

Jon Niermann, *Chairman*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 2, 2023

The Honorable Dade Phelan
Texas House of Representatives
Capitol Station
PO Box 2910
Austin, Texas 78768-2910

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution.

House Bill (HB) 5356, as Filed by Representative Frederick Frazier-relating to the creation of the Honey Creek Improvement District No. 1; providing authority to issue bonds; providing authority to impose assessments and fees.

Dear Speaker Phelan:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor, and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kim Nygren".

Kim Nygren, Deputy Director
Water Availability Division

cc: The Honorable J.M. Lozano, Chairman, House Committee on Urban Affairs
Representative Frederick Frazier, Texas House of Representatives

Enclosure

HB 5356, as Filed by Representative Frederick Frazier Texas Commission on Environmental Quality's Comments

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

House Bill (HB) 5356, as authored by Representative Frederick Frazier, adds Chapter 3796 Special District Local Laws Code to create the Honey Creek Improvement District No. 1 (District) with the powers and duties of Sections 52 and 52-a, Article III and Section 59, Article XVI of the Texas Constitution, Chapters 375 of the Local Government Code granted to municipal management districts, and Chapters 49 and 54 of the Water Code granted to special districts.

Comments on Powers/Duties Different from Similar Types of Districts – The bill grants the District authority to issue, by public or private sale, bonds, notes, or other obligations payable wholly or partly from assessments, revenue, contract payments, grants, or other District money, or any combination of those sources of money, to pay for any authorized District purpose. Municipalities must consent, by ordinance or resolution, to the creation of the District before issuance of bonds. The District is created to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the District. The District is created to supplement and not to supplant the City of McKinney (City) services provided in the District.

The District may create a tax increment reinvestment zone under Chapter 311, Tax Code or a tax abatement reinvestment zone under Chapter 312, Tax Code. The District has authority to provide for water, wastewater, drainage, road, recreational facilities, and pedestrian ways. The District must have a development agreement between the City and the primary landowner in the District before exercising District power. The board shall dissolve the District if the development agreement is not executed before September 1, 2024.

Directors are elected as provided by Subchapter D, Chapter 49, Water Code and serve staggered four-year terms. The bill names five temporary directors: 1. Rafael Parker, 2. Mateo Jaramillo, 3. Hector Alba, 4. Laura Santos, and 5. Ricardo Soto. Terms for temporary directors one through three expire June 1, 2025, and directors four and five expire June 1, 2027.

The implementation of a District project or service is a governmental function or service for the purposes of Chapter 791, Government Code. The District may add or exclude land in the manner provided by Subchapter J,

Chapter 49, Water Code, or by Subchapter H, Chapter 54, Water Code, only if the City governing body consents to the addition by ordinance or resolution. The District may be divided by a board motion or by petition of the majority of real property landowners if there is no outstanding bonded debt or if the District is not imposing ad valorem taxes. Municipal consent to the creation of the District and to the inclusion of land in the District acts as municipal consent to the creation of any new district created by the division of the District and to the inclusion of land in the new district.

The board may not finance a service or improvement project with assessments unless a written petition requesting that service or improvement has been filed with the board. The board may impose and collect an assessment by resolution. The District may be dissolved by two-thirds of the taxable property owners or by two-thirds of the surface area of property owners.

Sections 375.161 and 375.262 of the Local Government Code, do not apply to the District. The District may not impose an ad valorem tax and has no eminent domain authority.

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.

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

HB 5356

Bill Number

TO: The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

4/10/2023

Date transmitted to
Governor's Office



Chief Clerk
House of Representatives

TO: Texas Commission on Environmental Quality
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to conservation and reclamation district and a copy of the notice of intention to introduce the bill.

April 12, 2023

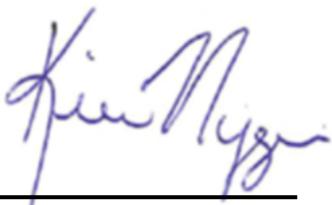
Date transmitted to
Texas Commission on Environmental Quality



Governor

TO: The Honorable Speaker of the House
The Honorable President of the Senate
The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.



Texas Commission on Environmental Quality



88R HB 05356