

By: Quintanilla

H.B. No. 4759

Substitute the following for H.B. No. 4759:

By: Frost

C.S.H.B. No. 4759

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Tornillo Management District;
providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3845 to read as follows:

CHAPTER 3845. TORNILLO MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3845.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Tornillo Management District.

Sec. 3845.002. NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3845.003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

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

(c) The district is created to accomplish the purposes of a

1 municipal management district as provided by general law and
2 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
3 Texas Constitution.

4 (d) The creation of the district is in the public interest
5 and is essential to:

6 (1) further the public purposes of developing and
7 diversifying the economy of the state;

8 (2) eliminate unemployment and underemployment; and

9 (3) develop or expand transportation and commerce.

10 (e) The district will:

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

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

17 (3) promote the health, safety, welfare, and enjoyment
18 of the public by providing pedestrian ways and by landscaping and
19 developing certain areas in the district, which are necessary for
20 the restoration, preservation, and enhancement of scenic beauty.

21 (f) Pedestrian ways along or across a street, whether at
22 grade or above or below the surface, and street lighting, street
23 landscaping, parking, and street art objects are parts of and
24 necessary components of a street and are considered to be a street
25 or road improvement.

26 (g) The district will not act as the agent or
27 instrumentality of any private interest even though the district

1 will benefit many private interests as well as the public.

2 Sec. 3845.004. INITIAL DISTRICT TERRITORY. (a) The
3 district is initially composed of the territory described by
4 Section 2 of the Act creating this chapter.

5 (b) The boundaries and field notes contained in Section 2 of
6 the Act creating this chapter form a closure. A mistake made in the
7 field notes or in copying the field notes in the legislative process
8 does not affect the district's:

9 (1) organization, existence, or validity;

10 (2) right to issue any type of bond for the purposes
11 for which the district is created or to pay the principal of and
12 interest on a bond;

13 (3) right to impose a tax; or

14 (4) legality or operation.

15 [Sections 3845.005-3845.050 reserved for expansion]

16 SUBCHAPTER B. BOARD OF DIRECTORS

17 Sec. 3845.051. GOVERNING BODY; TERMS. (a) The district is
18 governed by a board of seven voting directors. Four directors are
19 elected as provided by Section 3845.052 and three directors are
20 appointed as provided by Section 3845.053.

21 (b) Elected directors serve staggered terms of four years.

22 (c) Appointed directors serve three-year terms and may be
23 appointed for subsequent terms.

24 Sec. 3845.052. ELECTION OF DIRECTORS. On the uniform
25 election date in May of each even-numbered year, the appropriate
26 number of directors shall be elected.

27 Sec. 3845.053. APPOINTMENT OF DIRECTORS. (a) One director

1 shall be appointed by a majority vote of the board of directors of
2 the El Paso County Tornillo Water Improvement District.

3 (b) One director shall be appointed by a majority vote of
4 the Commissioners Court of El Paso County.

5 (c) One director shall be appointed by the board from a list
6 of persons submitted by the representative for House District 75.

7 (d) Directors must be appointed under this section not later
8 than 90 days after the Act creating this chapter becomes law. This
9 subsection expires January 1, 2010.

10 Sec. 3845.054. QUALIFICATIONS. (a) To be qualified to
11 serve as an appointed director, a person must be at least 18 years
12 old and a state resident.

13 (b) To be qualified to serve as an elected director, a
14 person must meet the qualifications for an appointed director and
15 be an owner of real property subject to taxation in the district or
16 a qualified voter of the district.

17 Sec. 3845.055. INITIAL DIRECTORS. (a) On or after the
18 effective date of the Act creating this chapter, the owner or owners
19 of a majority of the assessed value of the real property in the
20 district may submit a petition to the Texas Commission on
21 Environmental Quality requesting that the commission appoint as
22 initial directors the four qualified persons named in the petition.
23 The commission shall appoint as initial directors the four persons
24 named in the petition.

25 (b) The initial directors appointed under Subsection (a)
26 shall draw lots to determine which two shall serve until the first
27 regularly scheduled election of directors under Section 3845.052

1 and which two shall serve until the second regularly scheduled
2 election of directors.

3 [Sections 3845.056-3845.100 reserved for expansion]

4 SUBCHAPTER C. POWERS AND DUTIES

5 Sec. 3845.101. GENERAL POWERS AND DUTIES. The district has
6 the powers and duties necessary to accomplish the purposes for
7 which the district is created.

8 Sec. 3845.102. MUNICIPAL MANAGEMENT DISTRICT POWERS AND
9 DUTIES. The district has the powers and duties provided by the
10 general law of this state, including Chapter 375, Local Government
11 Code, applicable to municipal management districts created under
12 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
13 Texas Constitution.

14 Sec. 3845.103. EMINENT DOMAIN. The district may not
15 exercise the power of eminent domain.

16 Sec. 3845.104. WATER AND WASTEWATER FACILITIES AND
17 SERVICES. (a) The district may not provide wholesale or retail
18 water or wastewater services to any land inside or outside the
19 boundaries of the district or produce water for use on land owned or
20 managed by the district unless authorized by a written resolution
21 of the board of directors of the El Paso County Tornillo Water
22 Improvement District. A written resolution authorizing the
23 provision or production of water or the water or wastewater
24 services must specify the area authorized to receive the water or
25 wastewater services or for which the district is authorized to
26 produce water. Notwithstanding any other law, the El Paso County
27 Tornillo Water Improvement District is not required to provide

1 retail water or wastewater services to an area in which the district
2 is authorized to provide water services.

3 (b) On written request by the El Paso County Tornillo Water
4 Improvement District, the district shall convey and transfer to the
5 El Paso County Tornillo Water Improvement District all water or
6 wastewater facilities, equipment, and fixtures owned by the
7 district, including water lines, wastewater lines, meters, wells,
8 fire hydrants, storage tanks, lagoons, water and wastewater
9 treatment facilities, and pump and lift stations.

10 (c) Water or wastewater facilities, equipment, and fixtures
11 transferred at the request of the El Paso County Tornillo Water
12 Improvement District shall continue to be used to benefit land in
13 the district.

14 Sec. 3845.105. RAIL FACILITIES. The district may
15 construct, acquire, improve, maintain, and operate rail facilities
16 and improvements in aid of those facilities.

17 Sec. 3845.106. DEVELOPMENT CORPORATION POWERS. The
18 district may exercise the powers given to a corporation under
19 Chapter 505, Local Government Code, including the power to own,
20 operate, acquire, construct, lease, improve, and maintain the
21 projects described by that chapter.

22 [Sections 3845.107-3845.150 reserved for expansion]

23 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

24 Sec. 3845.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
25 district may issue, without an election, bonds and other
26 obligations secured by revenue or contract payments from any source
27 other than ad valorem taxation.

1 (b) The district must hold an election in the manner
2 provided by Chapters 49 and 54, Water Code, to obtain voter approval
3 before the district may impose an ad valorem tax or issue bonds
4 payable from ad valorem taxes.

5 (c) The district may not issue bonds payable from ad valorem
6 taxes to finance a road project unless the issuance is approved by a
7 vote of a two-thirds majority of the district voters voting at an
8 election held for that purpose.

9 Sec. 3845.152. OPERATION AND MAINTENANCE TAX. (a) If
10 authorized at an election held under Section 3845.151, the district
11 may impose an operation and maintenance tax on taxable property in
12 the district in accordance with Section 49.107, Water Code.

13 (b) The board shall determine the tax rate. The rate may not
14 exceed the rate approved at the election.

15 Sec. 3845.153. CONTRACT TAXES. (a) In accordance with
16 Section 49.108, Water Code, the district may make payments under a
17 contract from taxes other than operation and maintenance taxes
18 after the provisions of the contract have been approved by a
19 majority of the district voters voting at an election held for that
20 purpose.

21 (b) A contract approved by the district voters may contain a
22 provision stating that the contract may be modified or amended by
23 the board without further voter approval.

24 Sec. 3845.154. TAXES FOR WATER, WASTEWATER, AND DRAINAGE
25 PURPOSES. Taxes the district imposes for water, wastewater, and
26 drainage facility construction and maintenance purposes, if any,
27 are for the particular benefit of the area inside the district, do

1 not generally or directly benefit the area inside the El Paso County
2 Tornillo Water Improvement District as a whole, and do not
3 duplicate a tax imposed by the El Paso County Tornillo Water
4 Improvement District.

5 Sec. 3845.155. HOTEL OCCUPANCY TAX. (a) The district may
6 impose a hotel occupancy tax in the manner provided by Section
7 351.002, Tax Code. A tax imposed under this section may not exceed
8 the maximum rate provided by Section 351.003(a), Tax Code.

9 (b) The district may use revenue from the hotel occupancy
10 tax for any district purpose for which ad valorem tax revenue may be
11 used.

12 (c) If any territory of the district is annexed by a
13 municipality or incorporates as a municipality, the district may
14 not impose a hotel occupancy tax.

15 Sec. 3845.156. SALES AND USE TAX. (a) The district may
16 impose a sales and use tax if authorized by a majority of the voters
17 of the district voting at an election held for that purpose.
18 Revenue from the sales and use tax may be used for any purpose for
19 which ad valorem tax revenue of the district may be used.

20 (b) The district may not adopt a sales and use tax at a rate
21 greater than two percent, and the rate of the tax when combined with
22 the rates of all other sales and use taxes imposed in the district
23 may not exceed the total combined sales and use tax rate imposed in
24 the city of El Paso.

25 (c) Chapter 321, Tax Code, applies to the imposition,
26 computation, administration, enforcement, and collection of the
27 sales and use tax imposed by this section except to the extent it is

1 inconsistent with this chapter.

2 (d) If any territory of the district is annexed by a
3 municipality or incorporates as a municipality, the district may
4 not impose a sales and use tax.

5 Sec. 3845.157. AUTHORITY TO TAX. The district may impose
6 taxes only inside the district's boundaries.

7 [Sections 3845.158-3845.200 reserved for expansion]

8 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

9 Sec. 3845.201. AUTHORITY TO ISSUE BONDS AND OTHER
10 OBLIGATIONS. The district may issue bonds or other obligations
11 payable wholly or partly from ad valorem taxes, impact fees,
12 revenue, contract payments, grants, revenue from economic
13 development agreements under Chapter 381, Local Government Code, or
14 other district money, or any combination of those sources, to pay
15 for an authorized district purpose.

16 Sec. 3845.202. TAXES FOR BONDS. (a) At the time the
17 district issues bonds payable wholly or partly from ad valorem
18 taxes, the board shall provide for the annual imposition of an ad
19 valorem tax, without limit as to rate or amount, as required by
20 Section 54.601, Water Code.

21 (b) The board shall impose the tax annually while all or
22 part of the bonds are outstanding. Sections 54.601 and 54.602,
23 Water Code, govern the amount and rate of the tax.

24 Sec. 3845.203. BONDS FOR ROAD PROJECTS. At the time of
25 issuance, the total principal amount of bonds or other obligations
26 issued or incurred to finance road projects may not exceed
27 one-fourth of the assessed value of the real property in the

1 district.

2 Sec. 3845.204. FINANCIAL RESPONSIBILITY OF EL PASO COUNTY
3 TORNILLO WATER IMPROVEMENT DISTRICT. (a) This chapter may not be
4 construed as creating an obligation of the El Paso County Tornillo
5 Water Improvement District for a debt incurred by the district.

6 (b) Notwithstanding any other law, the El Paso County
7 Tornillo Water Improvement District may not be held liable for a
8 debt incurred by the district unless the debt is assumed by a
9 resolution of the board of directors of the El Paso County Tornillo
10 Water Improvement District.

11 SECTION 2. The Tornillo Management District initially
12 includes all the territory contained in the following area:

13 TRACT 1

14 Being the description of Tract 4B, Block 4 and Tract 4B, Block 7 and
15 Tracts 6C and 6C1, Block 11, Lower Valley Surveys and a portion of
16 M.R. Hemley Survey 428 and a portion of A.L. Daugherty Surveys 352
17 and 360, El Paso County, Texas and being more particularly
18 described by metes and bounds as follows:

19 COMMENCING FOR REFERENCE at a found county monument in the
20 centerline of State Highway 20 (100 feet wide) and another found
21 county monument bears, South 54°30.00" East (bearing base), a
22 distance of 499.75 feet;

23 THENCE, N32°54'03" East, a distance of 488.62 feet to a found old 2
24 inch iron pipe at the Southwest corner of said Tract 6C in the North
25 right-of-way line of the Southern Pacific Railroad (100 feet wide)
26 and POINT OF BEGINNING for the herein described tract;

27 THENCE, along the West line of said Tract 6C the following four (4)

1 courses:

2 North 24°09'27" East, a distance of 168.61 feet to a
3 point and a found 1/2 inch rebar bears, North 76°30'23" East,
4 7.33 feet; North 00°40'00" East, a distance of 1857.00 feet to
5 a found old 2 1/2 inch iron pipe;

6 North 44°56'56" West, a distance of 2220.93 feet to a set
7 1/2 inch rebar marked (Tx2027) at the most Westerly corner of
8 said Tract 6C;

9 North 44°59'23" East, a distance of 6923.77 feet to a
10 found GLO brass cap marked (SC46,47,360) at the most
11 Northerly corner of said Tract 6C at an angle point in the
12 Southwesterly line of said Survey No. 360 in the Southerly
13 line of the Survey Day Survey No. 47;

14 THENCE, along said Southwesterly line of said Surveys 360 and 352
15 the following three (3) courses:

16 North 44°57'13" East, a distance of 862.61 feet to a
17 found GLO brass cap marked (SC46, 360);

18 North 45°02'47" West, a distance of 4844.74 feet to a
19 found GLO brass cap marked (SC352,46);

20 South 44°57'13" West, a distance of 407.97 feet to a set
21 1/2 inch rebar marked (Tx2027);

22 THENCE, leaving said Southwesterly line of Survey No. 352, North
23 43°56'22" West, a distance of 2716.19 feet to a set 1/2 inch rebar
24 marked (Tx2027) in the South right-of-way line of O.T. Smith Road;

25 THENCE, along said right-of-way line the following two (2) courses:

26 North 63°08'09" East, a distance of 806.91 feet to a
27 found 5/8 inch rebar;

1 North 54°43'47" East, a distance of 505.39 feet to a
2 found TxDOT concrete right-of-way marker in the West
3 right-of-way line of Interstate Highway 10;

4 THENCE, along said right-of-way line the following 21 courses:

5 N57°23'43" East, a distance of 270.94 feet to a found
6 TxDOT concrete right-of-way marker;

7 North 77°27'15" East, a distance of 450.39 feet to a
8 found TxDOT concrete right-of-way marker;

9 South 82°12'57" East, a distance of 339.75 feet to a
10 found TxDOT concrete right-of-way marker;

11 South 42°32'10" East, a distance of 996.75 feet to a
12 found TxDOT concrete right-of-way marker;

13 North 47°33'38" East, a distance of 50.00 feet to a found
14 TxDOT concrete right-of-way marker;

15 South 42°32'55" East, a distance of 73.66 feet to a
16 point; South 37°30'08" East, a distance of 538.50 feet to a
17 found GLO brass cap Marked (SC352,428,13UT);

18 South 37°31'43" East, a distance of 184.78 feet to a
19 found 2 inch iron pipe marked (S13,BLK L);

20 North 52°28'02" East, a distance of 63.78 feet to a
21 point;

22 South 42°32'55" East, a distance of 700.19 feet to a
23 found TxDOT concrete right-of-way marker;

24 South 42°34'09" East, a distance of 804.14 feet to a
25 found TxDOT concrete right-of-way marker;

26 South 42°30'46" East, a distance of 895.61 feet to a
27 found TxDOT concrete right-of-way marker;

1 South 42°32'26" East, a distance of 999.72 feet to a
2 found TxDOT concrete right-of-way marker;

3 South 42°33'51" East, a distance of 400.08 feet to a
4 found TxDOT concrete right-of-way marker;

5 South 47°25'57" West, a distance of 100.05 feet to a
6 found TxDOT concrete right-of-way marker;

7 South 42°33'32" East, a distance of 898.16 feet to a
8 found TxDOT concrete right-of-way marker;

9 South 42°58'04" East, a distance of 184.64 feet to a
10 point;

11 South 42°24'08" East, a distance of 158.89 feet to a
12 point;

13 South 42°28'13" East, a distance of 1057.78 feet to a
14 found TxDOT concrete right-of-way marker;

15 North 47°29'46" East, a distance of 100.05 feet to a
16 found TxDOT concrete right-of-way marker;

17 South 42°32'23" East, a distance of 1199.72 feet to a
18 point; South 42°32'35" East, a distance of 204.81 feet to a
19 found 1/2 inch rebar marked (Tx4690) at the Northeast corner
20 of a tract to McLeodusa Telecommunications Services, Inc.
21 (book 4000, page 90);

22 THENCE, along the North line of said McLeodusa tract, South
23 47°27'25" West, a distance of 208.71 feet to a found 1/2 inch rebar
24 marked (Tx4690);

25 THENCE, along the West line of said McLeodusa tract, South 42°32'35"
26 East, a distance of 417.42 feet to a found 1/2 inch rebar marked
27 (Tx4690);

1 THENCE, along the South line of said McLeodusa tract, North
2 47°27'25" East, a distance of 208.71 feet to a found 1/2 inch rebar
3 marked (Tx2027) in said West right-of-way line of Interstate
4 Highway 10;

5 THENCE, along said right-of-way line the following two courses:

6 South 42°32'18" East, a distance of 976.93 feet to a
7 found TxDOT concrete right-of-way marker;

8 South 42°32'29" East, a distance of 876.88 feet to a
9 found 2 inch iron pipe;

10 THENCE, leaving said right-of-way line, South 45°00'00" West, a
11 distance of 9393.85 feet to a set 1/2 inch rebar marked (Tx2027) at
12 the most Southerly corner of said Tract 6C in said Northerly
13 right-of-way line of the Southern Pacific Railroad;

14 THENCE, along said right-of-way line the following two (2) courses:

15 North 87°30'00" West, a distance of 1468.13 feet to a
16 found 1/2 inch rebar at the beginning of a curve to the right;

17 Along the arc of said curve (Delta Angle = 08°14'35",
18 Radius = 2191.83 feet, Chord = North 83°22'42" West, 315.06
19 feet) a distance of 315.34 feet to the POINT OF BEGINNING and
20 containing 1,375.840 acres of land.

21 TRACT 2

22 Being the description of Tract 1A, Block 4, and Tract 1B, Block 7,
23 Lower Valley Surveys, El Paso County, Texas and being more
24 particularly described by metes and bounds as follows:

25 COMMENCING FOR REFERENCE at a found county monument in the
26 centerline of State Highway 20 (100 feet wide) and another county
27 monument bears, South 54°30'00" East (bearing base), a distance of

1 499.75 feet;
2 THENCE, North 36°17'25" East, a distance of 50.10 feet to the North
3 right-of-way line of said Highway 20;
4 THENCE, along said right-of-way line the following two (2) courses:
5 South 54°30'00" East, a distance of 497.38 feet to a
6 found old concrete right-of-way marker;
7 South 58°16'00" East, a distance of 763.50 feet to a set
8 1/2 inch rebar marked (Tx2027) at the Southwesterly corner of
9 said Tract 1B, Block 4 and POINT OF BEGINNING for the herein
10 described tract;
11 THENCE, along said right-of-way line, North 58°16'00" West, a
12 distance of 41.10 feet to the Northwesterly corner of said Tract 1B;
13 THENCE, leaving said right-of-way line and along the Northerly line
14 of said Tract 1B the following two (2) courses:
15 North 45°00'00" East, a distance of 594.73 feet;
16 North 43°44'00" East, a distance of 454.28 feet to the
17 Northeasterly corner of said Tract 1B in the South
18 right-of-way line of the Southern Pacific Railroad (100 feet
19 wide);
20 THENCE, along said right-of-way line, South 87°29'00" East, a
21 distance of 108.51 feet to the Southeasterly corner of said Tract
22 1B, Block 7;
23 THENCE, leaving said right-of-way line and along the Southerly line
24 of said Tract 1B the following two (2) courses;
25 South 46°05'00" West, a distance of 527.55 feet;
26 South 45°00'00" West, a distance of 580.58 feet to said
27 North right-of-way line of Highway 20;

1 THENCE, along said right-of-way line, North 58°16'00" West, a
2 distance of 20.55 feet to the POINT OF BEGINNING and containing
3 1.599 acres of land.

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

11 (b) The governor, one of the required recipients, has
12 submitted the notice and Act to the Texas Commission on
13 Environmental Quality.

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

18 (d) All requirements of the constitution and laws of this
19 state and the rules and procedures of the legislature with respect
20 to the notice, introduction, and passage of this Act are fulfilled
21 and accomplished.

22 SECTION 4. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2009.