve until the earlier of:

7 (1) the date permanent directors are elected under
8 Subsection (b); or

9 (2) the fourth anniversary of the effective date of
10 the Act enacting this chapter.

11 (d) If permanent directors have not been elected under
12 Subsection (b) and the terms of the temporary directors have
13 expired, successor temporary directors shall be appointed or
14 reappointed as provided by Subsection (e) to serve terms that
15 expire on the earlier of:

16 (1) the date permanent directors are elected under
17 Subsection (b); or

18 (2) the fourth anniversary of the date of the
19 appointment or reappointment.

20 (e) If Subsection (d) applies, the owner or owners of a
21 majority of the assessed value of the real property in the district
22 according to the most recent certified tax appraisal roll for the
23 county may submit a petition to the commission requesting that the
24 commission appoint as successor temporary directors the five
25 persons named in the petition. The commission shall appoint as
26 successor temporary directors the five persons named in the
27 petition.

1 Sec. 3792.0204. DISQUALIFICATION OF DIRECTORS. Section
2 49.052, Water Code, applies to the members of the board.

3 SUBCHAPTER C. POWERS AND DUTIES

4 Sec. 3792.0301. GENERAL POWERS AND DUTIES. The district
5 has the powers and duties necessary to accomplish the purposes for
6 which the district is created.

7 Sec. 3792.0302. IMPROVEMENT PROJECTS AND SERVICES. (a)
8 The district, using any money available to the district for the
9 purpose, may provide, design, construct, acquire, improve,
10 relocate, operate, maintain, or finance an improvement project or
11 service authorized under this chapter or Chapter 375, Local
12 Government Code.

13 (b) The district may contract with a governmental or private
14 entity to carry out an action under Subsection (a).

15 (c) The implementation of a district project or service is a
16 governmental function or service for the purposes of Chapter 791,
17 Government Code.

18 Sec. 3792.0303. RECREATIONAL FACILITIES. The district may
19 develop or finance recreational facilities as authorized by Chapter
20 375, Local Government Code, Sections 52 and 52-a, Article III,
21 Texas Constitution, Section 59, Article XVI, Texas Constitution,
22 and any other law that applies to the district.

23 Sec. 3792.0304. AUTHORITY FOR ROAD PROJECTS. Under Section
24 52, Article III, Texas Constitution, the district may own, operate,
25 maintain, design, acquire, construct, finance, issue bonds, notes,
26 or other obligations for, improve, and convey to this state, a
27 county, or a municipality for ownership, operation, and maintenance

1 macadamized, graveled, or paved roads or improvements, including
2 storm drainage, in aid of those roads.

3 Sec. 3792.0305. CONVEYANCE AND APPROVAL OF ROAD PROJECT.

4 (a) The district may convey a road project authorized by Section
5 3792.0304 to:

6 (1) a municipality or county that will operate and
7 maintain the road if the municipality or county has approved the
8 plans and specifications of the road project; or

9 (2) the state if the state will operate and maintain
10 the road and the Texas Transportation Commission has approved the
11 plans and specifications of the road project.

12 (b) Except as provided by Subsection (c), the district shall
13 operate and maintain a road project authorized by Section 3792.0304
14 that the district implements and does not convey to a municipality,
15 a county, or this state under Subsection (a).

16 (c) The district may agree in writing with a municipality, a
17 county, or this state to assign operation and maintenance duties to
18 the district, the municipality, the county, or this state in a
19 manner other than the manner described in Subsections (a) and (b).

20 Sec. 3792.0306. RAIL FACILITIES. In addition to the powers
21 granted under Section 375.0921(b), Local Government Code, the
22 district may construct, acquire, improve, maintain, finance, and
23 operate rail facilities and improvements in aid of those facilities
24 for the transport of freight and other cargo.

25 Sec. 3792.0307. NONPROFIT CORPORATION. (a) The board by
26 resolution may authorize the creation of a nonprofit corporation to
27 assist and act for the district in implementing a project or

1 providing a service authorized by this chapter.

2 (b) The nonprofit corporation:

3 (1) has each power of and is considered to be a local
4 government corporation created under Subchapter D, Chapter 431,
5 Transportation Code; and

6 (2) may implement any project and provide any service
7 authorized by this chapter.

8 (c) The board shall appoint the board of directors of the
9 nonprofit corporation. The board of directors of the nonprofit
10 corporation shall serve in the same manner as the board of directors
11 of a local government corporation created under Subchapter D,
12 Chapter 431, Transportation Code, except that a board member is not
13 required to reside in the district.

14 Sec. 3792.0308. LAW ENFORCEMENT SERVICES. Section 49.216,
15 Water Code, applies to the district.

16 Sec. 3792.0309. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.
17 The district may join and pay dues to a charitable or nonprofit
18 organization that performs a service or provides an activity
19 consistent with the furtherance of a district purpose.

20 Sec. 3792.0310. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
21 district may engage in activities that accomplish the economic
22 development purposes of the district.

23 (b) The district may establish and provide for the
24 administration of one or more programs to promote state or local
25 economic development and to stimulate business and commercial
26 activity in the district, including programs to:

27 (1) make loans and grants of public money; and

1 (2) provide district personnel and services.

2 (c) The district may create economic development programs
3 and exercise the economic development powers that:

4 (1) Chapter 380, Local Government Code, provides to a
5 municipality; and

6 (2) Subchapter A, Chapter 1509, Government Code,
7 provides to a municipality.

8 Sec. 3792.0311. STRATEGIC PARTNERSHIP AGREEMENT. The
9 district may negotiate and enter into a written strategic
10 partnership agreement with a municipality under Section 43.0751,
11 Local Government Code.

12 Sec. 3792.0312. REGIONAL PARTICIPATION AGREEMENT. The
13 district may negotiate and enter into a written regional
14 participation agreement with a municipality under Section 43.0754,
15 Local Government Code.

16 Sec. 3792.0313. PARKING FACILITIES. (a) The district may
17 acquire, lease as lessor or lessee, construct, develop, own,
18 operate, and maintain parking facilities or a system of parking
19 facilities, including lots, garages, parking terminals, or other
20 structures or accommodations for parking motor vehicles off the
21 streets and related appurtenances.

22 (b) The district's parking facilities serve the public
23 purposes of the district and are owned, used, and held for a public
24 purpose even if leased or operated by a private entity for a term of
25 years.

26 (c) The district's parking facilities are parts of and
27 necessary components of a street and are considered to be a street

1 or road improvement.

2 (d) The development and operation of the district's parking
3 facilities may be considered an economic development program.

4 Sec. 3792.0314. ADDING OR EXCLUDING LAND. (a) The district
5 may add land as provided by Subchapter J, Chapter 49, Water Code.

6 (b) The district may exclude land as provided by Subchapter
7 J, Chapter 49, Water Code. Section 375.044(b), Local Government
8 Code, does not apply to the district.

9 (c) The district may include and exclude land as provided by
10 Sections 54.739-54.747, Water Code. A reference in those sections
11 to a "tax" means an ad valorem tax for the purposes of this
12 subsection.

13 (d) If the district adopts a sales and use tax authorized at
14 an election held under Section 3792.0602 and subsequently includes
15 new territory in the district under this section, the district:

16 (1) is not required to hold another election to
17 approve the imposition of the sales and use tax in the included
18 territory; and

19 (2) shall impose the sales and use tax in the included
20 territory as provided by Chapter 321, Tax Code.

21 (e) If the district adopts a sales and use tax authorized at
22 an election held under Section 3792.0602 and subsequently excludes
23 territory in the district under this section, the sales and use tax
24 is inapplicable to the excluded territory, as provided by Chapter
25 321, Tax Code, but is applicable to the territory remaining in the
26 district.

27 Sec. 3792.0315. DISBURSEMENTS AND TRANSFERS OF MONEY. The

1 board by resolution shall establish the number of directors'
2 signatures and the procedure required for a disbursement or
3 transfer of district money.

4 Sec. 3792.0316. AUDIT EXEMPTION. (a) The district may
5 elect to complete an annual financial report in lieu of an annual
6 audit under Section 375.096(a)(6), Local Government Code, if:

7 (1) the district had no bonds or other long-term (more
8 than one year) liabilities outstanding during the fiscal period;

9 (2) the district did not have gross receipts from
10 operations, loans, taxes, assessments, or contributions in excess
11 of \$250,000 during the fiscal period; and

12 (3) the district's cash and temporary investments were
13 not in excess of \$250,000 during the fiscal period.

14 (b) Each annual financial report prepared in accordance
15 with this section must be open to public inspection and accompanied
16 by an affidavit signed by a duly authorized representative of the
17 district attesting to the accuracy and authenticity of the
18 financial report.

19 (c) The annual financial report and affidavit shall be
20 substantially similar in form to the annual financial report and
21 affidavit forms prescribed by the executive director of the
22 commission under Section 49.198, Water Code.

23 Sec. 3792.0317. NO EMINENT DOMAIN POWER. The district may
24 not exercise the power of eminent domain.

25 SUBCHAPTER D. ASSESSMENTS

26 Sec. 3792.0401. PETITION REQUIRED FOR FINANCING SERVICES
27 AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a

1 service or improvement project with assessments under this chapter
2 unless a written petition requesting that service or improvement
3 has been filed with the board.

4 (b) A petition filed under Subsection (a) must be signed by
5 the owners of a majority of the assessed value of real property in
6 the district subject to assessment according to the most recent
7 certified tax appraisal roll for the county.

8 Sec. 3792.0402. METHOD OF NOTICE FOR HEARING. The district
9 may mail the notice required by Section 375.115(c), Local
10 Government Code, by certified or first class United States mail.
11 The board shall determine the method of notice.

12 Sec. 3792.0403. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
13 The board by resolution may impose and collect an assessment for any
14 purpose authorized by this chapter in all or any part of the
15 district.

16 (b) An assessment, a reassessment, or an assessment
17 resulting from an addition to or correction of the assessment roll
18 by the district, penalties and interest on an assessment or
19 reassessment, an expense of collection, and reasonable attorney's
20 fees incurred by the district:

21 (1) are a first and prior lien against the property
22 assessed;

23 (2) are superior to any other lien or claim other than
24 a lien or claim for county, school district, or municipal ad valorem
25 taxes; and

26 (3) are the personal liability of and a charge against
27 the owners of the property even if the owners are not named in the

1 assessment proceedings.

2 (c) The lien is effective from the date of the board's
3 resolution imposing the assessment until the date the assessment is
4 paid. The board may enforce the lien in the same manner that the
5 board may enforce an ad valorem tax lien against real property.

6 (d) The board may make a correction to or deletion from the
7 assessment roll that does not increase the amount of assessment of
8 any parcel of land without providing notice and holding a hearing in
9 the manner required for additional assessments.

10 SUBCHAPTER E. TAXES AND BONDS

11 Sec. 3792.0501. TAX ELECTION REQUIRED. The district must
12 hold an election in the manner provided by Chapter 49, Water Code,
13 or, if applicable, Chapter 375, Local Government Code, to obtain
14 voter approval before the district may impose an ad valorem tax.

15 Sec. 3792.0502. OPERATION AND MAINTENANCE TAX. (a) If
16 authorized by a majority of the district voters voting at an
17 election under Section 3792.0501, the district may impose an
18 operation and maintenance tax on taxable property in the district
19 in the manner provided by Section 49.107, Water Code, for any
20 district purpose, including to:

- 21 (1) maintain and operate the district;
22 (2) construct or acquire improvements; or
23 (3) provide a service.

24 (b) The board shall determine the operation and maintenance
25 tax rate. The rate may not exceed the rate approved at the
26 election.

27 (c) Section 49.107(h), Water Code, does not apply to the

1 district.

2 Sec. 3792.0503. AUTHORITY TO BORROW MONEY AND TO ISSUE
3 BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on
4 terms determined by the board.

5 (b) The district, by competitive bid or negotiated sale, may
6 issue bonds, notes, or other obligations payable wholly or partly
7 from ad valorem taxes, assessments, impact fees, revenue, contract
8 payments, grants, or other district money, or any combination of
9 those sources of money, to pay for any authorized district purpose.

10 (c) The limitation on the outstanding principal amount of
11 bonds, notes, or other obligations provided by Section 49.4645,
12 Water Code, does not apply to the district.

13 Sec. 3792.0504. BONDS SECURED BY REVENUE OR CONTRACT
14 PAYMENTS. The district may issue, without an election, bonds
15 secured by:

16 (1) revenue other than ad valorem taxes, including
17 contract revenues; or

18 (2) contract payments, provided that the requirements
19 of Section 49.108, Water Code, have been met.

20 Sec. 3792.0505. BONDS SECURED BY AD VALOREM TAXES;
21 ELECTIONS. (a) If authorized at an election under Section
22 3792.0501, the district may issue bonds payable from ad valorem
23 taxes.

24 (b) Section 375.243, Local Government Code, does not apply
25 to the district.

26 (c) At the time the district issues bonds payable wholly or
27 partly from ad valorem taxes, the board shall provide for the annual

1 imposition of a continuing direct annual ad valorem tax, without
2 limit as to rate or amount, for each year that all or part of the
3 bonds are outstanding as required and in the manner provided by
4 Sections 54.601 and 54.602, Water Code.

5 (d) All or any part of any facilities or improvements that
6 may be acquired by a district by the issuance of its bonds may be
7 submitted as a single proposition or as several propositions to be
8 voted on at the election.

9 Sec. 3792.0506. CONSENT OF MUNICIPALITY REQUIRED. (a) The
10 board may not hold an election under Section 3792.0501, issue
11 bonds, or incur any debt until each municipality in whose corporate
12 limits or extraterritorial jurisdiction the district is located has
13 consented by ordinance or resolution to the creation of the
14 district and to the inclusion of land in the district.

15 (b) This section applies only to the district's first
16 issuance of bonds payable from ad valorem taxes.

17 SUBCHAPTER F. SALES AND USE TAX

18 Sec. 3792.0601. APPLICABILITY OF CERTAIN TAX CODE
19 PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition,
20 computation, administration, enforcement, and collection of the
21 sales and use tax authorized by this subchapter except to the extent
22 Chapter 321, Tax Code, is inconsistent with this chapter.

23 (b) A reference in Chapter 321, Tax Code, to a municipality
24 or the governing body of a municipality is a reference to the
25 district or the board, respectively.

26 Sec. 3792.0602. ELECTION; ADOPTION OF TAX. (a) The
27 district may adopt a sales and use tax if authorized by a majority

1 of the voters of the district voting at an election held for that
2 purpose.

3 (b) The board by order may call an election to authorize the
4 adoption of the sales and use tax. The election may be held on any
5 uniform election date and in conjunction with any other district
6 election.

7 (c) The ballot shall be printed to provide for voting for or
8 against the proposition: "Authorization of a sales and use tax in
9 the Orchard Management District No. 1 at a rate not to exceed _____
10 percent" (insert rate of one or more increments of one-eighth of one
11 percent).

12 Sec. 3792.0603. SALES AND USE TAX RATE. (a) On or after the
13 date the results are declared of an election held under Section
14 3792.0602, at which the voters approved imposition of the tax
15 authorized by this subchapter, the board shall determine and adopt
16 by resolution or order the initial rate of the tax, which must be in
17 one or more increments of one-eighth of one percent.

18 (b) After the election held under Section 3792.0602, the
19 board may increase or decrease the rate of the tax by one or more
20 increments of one-eighth of one percent.

21 (c) The initial rate of the tax or any rate resulting from
22 subsequent increases or decreases may not exceed the lesser of:

23 (1) the maximum rate authorized by the district voters
24 at the election held under Section 3792.0602; or

25 (2) a rate that, when added to the rates of all sales
26 and use taxes imposed by other political subdivisions with
27 territory in the district, would result in the maximum combined

1 rate prescribed by Section 321.101(f), Tax Code, at any location in
2 the district.

3 Sec. 3792.0604. TAX AFTER MUNICIPAL ANNEXATION. (a) This
4 section applies to the district after a municipality annexes part
5 of the territory in the district and imposes the municipality's
6 sales and use tax in the annexed territory.

7 (b) If at the time of annexation the district has
8 outstanding debt or other obligations payable wholly or partly from
9 district sales and use tax revenue, Section 321.102(g), Tax Code,
10 applies to the district.

11 (c) If at the time of annexation the district does not have
12 outstanding debt or other obligations payable wholly or partly from
13 district sales and use tax revenue, the district may:

14 (1) exclude the annexed territory from the district,
15 if the district has no outstanding debt or other obligations
16 payable from any source; or

17 (2) reduce the sales and use tax in the annexed
18 territory by resolution or order of the board to a rate that, when
19 added to the sales and use tax rate imposed by the municipality in
20 the annexed territory, is equal to the sales and use tax rate
21 imposed by the district in the district territory that was not
22 annexed by the municipality.

23 Sec. 3792.0605. NOTIFICATION OF RATE CHANGE. The board
24 shall notify the comptroller of any changes made to the tax rate
25 under this subchapter in the same manner the municipal secretary
26 provides notice to the comptroller under Section 321.405(b), Tax
27 Code.

1 Sec. 3792.0606. USE OF REVENUE. Revenue from the sales and
2 use tax imposed under this subchapter is for the use and benefit of
3 the district and may be used for any district purpose. The district
4 may pledge all or part of the revenue to the payment of bonds,
5 notes, or other obligations, and that pledge of revenue may be in
6 combination with other revenue, including tax revenue, available to
7 the district.

8 Sec. 3792.0607. ABOLITION OF TAX. (a) Except as provided
9 by Subsection (b), the board may abolish the tax imposed under this
10 subchapter without an election.

11 (b) The board may not abolish the tax imposed under this
12 subchapter if the district has outstanding debt secured by the tax,
13 and repayment of the debt would be impaired by the abolition of the
14 tax.

15 (c) If the board abolishes the tax, the board shall notify
16 the comptroller of that action in the same manner the municipal
17 secretary provides notice to the comptroller under Section
18 321.405(b), Tax Code.

19 (d) If the board abolishes the tax or decreases the tax rate
20 to zero, a new election to authorize a sales and use tax must be held
21 under Section 3792.0602 before the district may subsequently impose
22 the tax.

23 (e) This section does not apply to a decrease in the sales
24 and use tax authorized under Section 3792.0604(c)(2).

25 SUBCHAPTER G. DISSOLUTION

26 Sec. 3792.0701. DISSOLUTION OF DISTRICT WITH OUTSTANDING
27 DEBT. (a) The board may dissolve the district regardless of

1 whether the district has debt. Section 375.264, Local Government
2 Code, does not apply to the district.

3 (b) If the district has debt when it is dissolved, the
4 district shall remain in existence solely for the purpose of
5 discharging its debts. The dissolution is effective when all debts
6 have been discharged.

7 SECTION 2. The Orchard Management District No. 1 initially
8 includes all the territory contained in the following area:

9 A Field Note Description of 920 Acres of Land, more or less,
10 being the Easterly 287.5 Acres of Land, more or less, of the German
11 Emigration Company Survey No. 6, Abstract 176 and 632.5 Acres of
12 Land, more or less, being the remainder of the David Scott Heirs
13 Survey, Abstract 316, Fort Bend County, Texas.

14 Beginning at a point in the South line of the Gail Borden
15 League, Abstract 12 marking the Northwest corner of the Peter
16 McGreal Survey, Abstract 338 and Northeast corner of said German
17 Emigration Company Survey No. 6, Abstract 176 and the Northeast
18 corner of and place of beginning for this 920 Acre Tract;

19 THENCE, South, 3279.63 feet, more or less, along the East
20 line of said German Emigration Company Survey No. 6, Abstract 176
21 and the West line of said Peter McGreal Survey, Abstract 338 to the
22 Southeast corner of said German Emigration Company Survey No. 6,
23 Abstract 176 and the Southwest corner of said Peter McGreal Survey,
24 Abstract 338 to a point marking a re-entrant corner for this tract;

25 THENCE, East, 1120 feet, more or less, along the North line of
26 the David Scott Heirs Survey, Abstract 316 and the South line of
27 said Peter McGreal Survey, Abstract 338 to a point marking the

1 Northeast corner of said David Scott Heirs Survey, Abstract 316 and
2 Northwest corner of the German Emigration Company Survey No. 8,
3 Abstract 177 and marking a Southerly Northeast corner for this
4 tract;

5 THENCE, South, 5445 feet, more or less, along the East line of
6 said David Scott Heirs Survey, Abstract 316 and West line of said
7 German Emigration Company Survey No. 8, Abstract 177 and Heirs of
8 L. Burknapp Survey, Abstract 109 to the Southeast corner of said
9 David Scott Heirs Survey, Abstract 316 for the Southeast corner of
10 this tract; said corner also marking the Northeast corner of the
11 Mark Smith Survey, Abstract 314;

12 THENCE, West, 5060 feet, more or less, along the North line of
13 the Mark Smith Survey, Abstract 314 and South line of said David
14 Scott Heirs Survey, Abstract 316 to a point in the East right-of-way
15 line of State Farm Market Road No. 1489 marking the Southwest
16 corner for this tract;

17 THENCE, North, along said East right-of-way line of said
18 State Farm Market Road No. 1489, at 5445 feet, more or less, pass
19 the North line of said David Scott Heirs Survey, Abstract 316 and
20 South line of said German Emigration Company Survey No. 6, Abstract
21 176, in all 7487.25 feet, more or less, to the point of curve to the
22 right;

23 THENCE, Continuing along said Southeast right-of-way line of
24 State Farm Market Road No. 1489, Northeasterly along a curve to the
25 right with the following data: Delta=63degrees 19'06',
26 Radius=1086.28 feet, Length=1200.48 feet and Chord= North
27 31deg.39'33" East, 1140.3 feet, more or less to point of tangency;

1 THENCE, North 63deg.19'06" East, 594.11 feet, more or less
2 along said Southeast right-of-way line of State Farm Market Road
3 No. 1489 to a point in the South line of said Gail Borden League,
4 Abstract 12 marking the Northwest corner for this tract;

5 THENCE, East, 2810.65 feet, more or less, along said South
6 line of said Gail Borden League, Abstract 12 and North line of said
7 German Emigration Company Survey No. 6 to the place of beginning
8 and containing 920 Acres of Land, more or less.

9 SECTION 3. (a) The legal notice of the intention to
10 introduce this Act, setting forth the general substance of this
11 Act, has been published as provided by law, and the notice and a
12 copy of this Act have been furnished to all persons, agencies,
13 officials, or entities to which they are required to be furnished
14 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
15 Government Code.

16 (b) The governor, one of the required recipients, has
17 submitted the notice and Act to the Texas Commission on
18 Environmental Quality.

19 (c) The Texas Commission on Environmental Quality has filed
20 its recommendations relating to this Act with the governor,
21 lieutenant governor, and speaker of the house of representatives
22 within the required time.

23 (d) All requirements of the constitution and laws of this
24 state and the rules and procedures of the legislature with respect
25 to the notice, introduction, and passage of this Act have been
26 fulfilled and accomplished.

27 SECTION 4. This Act takes effect immediately if it receives

H.B. No. 4635

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2019.

ADOPTED

MAY 21 2019

Letay Spaw
Secretary of the Senate

By: Zerwas/Kolkhorst

H.B. No. 4635

Substituted the following for H.B. No. 4635 :

By: 

C.S. .B. No.

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Orchard Management District No. 1;
3 providing authority to issue bonds; providing authority to impose
4 assessments, fees, and taxes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle C, Title 4, Special District Local Laws
7 Code, is amended by adding Chapter 3792 to read as follows:

8 CHAPTER 3792. ORCHARD MANAGEMENT DISTRICT NO. 1

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 3792.0101. DEFINITIONS. In this chapter:

11 (1) "Board" means the district's board of directors.

12 (2) "Commission" means the Texas Commission on
13 Environmental Quality.

14 (3) "County" means Fort Bend County.

15 (4) "Director" means a board member.

16 (5) "District" means the Orchard Management District
17 No. 1.

18 Sec. 3792.0102. CREATION AND NATURE OF DISTRICT; IMMUNITY.

19 (a) The district is a special district created under Section 59,
20 Article XVI, Texas Constitution.

21 (b) The district is a governmental unit, as provided by
22 Section 375.004, Local Government Code.

23 (c) This chapter does not waive any governmental or
24 sovereign immunity from suit, liability, or judgment that would

1 otherwise apply to the district.

2 Sec. 3792.0103. PURPOSE; DECLARATION OF INTENT. (a) The
3 creation of the district is essential to accomplish the purposes of
4 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
5 Texas Constitution, and other public purposes stated in this
6 chapter.

7 (b) By creating the district, the legislature has
8 established a program to accomplish the public purposes set out in
9 Sections 52 and 52-a, Article III, Texas Constitution.

10 (c) The creation of the district is necessary to promote,
11 develop, encourage, and maintain employment, commerce,
12 transportation, housing, tourism, recreation, the arts,
13 entertainment, economic development, safety, and the public
14 welfare in the district.

15 (d) This chapter and the creation of the district may not be
16 interpreted to relieve the county or a municipality from providing
17 the level of services provided as of the effective date of the Act
18 enacting this chapter to the area in the district. The district is
19 created to supplement and not to supplant county or municipal
20 services provided in the district.

21 Sec. 3792.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

22 (a) All land and other property included in the district will
23 benefit from the improvements and services to be provided by the
24 district under powers conferred by Sections 52 and 52-a, Article
25 III, and Section 59, Article XVI, Texas Constitution, and other
26 powers granted under this chapter.

27 (b) The district is created to serve a public use and

1 benefit.

2 (c) The creation of the district is in the public interest
3 and is essential to further the public purposes of:

4 (1) developing and diversifying the economy of the
5 state;

6 (2) eliminating unemployment and underemployment; and

7 (3) developing or expanding transportation and
8 commerce.

9 (d) The district will:

10 (1) promote the health, safety, and general welfare of
11 residents, employers, potential employees, employees, visitors,
12 and consumers in the district, and of the public;

13 (2) provide needed funding for the district to
14 preserve, maintain, and enhance the economic health and vitality of
15 the district territory as a community and business center;

16 (3) promote the health, safety, welfare, and enjoyment
17 of the public by providing pedestrian ways, road facilities,
18 transit facilities, parking facilities, rail facilities,
19 recreational facilities, and public art objects and by landscaping
20 and developing certain areas in the district, which are necessary
21 for the restoration, preservation, and enhancement of scenic
22 beauty; and

23 (4) provide for water, wastewater, and drainage
24 facilities for the district.

25 (e) Pedestrian ways along or across a street, whether at
26 grade or above or below the surface, and street lighting, street
27 landscaping, parking, and street art objects are parts of and

1 necessary components of a street and are considered to be a street
2 or road improvement.

3 (f) The district will not act as the agent or
4 instrumentality of any private interest even though the district
5 will benefit many private interests as well as the public.

6 Sec. 3792.0105. INITIAL DISTRICT TERRITORY. (a) The
7 district is initially composed of the territory described by
8 Section 2 of the Act enacting this chapter.

9 (b) The boundaries and field notes contained in Section 2 of
10 the Act enacting this chapter form a closure. A mistake in the
11 field notes or in copying the field notes in the legislative process
12 does not affect the district's:

13 (1) organization, existence, or validity;

14 (2) right to issue any type of bonds for the purposes
15 for which the district is created or to pay the principal of and
16 interest on the bonds;

17 (3) right to impose or collect an assessment or tax; or

18 (4) legality or operation.

19 Sec. 3792.0106. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

20 All or any part of the area of the district is eligible to be
21 included in:

22 (1) a tax increment reinvestment zone created under
23 Chapter 311, Tax Code;

24 (2) a tax abatement reinvestment zone created under
25 Chapter 312, Tax Code;

26 (3) an enterprise zone created under Chapter 2303,
27 Government Code; or

1 (4) an industrial district created under Chapter 42,
2 Local Government Code.

3 Sec. 3792.0107. APPLICABILITY OF MUNICIPAL MANAGEMENT
4 DISTRICTS LAW. Except as otherwise provided by this chapter,
5 Chapter 375, Local Government Code, applies to the district.

6 Sec. 3792.0108. LIBERAL CONSTRUCTION OF CHAPTER. This
7 chapter shall be liberally construed in conformity with the
8 findings and purposes stated in this chapter.

9 Sec. 3792.0109. CONFLICTS OF LAW. This chapter prevails
10 over any provision of general law, including a provision of Chapter
11 375, Local Government Code, or Chapter 49, Water Code, that is in
12 conflict or inconsistent with this chapter.

13 SUBCHAPTER B. BOARD OF DIRECTORS

14 Sec. 3792.0201. GOVERNING BODY; TERMS. (a) The district is
15 governed by a board of five directors elected or appointed as
16 provided by this chapter and Subchapter D, Chapter 49, Water Code.

17 (b) Except as provided by Section 3792.0203, directors
18 serve staggered four-year terms.

19 Sec. 3792.0202. COMPENSATION. A director is entitled to
20 receive fees of office and reimbursement for actual expenses as
21 provided by Section 49.060, Water Code. Sections 375.069 and
22 375.070, Local Government Code, do not apply to the board.

23 Sec. 3792.0203. TEMPORARY DIRECTORS. (a) On or after the
24 effective date of the Act enacting this chapter, the owner or owners
25 of a majority of the assessed value of the real property in the
26 district according to the most recent certified tax appraisal roll
27 for the county may submit a petition to the commission requesting

1 that the commission appoint as temporary directors the five persons
2 named in the petition. The commission shall appoint as temporary
3 directors the five persons named in the petition.

4 (b) The temporary directors shall hold an election to elect
5 five permanent directors as provided by Section 49.102, Water Code.

6 (c) Temporary directors serve until the earlier of:

7 (1) the date permanent directors are elected under
8 Subsection (b); or

9 (2) the fourth anniversary of the effective date of
10 the Act enacting this chapter.

11 (d) If permanent directors have not been elected under
12 Subsection (b) and the terms of the temporary directors have
13 expired, successor temporary directors shall be appointed or
14 reappointed as provided by Subsection (e) to serve terms that
15 expire on the earlier of:

16 (1) the date permanent directors are elected under
17 Subsection (b); or

18 (2) the fourth anniversary of the date of the
19 appointment or reappointment.

20 (e) If Subsection (d) applies, the owner or owners of a
21 majority of the assessed value of the real property in the district
22 according to the most recent certified tax appraisal roll for the
23 county may submit a petition to the commission requesting that the
24 commission appoint as successor temporary directors the five
25 persons named in the petition. The commission shall appoint as
26 successor temporary directors the five persons named in the
27 petition.

1 Sec. 3792.0204. DISQUALIFICATION OF DIRECTORS. Section
2 49.052, Water Code, applies to the members of the board.

3 SUBCHAPTER C. POWERS AND DUTIES

4 Sec. 3792.0301. GENERAL POWERS AND DUTIES. The district
5 has the powers and duties necessary to accomplish the purposes for
6 which the district is created.

7 Sec. 3792.0302. IMPROVEMENT PROJECTS AND SERVICES. (a)
8 The district, using any money available to the district for the
9 purpose, may provide, design, construct, acquire, improve,
10 relocate, operate, maintain, or finance an improvement project or
11 service authorized under this chapter or Chapter 375, Local
12 Government Code.

13 (b) The district may contract with a governmental or private
14 entity to carry out an action under Subsection (a).

15 (c) The implementation of a district project or service is a
16 governmental function or service for the purposes of Chapter 791,
17 Government Code.

18 Sec. 3792.0303. RECREATIONAL FACILITIES. The district may
19 develop or finance recreational facilities as authorized by Chapter
20 375, Local Government Code, Sections 52 and 52-a, Article III,
21 Texas Constitution, Section 59, Article XVI, Texas Constitution,
22 and any other law that applies to the district.

23 Sec. 3792.0304. AUTHORITY FOR ROAD PROJECTS. Under Section
24 52, Article III, Texas Constitution, the district may own, operate,
25 maintain, design, acquire, construct, finance, issue bonds, notes,
26 or other obligations for, improve, and convey to this state, a
27 county, or a municipality for ownership, operation, and maintenance

1 macadamized, graveled, or paved roads or improvements, including
2 storm drainage, in aid of those roads.

3 Sec. 3792.0305. CONVEYANCE AND APPROVAL OF ROAD PROJECT.

4 (a) The district may convey a road project authorized by Section
5 3792.0304 to:

6 (1) a municipality or county that will operate and
7 maintain the road if the municipality or county has approved the
8 plans and specifications of the road project; or

9 (2) the state if the state will operate and maintain
10 the road and the Texas Transportation Commission has approved the
11 plans and specifications of the road project.

12 (b) Except as provided by Subsection (c), the district shall
13 operate and maintain a road project authorized by Section 3792.0304
14 that the district implements and does not convey to a municipality,
15 a county, or this state under Subsection (a).

16 (c) The district may agree in writing with a municipality, a
17 county, or this state to assign operation and maintenance duties to
18 the district, the municipality, the county, or this state in a
19 manner other than the manner described in Subsections (a) and (b).

20 Sec. 3792.0306. RAIL FACILITIES. In addition to the powers
21 granted under Section 375.0921(b), Local Government Code, the
22 district may construct, acquire, improve, maintain, finance, and
23 operate rail facilities and improvements in aid of those facilities
24 for the transport of freight and other cargo.

25 Sec. 3792.0307. NONPROFIT CORPORATION. (a) The board by
26 resolution may authorize the creation of a nonprofit corporation to
27 assist and act for the district in implementing a project or

1 providing a service authorized by this chapter.

2 (b) The nonprofit corporation:

3 (1) has each power of and is considered to be a local
4 government corporation created under Subchapter D, Chapter 431,
5 Transportation Code; and

6 (2) may implement any project and provide any service
7 authorized by this chapter.

8 (c) The board shall appoint the board of directors of the
9 nonprofit corporation. The board of directors of the nonprofit
10 corporation shall serve in the same manner as the board of directors
11 of a local government corporation created under Subchapter D,
12 Chapter 431, Transportation Code, except that a board member is not
13 required to reside in the district.

14 Sec. 3792.0308. LAW ENFORCEMENT SERVICES. Section 49.216,
15 Water Code, applies to the district.

16 Sec. 3792.0309. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.
17 The district may join and pay dues to a charitable or nonprofit
18 organization that performs a service or provides an activity
19 consistent with the furtherance of a district purpose.

20 Sec. 3792.0310. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
21 district may engage in activities that accomplish the economic
22 development purposes of the district.

23 (b) The district may establish and provide for the
24 administration of one or more programs to promote state or local
25 economic development and to stimulate business and commercial
26 activity in the district, including programs to:

27 (1) make loans and grants of public money; and

1 (2) provide district personnel and services.

2 (c) The district may create economic development programs
3 and exercise the economic development powers that:

4 (1) Chapter 380, Local Government Code, provides to a
5 municipality; and

6 (2) Subchapter A, Chapter 1509, Government Code,
7 provides to a municipality.

8 Sec. 3792.0311. STRATEGIC PARTNERSHIP AGREEMENT. The
9 district may negotiate and enter into a written strategic
10 partnership agreement with a municipality under Section 43.0751,
11 Local Government Code.

12 Sec. 3792.0312. REGIONAL PARTICIPATION AGREEMENT. The
13 district may negotiate and enter into a written regional
14 participation agreement with a municipality under Section 43.0754,
15 Local Government Code.

16 Sec. 3792.0313. PARKING FACILITIES. (a) The district may
17 acquire, lease as lessor or lessee, construct, develop, own,
18 operate, and maintain parking facilities or a system of parking
19 facilities, including lots, garages, parking terminals, or other
20 structures or accommodations for parking motor vehicles off the
21 streets and related appurtenances.

22 (b) The district's parking facilities serve the public
23 purposes of the district and are owned, used, and held for a public
24 purpose even if leased or operated by a private entity for a term of
25 years.

26 (c) The district's parking facilities are parts of and
27 necessary components of a street and are considered to be a street

1 or road improvement.

2 (d) The development and operation of the district's parking
3 facilities may be considered an economic development program.

4 Sec. 3792.0314. ADDING OR EXCLUDING LAND. (a) The district
5 may add land as provided by Subchapter J, Chapter 49, Water Code.

6 (b) The district may exclude land as provided by Subchapter
7 J, Chapter 49, Water Code. Section 375.044(b), Local Government
8 Code, does not apply to the district.

9 (c) The district may include and exclude land as provided by
10 Sections 54.739-54.747, Water Code. A reference in those sections
11 to a "tax" means an ad valorem tax for the purposes of this
12 subsection.

13 (d) If the district adopts a sales and use tax authorized at
14 an election held under Section 3792.0602 and subsequently includes
15 new territory in the district under this section, the district:

16 (1) is not required to hold another election to
17 approve the imposition of the sales and use tax in the included
18 territory; and

19 (2) shall impose the sales and use tax in the included
20 territory as provided by Chapter 321, Tax Code.

21 (e) If the district adopts a sales and use tax authorized at
22 an election held under Section 3792.0602 and subsequently excludes
23 territory in the district under this section, the sales and use tax
24 is inapplicable to the excluded territory, as provided by Chapter
25 321, Tax Code, but is applicable to the territory remaining in the
26 district.

27 Sec. 3792.0315. DISBURSEMENTS AND TRANSFERS OF MONEY. The

1 board by resolution shall establish the number of directors'
2 signatures and the procedure required for a disbursement or
3 transfer of district money.

4 Sec. 3792.0316. AUDIT EXEMPTION. (a) The district may
5 elect to complete an annual financial report in lieu of an annual
6 audit under Section 375.096(a)(6), Local Government Code, if:

7 (1) the district had no bonds or other long-term (more
8 than one year) liabilities outstanding during the fiscal period;

9 (2) the district did not have gross receipts from
10 operations, loans, taxes, assessments, or contributions in excess
11 of \$250,000 during the fiscal period; and

12 (3) the district's cash and temporary investments were
13 not in excess of \$250,000 during the fiscal period.

14 (b) Each annual financial report prepared in accordance
15 with this section must be open to public inspection and accompanied
16 by an affidavit signed by a duly authorized representative of the
17 district attesting to the accuracy and authenticity of the
18 financial report.

19 (c) The annual financial report and affidavit shall be
20 substantially similar in form to the annual financial report and
21 affidavit forms prescribed by the executive director of the
22 commission under Section 49.198, Water Code.

23 Sec. 3792.0317. NO EMINENT DOMAIN POWER. The district may
24 not exercise the power of eminent domain.

25 SUBCHAPTER D. ASSESSMENTS

26 Sec. 3792.0401. PETITION REQUIRED FOR FINANCING SERVICES
27 AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a

1 service or improvement project with assessments under this chapter
2 unless a written petition requesting that service or improvement
3 has been filed with the board.

4 (b) A petition filed under Subsection (a) must be signed by
5 the owners of a majority of the assessed value of real property in
6 the district subject to assessment according to the most recent
7 certified tax appraisal roll for the county.

8 Sec. 3792.0402. METHOD OF NOTICE FOR HEARING. The district
9 may mail the notice required by Section 375.115(c), Local
10 Government Code, by certified or first class United States mail.
11 The board shall determine the method of notice.

12 Sec. 3792.0403. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
13 The board by resolution may impose and collect an assessment for any
14 purpose authorized by this chapter in all or any part of the
15 district.

16 (b) An assessment, a reassessment, or an assessment
17 resulting from an addition to or correction of the assessment roll
18 by the district, penalties and interest on an assessment or
19 reassessment, an expense of collection, and reasonable attorney's
20 fees incurred by the district:

21 (1) are a first and prior lien against the property
22 assessed;

23 (2) are superior to any other lien or claim other than
24 a lien or claim for county, school district, or municipal ad valorem
25 taxes; and

26 (3) are the personal liability of and a charge against
27 the owners of the property even if the owners are not named in the

1 assessment proceedings.

2 (c) The lien is effective from the date of the board's
3 resolution imposing the assessment until the date the assessment is
4 paid. The board may enforce the lien in the same manner that the
5 board may enforce an ad valorem tax lien against real property.

6 (d) The board may make a correction to or deletion from the
7 assessment roll that does not increase the amount of assessment of
8 any parcel of land without providing notice and holding a hearing in
9 the manner required for additional assessments.

10 SUBCHAPTER E. TAXES AND BONDS

11 Sec. 3792.0501. TAX ELECTION REQUIRED. The district must
12 hold an election in the manner provided by Chapter 49, Water Code,
13 or, if applicable, Chapter 375, Local Government Code, to obtain
14 voter approval before the district may impose an ad valorem tax.

15 Sec. 3792.0502. OPERATION AND MAINTENANCE TAX. (a) If
16 authorized by a majority of the district voters voting at an
17 election under Section 3792.0501, the district may impose an
18 operation and maintenance tax on taxable property in the district
19 in the manner provided by Section 49.107, Water Code, for any
20 district purpose, including to:

- 21 (1) maintain and operate the district;
22 (2) construct or acquire improvements; or
23 (3) provide a service.

24 (b) The board shall determine the operation and maintenance
25 tax rate. The rate may not exceed the rate approved at the
26 election.

27 (c) Section 49.107(h), Water Code, does not apply to the

1 district.

2 Sec. 3792.0503. AUTHORITY TO BORROW MONEY AND TO ISSUE
3 BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on
4 terms determined by the board.

5 (b) The district, by competitive bid or negotiated sale, may
6 issue bonds, notes, or other obligations payable wholly or partly
7 from ad valorem taxes, assessments, impact fees, revenue, contract
8 payments, grants, or other district money, or any combination of
9 those sources of money, to pay for any authorized district purpose.

10 (c) The limitation on the outstanding principal amount of
11 bonds, notes, or other obligations provided by Section 49.4645,
12 Water Code, does not apply to the district.

13 Sec. 3792.0504. BONDS SECURED BY REVENUE OR CONTRACT
14 PAYMENTS. The district may issue, without an election, bonds
15 secured by:

16 (1) revenue other than ad valorem taxes, including
17 contract revenues; or

18 (2) contract payments, provided that the requirements
19 of Section 49.108, Water Code, have been met.

20 Sec. 3792.0505. BONDS SECURED BY AD VALOREM TAXES;
21 ELECTIONS. (a) If authorized at an election under Section
22 3792.0501, the district may issue bonds payable from ad valorem
23 taxes.

24 (b) Section 375.243, Local Government Code, does not apply
25 to the district.

26 (c) At the time the district issues bonds payable wholly or
27 partly from ad valorem taxes, the board shall provide for the annual

1 imposition of a continuing direct annual ad valorem tax, without
2 limit as to rate or amount, for each year that all or part of the
3 bonds are outstanding as required and in the manner provided by
4 Sections 54.601 and 54.602, Water Code.

5 (d) All or any part of any facilities or improvements that
6 may be acquired by a district by the issuance of its bonds may be
7 submitted as a single proposition or as several propositions to be
8 voted on at the election.

9 Sec. 3792.0506. CONSENT OF MUNICIPALITY REQUIRED. (a) The
10 board may not hold an election under Section 3792.0501, issue
11 bonds, or incur any debt until each municipality in whose corporate
12 limits or extraterritorial jurisdiction the district is located has
13 consented by ordinance or resolution to the creation of the
14 district and to the inclusion of land in the district.

15 (b) This section applies only to the district's first
16 issuance of bonds payable from ad valorem taxes.

17 SUBCHAPTER F. SALES AND USE TAX

18 Sec. 3792.0601. APPLICABILITY OF CERTAIN TAX CODE
19 PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition,
20 computation, administration, enforcement, and collection of the
21 sales and use tax authorized by this subchapter except to the extent
22 Chapter 321, Tax Code, is inconsistent with this chapter.

23 (b) A reference in Chapter 321, Tax Code, to a municipality
24 or the governing body of a municipality is a reference to the
25 district or the board, respectively.

26 Sec. 3792.0602. ELECTION; ADOPTION OF TAX. (a) The
27 district may adopt a sales and use tax if authorized by a majority

1 of the voters of the district voting at an election held for that
2 purpose.

3 (b) The board by order may call an election to authorize the
4 adoption of the sales and use tax. The election may be held on any
5 uniform election date and in conjunction with any other district
6 election.

7 (c) The ballot shall be printed to provide for voting for or
8 against the proposition: "Authorization of a sales and use tax in
9 the Orchard Management District No. 1 at a rate not to exceed _____
10 percent" (insert rate of one or more increments of one-eighth of one
11 percent).

12 Sec. 3792.0603. SALES AND USE TAX RATE. (a) On or after the
13 date the results are declared of an election held under Section
14 3792.0602, at which the voters approved imposition of the tax
15 authorized by this subchapter, the board shall determine and adopt
16 by resolution or order the initial rate of the tax, which must be in
17 one or more increments of one-eighth of one percent.

18 (b) After the election held under Section 3792.0602, the
19 board may increase or decrease the rate of the tax by one or more
20 increments of one-eighth of one percent.

21 (c) The initial rate of the tax or any rate resulting from
22 subsequent increases or decreases may not exceed the lesser of:

23 (1) the maximum rate authorized by the district voters
24 at the election held under Section 3792.0602; or

25 (2) a rate that, when added to the rates of all sales
26 and use taxes imposed by other political subdivisions with
27 territory in the district, would result in the maximum combined

1 rate prescribed by Section 321.101(f), Tax Code, at any location in
2 the district.

3 Sec. 3792.0604. TAX AFTER MUNICIPAL ANNEXATION. (a) This
4 section applies to the district after a municipality annexes part
5 of the territory in the district and imposes the municipality's
6 sales and use tax in the annexed territory.

7 (b) If at the time of annexation the district has
8 outstanding debt or other obligations payable wholly or partly from
9 district sales and use tax revenue, Section 321.102(g), Tax Code,
10 applies to the district.

11 (c) If at the time of annexation the district does not have
12 outstanding debt or other obligations payable wholly or partly from
13 district sales and use tax revenue, the district may:

14 (1) exclude the annexed territory from the district,
15 if the district has no outstanding debt or other obligations
16 payable from any source; or

17 (2) reduce the sales and use tax in the annexed
18 territory by resolution or order of the board to a rate that, when
19 added to the sales and use tax rate imposed by the municipality in
20 the annexed territory, is equal to the sales and use tax rate
21 imposed by the district in the district territory that was not
22 annexed by the municipality.

23 Sec. 3792.0605. NOTIFICATION OF RATE CHANGE. The board
24 shall notify the comptroller of any changes made to the tax rate
25 under this subchapter in the same manner the municipal secretary
26 provides notice to the comptroller under Section 321.405(b), Tax
27 Code.

1 Sec. 3792.0606. USE OF REVENUE. Revenue from the sales and
2 use tax imposed under this subchapter is for the use and benefit of
3 the district and may be used for any district purpose. The district
4 may pledge all or part of the revenue to the payment of bonds,
5 notes, or other obligations, and that pledge of revenue may be in
6 combination with other revenue, including tax revenue, available to
7 the district.

8 Sec. 3792.0607. ABOLITION OF TAX. (a) Except as provided
9 by Subsection (b), the board may abolish the tax imposed under this
10 subchapter without an election.

11 (b) The board may not abolish the tax imposed under this
12 subchapter if the district has outstanding debt secured by the tax,
13 and repayment of the debt would be impaired by the abolition of the
14 tax.

15 (c) If the board abolishes the tax, the board shall notify
16 the comptroller of that action in the same manner the municipal
17 secretary provides notice to the comptroller under Section
18 321.405(b), Tax Code.

19 (d) If the board abolishes the tax or decreases the tax rate
20 to zero, a new election to authorize a sales and use tax must be held
21 under Section 3792.0602 before the district may subsequently impose
22 the tax.

23 (e) This section does not apply to a decrease in the sales
24 and use tax authorized under Section 3792.0604(c)(2).

25 SUBCHAPTER I. DISSOLUTION

26 Sec. 3792.0901. DISSOLUTION. (a) The board shall dissolve
27 the district on written petition filed with the board by the owners

1 of:

2 (1) 66 percent or more of the assessed value of the
3 property subject to assessment by the district based on the most
4 recent certified county property tax rolls; or

5 (2) 66 percent or more of the surface area of the
6 district, excluding roads, streets, highways, utility
7 rights-of-way, other public areas, and other property exempt from
8 assessment by the district according to the most recent certified
9 county property tax rolls.

10 (b) The board by majority vote may dissolve the district at
11 any time.

12 (c) The district may not be dissolved by its board under
13 Subsection (a) or (b) if the district:

14 (1) has any outstanding bonded indebtedness until that
15 bonded indebtedness has been repaid or defeased in accordance with
16 the order or resolution authorizing the issuance of the bonds;

17 (2) has a contractual obligation to pay money until
18 that obligation has been fully paid in accordance with the
19 contract; or

20 (3) owns, operates, or maintains public works,
21 facilities, or improvements unless the district contracts with
22 another person for the ownership, operation, or maintenance of the
23 public works, facilities, or improvements.

24 (d) Sections 375.261, 375.262, and 375.264, Local
25 Government Code, do not apply to the district.

26 SECTION 2. The Orchard Management District No. 1 initially
27 includes all the territory contained in the following area:

1 A Field Note Description of 920 Acres of Land, more or less,
2 being the Easterly 287.5 Acres of Land, more or less, of the German
3 Emigration Company Survey No. 6, Abstract 176 and 632.5 Acres of
4 Land, more or less, being the remainder of the David Scott Heirs
5 Survey, Abstract 316, Fort Bend County, Texas.

6 Beginning at a point in the South line of the Gail Borden
7 League, Abstract 12 marking the Northwest corner of the Peter
8 McGreal Survey, Abstract 338 and Northeast corner of said German
9 Emigration Company Survey No. 6, Abstract 176 and the Northeast
10 corner of and place of beginning for this 920 Acre Tract;

11 THENCE, South, 3279.63 feet, more or less, along the East
12 line of said German Emigration Company Survey No. 6, Abstract 176
13 and the West line of said Peter McGreal Survey, Abstract 338 to the
14 Southeast corner of said German Emigration Company Survey No. 6,
15 Abstract 176 and the Southwest corner of said Peter McGreal Survey,
16 Abstract 338 to a point marking a re-entrant corner for this tract;

17 THENCE, East, 1120 feet, more or less, along the North line of
18 the David Scott Heirs Survey, Abstract 316 and the South line of
19 said Peter McGreal Survey, Abstract 338 to a point marking the
20 Northeast corner of said David Scott Heirs Survey, Abstract 316 and
21 Northwest corner of the German Emigration Company Survey No. 8,
22 Abstract 177 and marking a Southerly Northeast corner for this
23 tract;

24 THENCE, South, 5445 feet, more or less, along the East line of
25 said David Scott Heirs Survey, Abstract 316 and West line of said
26 German Emigration Company Survey No. 8, Abstract 177 and Heirs of
27 L. Burknapp Survey, Abstract 109 to the Southeast corner of said

1 David Scott Heirs Survey, Abstract 316 for the Southeast corner of
2 this tract; said corner also marking the Northeast corner of the
3 Mark Smith Survey, Abstract 314;

4 THENCE, West, 5060 feet, more or less, along the North line of
5 the Mark Smith Survey, Abstract 314 and South line of said David
6 Scott Heirs Survey, Abstract 316 to a point in the East right-of-way
7 line of State Farm Market Road No. 1489 marking the Southwest
8 corner for this tract;

9 THENCE, North, along said East right-of-way line of said
10 State Farm Market Road No. 1489, at 5445 feet, more or less, pass
11 the North line of said David Scott Heirs Survey, Abstract 316 and
12 South line of said German Emigration Company Survey No. 6, Abstract
13 176, in all 7487.25 feet, more or less, to the point of curve to the
14 right;

15 THENCE, Continuing along said Southeast right-of-way line of
16 State Farm Market Road No. 1489, Northeasterly along a curve to the
17 right with the following data: Delta=63degrees 19'06',
18 Radius=1086.28 feet, Length=1200.48 feet and Chord= North
19 31deg.39'33" East, 1140.3 feet, more or less to point of tangency;

20 THENCE, North 63deg.19'06" East, 594.11 feet, more or less
21 along said Southeast right-of-way line of State Farm Market Road
22 No. 1489 to a point in the South line of said Gail Borden League,
23 Abstract 12 marking the Northwest corner for this tract;

24 THENCE, East, 2810.65 feet, more or less, along said South
25 line of said Gail Borden League, Abstract 12 and North line of said
26 German Emigration Company Survey No. 6 to the place of beginning
27 and containing 920 Acres of Land, more or less.

1 SECTION 3. (a) The legal notice of the intention to
2 introduce this Act, setting forth the general substance of this
3 Act, has been published as provided by law, and the notice and a
4 copy of this Act have been furnished to all persons, agencies,
5 officials, or entities to which they are required to be furnished
6 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
7 Government Code.

8 (b) The governor, one of the required recipients, has
9 submitted the notice and Act to the Texas Commission on
10 Environmental Quality.

11 (c) The Texas Commission on Environmental Quality has filed
12 its recommendations relating to this Act with the governor,
13 lieutenant governor, and speaker of the house of representatives
14 within the required time.

15 (d) All requirements of the constitution and laws of this
16 state and the rules and procedures of the legislature with respect
17 to the notice, introduction, and passage of this Act have been
18 fulfilled and accomplished.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2019.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 21, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4635 by Zerwas (Relating to the creation of the Orchard Management District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Special District Local Laws Code to create certain Management Districts.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, AF, SD, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 13, 2019

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on Intergovernmental Relations

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB4635** by Zerwas (Relating to the creation of the Orchard Management District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Special District Local Laws Code to create certain Management Districts.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, AF, SD, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 10, 2019

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on Intergovernmental Relations

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB4635** by Zerwas (Relating to the creation of the Orchard Management District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Special District Local Laws Code to create certain Management Districts.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, AF, SD, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION
Revision 1

April 26, 2019

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4635 by Zerwas (relating to the creation of the Orchard Management District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Special District Local Laws Code to create certain Management Districts.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, AF, SD, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 22, 2019

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4635 by Zerwas (Relating to the creation of the Orchard Management District No.A1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Special District Local Laws Code to create certain Management Districts.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, AF, SD, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 3, 2019

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4635 by Zerwas (Relating to the creation of the Orchard Management District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Special District Local Laws Code to create certain Management Districts.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: WP, AF, SD, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

WATER DEVELOPMENT POLICY IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

April 23, 2019

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB4635 by Zerwas (Relating to the creation of the Orchard Management District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **As Introduced**

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ), has determined that:

This bill creates Orchard Management District No. 1 (District) with the powers and duties of a standard municipal management district under Local Government Code Chapter 375.

Population - The very specific description of the proposed boundaries does not allow staff to develop precise population estimates.

Population growth in the specific area since the 2010 census is unknown. The 2010 population estimate for areas of Fort Bend County served by small water systems or private wells (County-Other) was 41,707. The Fort Bend County-Other population projections adopted for the 2022 State Water Plan projects the population to grow to 107,087 in 2020 and 146,910 in 2030.

Location - The proposed district's initial boundaries are described with a combination of Original Texas Land Surveys, Fort Bend County Official Public Records of Real Property, and metes and bounds. Due to the complexity of these boundaries for the various subareas of the district, staff is only able to determine the general location of the proposed district.

The proposed district's area is approximately 1.44 square miles in western Fort Bend County. The proposed district appears to lie near Farm to Market Road 1489, just southwest of the City of Orchard.

Comments on Powers/Duties Different from Similar Types of Districts: A director is entitled to receive fees of office and reimbursement for actual expenses provided by Section 49.060, Water Code. Sections 375.069 and 375.070, Local Government Code, do not apply to the board; the bill requires the TCEQ to appoint the five initial temporary directors upon receipt of a petition from the owners of a majority of the assessed value of the real property in the district; the District may develop or finance recreational facilities; this bill grants the District authority for road projects; the District may construct, acquire, improve, maintain, finance, and operate rail facilities and improvements in aid of those facilities for the transport of freight and other cargo; the board by

resolution may authorize the creation of a nonprofit corporation with the powers created under Subchapter D, Chapter 431, Transportation Code; the District may contract for or employ peace officers under Section 49.216, Water Code; the District may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a District purpose; the bill allows the District to create economic development programs and exercise economic development powers under Chapter 380, Local Government Code and Subchapter A, Chapter 1509, Government Code; the District may negotiate and enter into a written strategic partnership agreement under Local Government Code Section 43.0751, with a municipality in whose extraterritorial jurisdiction the District is located; the District may negotiate and enter into a written regional participation agreement under Local Government Code Section 43.0754, with a municipality in whose corporate boundaries or extraterritorial jurisdiction the District is located; the District may acquire, lease, construct, develop, own, operate, and maintain parking facilities; the bill specifies that the District may add or exclude land as provided by Subchapter J, Chapter 49, Water Code; Section 375.044(b), Local Government Code, does not apply to the District; the District may elect to complete an annual financial report in lieu of an annual audit under Section 375.096(a)(6), Local Government Code; the District may not exercise the power of eminent domain; the board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board; the District may levy a maintenance tax as provided for in Section 49.107 of the Water Code; Section 49.107(h), Water Code states that an operation and maintenance tax to be used for recreational facilities, as defined by Section 49.462, Water Code, levied by a district located in a county with a population of more than 3.3 million or in a county adjacent to that county may not exceed 10 cents per \$100 of assessed valuation of taxable property in the District, the bill specifies that this section does not apply to the District; Chapter 49.4645, Water Code, states that the District's outstanding principal debt for recreational facilities cannot exceed one percent of the District's current estimated taxable assessed valuation, the bill specifies that this section does not apply to the District; Section 375.243, Local Government Code, states that the board may not call a bond election unless a written petition has been filed with the board requesting an election, the bill specifies that this section does not apply to the District; the board may dissolve the District regardless of whether the District has debt. Section 375.264, Local Government Code, does not apply to the District; if the District has debt when it is dissolved, the District shall remain in existence solely for the purpose of discharging its debts, and the dissolution is effective when all debts have been discharged.

Overlapping Services: TCEQ does not have mapping information for water and/or wastewater providers because this function was transferred from the TCEQ to the Public Utility Commission on September 1, 2014. As a result, TCEQ is unaware of possible overlapping service providers.

TCEQ's Supervision: As with general law districts, the TCEQ will have general supervisory authority, including bond review authority and review of financial reports.

Water Use - Within Fort Bend County, 55% of the total water use was supplied by groundwater (Gulf Coast Aquifer), and municipal was the largest volume water use category comprising 68% of the county total water use in 2016. The water source the proposed district might pursue is unknown.

Source Agencies: 582 Commission on Environmental Quality, 580 Water Development Board

LBB Staff: WP, SZ