

By: Quintanilla

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; granting the
power of eminent domain.

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.

1 (c) The district is created to accomplish the purposes of a
2 municipal management district as provided by general law and
3 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
4 Texas Constitution.

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

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

9 (2) eliminate unemployment and underemployment; and

10 (3) develop or expand transportation and commerce.

11 (e) The district will:

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

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

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

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

27 (g) The district will not act as the agent or

1 instrumentality of any private interest even though the district
2 will benefit many private interests as well as the public.

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

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

10 (1) organization, existence, or validity;

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

14 (3) right to impose a tax; or

15 (4) legality or operation.

16 [Sections 3845.005-3845.050 reserved for expansion]

17 SUBCHAPTER B. BOARD OF DIRECTORS

18 Sec. 3845.051. GOVERNING BODY; TERMS. (a) The district is
19 governed by a board of five elected directors.

20 (b) Except as provided by Section 3845.053, directors serve
21 staggered four-year terms.

22 (c) On the uniform election date in May of each
23 even-numbered year, the appropriate number of directors shall be
24 elected.

25 Sec. 3845.052. QUALIFICATIONS. To be qualified to serve as
26 a director, a person must be:

27 (1) at least 18 years old;

1 (2) a resident of the state; and

2 (3) an owner of real property subject to taxation in
3 the district or a qualified voter of the district.

4 Sec. 3845.053. INITIAL DIRECTORS. (a) On or after the
5 effective date of the Act creating this chapter, the owner or
6 owners of a majority of the assessed value of the real property in
7 the district may submit a petition to the Texas Commission on
8 Environmental Quality requesting that the commission appoint as
9 initial directors the five qualified persons named in the petition.
10 The commission shall appoint as initial directors the five persons
11 named in the petition.

12 (b) The initial directors appointed under Subsection (a)
13 shall draw lots to determine which two shall serve until the first
14 regularly scheduled election of directors under Section 3845.051
15 and which three shall serve until the second regularly scheduled
16 election of directors.

17 [Sections 3845.054-3845.100 reserved for expansion]

18 SUBCHAPTER C. POWERS AND DUTIES

19 Sec. 3845.101. GENERAL POWERS AND DUTIES. The district has
20 the powers and duties necessary to accomplish the purposes for
21 which the district is created.

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

1 Sec. 3845.103. NO EMINENT DOMAIN POWER. The district may
2 not exercise the power of eminent domain.

3 Sec. 3845.104. WATER AND WASTEWATER FACILITIES AND
4 SERVICES. (a) The district may not provide retail water or
5 wastewater services inside or outside the boundaries of the
6 district unless authorized by a resolution of the board of
7 directors of the El Paso County Tornillo Water Improvement District
8 that specifies the area that will receive the water services.
9 Notwithstanding any other law, the El Paso County Tornillo Water
10 Improvement District may not be required to provide retail water or
11 wastewater services to an area in which the district is authorized
12 to provide water services.

13 (b) The district may construct and maintain water or
14 wastewater facilities only according to standards established by
15 the El Paso County Tornillo Water Improvement District.

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

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

24 [Sections 3845.107-3845.150 reserved for expansion]

25 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

26 Sec. 3845.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
27 district may issue, without an election, bonds and other

1 obligations secured by revenue or contract payments from any source
2 other than ad valorem taxation.

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

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

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

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

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

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

26 Sec. 3845.154. TAXES FOR WATER, WASTEWATER, AND DRAINAGE
27 PURPOSES. Taxes the district imposes for water, wastewater, and

1 drainage facility construction and maintenance purposes are for the
2 particular benefit of the area inside the district, do not
3 generally or directly benefit the area inside the El Paso County
4 Tornillo Water Improvement District as a whole, and do not
5 duplicate a tax imposed by the El Paso County Tornillo Water
6 Improvement District.

7 Sec. 3845.155. HOTEL OCCUPANCY TAX. The district may
8 impose a hotel occupancy tax in the manner provided by Section
9 351.002, Tax Code. A tax imposed under this section may not exceed
10 the maximum rate provided by Section 351.003(a), Tax Code.

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

16 (b) The district may not adopt a sales and use tax at a rate
17 greater than two percent, and the rate of the tax when combined with
18 the rates of all other sales and use taxes imposed in the district
19 may not exceed the total combined sales and use tax rate imposed in
20 the City of El Paso.

21 (c) Chapter 321, Tax Code, applies to the imposition,
22 computation, administration, enforcement, and collection of the
23 sales and use tax imposed by this section except to the extent it is
24 inconsistent with this chapter.

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

27 [Sections 3845.158-3845.200 reserved for expansion]

1 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

2 Sec. 3845.201. AUTHORITY TO ISSUE BONDS AND OTHER
3 OBLIGATIONS. The district may issue bonds or other obligations
4 payable wholly or partly from ad valorem taxes, impact fees,
5 revenue, contract payments, grants, hotel occupancy taxes, sales
6 and use taxes, revenue from economic development agreements under
7 Chapter 381, Local Government Code, or other district money, or any
8 combination of those sources, to pay for an authorized district
9 purpose.

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

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

18 Sec. 3845.203. BONDS FOR ROAD PROJECTS. At the time of
19 issuance, the total principal amount of bonds or other obligations
20 issued or incurred to finance road projects may not exceed
21 one-fourth of the assessed value of the real property in the
22 district.

23 Sec. 3845.204. FINANCIAL RESPONSIBILITY OF EL PASO COUNTY
24 TORNILLO WATER IMPROVEMENT DISTRICT. This chapter may not be
25 construed as creating an obligation of the El Paso County Tornillo
26 Water Improvement District for a debt incurred by the district.

27 SECTION 2. The Tornillo Management District initially

1 includes all the territory contained in the following area:

2 TRACT 1

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

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

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

16 THENCE, along the West line of said Tract 6C the following four (4)
17 courses:

18 North 24°09'27" East, a distance of 168.61 feet to a
19 point and a found 1/2 inch rebar bears, North 76°30'23" East,
20 7.33 feet; North 00°40'00" East, a distance of 1857.00 feet to
21 a found old 2 1/2 inch iron pipe;

22 North 44°56'56" West, a distance of 2220.93 feet to a set
23 1/2 inch rebar marked (Tx2027) at the most Westerly corner of
24 said Tract 6C;

25 North 44°59'23" East, a distance of 6923.77 feet to a
26 found GLO brass cap marked (SC46,47,360) at the most
27 Northerly corner of said Tract 6C at an angle point in the

1 Southwesterly line of said Survey No. 360 in the Southerly
2 line of the Survey Day Survey No. 47;

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

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

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

9 South 44°57'13" West, a distance of 407.97 feet to a set
10 1/2 inch rebar marked (Tx2027);

11 THENCE, leaving said Southwesterly line of Survey No. 352, North
12 43°56'22" West, a distance of 2716.19 feet to a set 1/2 inch rebar
13 marked (Tx2027) in the South right-of-way line of O.T. Smith Road;

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

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

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

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

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

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

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

27 South 42°32'10" East, a distance of 996.75 feet to a

1 found TxDOT concrete right-of-way marker;
2 North 47°33'38" East, a distance of 50.00 feet to a found
3 TxDOT concrete right-of-way marker;
4 South 42°32'55" East, a distance of 73.66 feet to a
5 point; South 37°30'08" East, a distance of 538.50 feet to a
6 found GLO brass cap Marked (SC352,428,13UT);
7 South 37°31'43" East, a distance of 184.78 feet to a
8 found 2 inch iron pipe marked (S13,BLK L);
9 North 52°28'02" East, a distance of 63.78 feet to a
10 point;
11 South 42°32'55" East, a distance of 700.19 feet to a
12 found TxDOT concrete right-of-way marker;
13 South 42°34'09" East, a distance of 804.14 feet to a
14 found TxDOT concrete right-of-way marker;
15 South 42°30'46" East, a distance of 895.61 feet to a
16 found TxDOT concrete right-of-way marker;
17 South 42°32'26" East, a distance of 999.72 feet to a
18 found TxDOT concrete right-of-way marker;
19 South 42°33'51" East, a distance of 400.08 feet to a
20 found TxDOT concrete right-of-way marker;
21 South 47°25'57" West, a distance of 100.05 feet to a
22 found TxDOT concrete right-of-way marker;
23 South 42°33'32" East, a distance of 898.16 feet to a
24 found TxDOT concrete right-of-way marker;
25 South 42°58'04" East, a distance of 184.64 feet to a
26 point;
27 South 42°24'08" East, a distance of 158.89 feet to a

1 point;

2 South 42°28'13" East, a distance of 1057.78 feet to a

3 found TxDOT concrete right-of-way marker;

4 North 47°29'46" East, a distance of 100.05 feet to a

5 found TxDOT concrete right-of-way marker;

6 South 42°32'23" East, a distance of 1199.72 feet to a

7 point; South 42°32'35" East, a distance of 204.81 feet to a

8 found 1/2 inch rebar marked (Tx4690) at the Northeast corner

9 of a tract to McLeodusa Telecommunications Services, Inc.

10 (book 4000, page 90);

11 THENCE, along the North line of said McLeodusa tract, South

12 47°27'25" West, a distance of 208.71 feet to a found 1/2 inch rebar

13 marked (Tx4690);

14 THENCE, along the West line of said McLeodusa tract, South 42°32'35"

15 East, a distance of 417.42 feet to a found 1/2 inch rebar marked

16 (Tx4690);

17 THENCE, along the South line of said McLeodusa tract, North

18 47°27'25" East, a distance of 208.71 feet to a found 1/2 inch rebar

19 marked (Tx2027) in said West right-of-way line of Interstate

20 Highway 10;

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

22 South 42°32'18" East, a distance of 976.93 feet to a

23 found TxDOT concrete right-of-way marker;

24 South 42°32'29" East, a distance of 876.88 feet to a

25 found 2 inch iron pipe;

26 THENCE, leaving said right-of-way line, South 45°00'00" West, a

27 distance of 9393.85 feet to a set 1/2 inch rebar marked (Tx2027) at

1 the most Southerly corner of said Tract 6C in said Northerly
2 right-of-way line of the Southern Pacific Railroad;

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

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

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

10 TRACT 2

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

14 COMMENCING FOR REFERENCE at a found county monument in the
15 centerline of State Highway 20 (100 feet wide) and another county
16 monument bears, South 54°30'00" East (bearing base), a distance of
17 499.75 feet;

18 THENCE, North 36°17'25" East, a distance of 50.10 feet to the North
19 right-of-way line of said Highway 20;

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

21 South 54°30'00" East, a distance of 497.38 feet to a
22 found old concrete right-of-way marker;

23 South 58°16'00" East, a distance of 763.50 feet to a set
24 1/2 inch rebar marked (Tx2027) at the Southwesterly corner of
25 said Tract 1B, Block 4 and POINT OF BEGINNING for the herein
26 described tract;

27 THENCE, along said right-of-way line, North 58°16'00" West, a

1 distance of 41.10 feet to the Northwesterly corner of said Tract 1B;
2 THENCE, leaving said right-of-way line and along the Northerly line
3 of said Tract 1B the following two (2) courses:

4 North 45°00'00" East, a distance of 594.73 feet;

5 North 43°44'00" East, a distance of 454.28 feet to the
6 Northeasterly corner of said Tract 1B in the South
7 right-of-way line of the Southern Pacific Railroad (100 feet
8 wide);

9 THENCE, along said right-of-way line, South 87°29'00" East, a
10 distance of 108.51 feet to the Southeasterly corner of said Tract
11 1B, Block 7;

12 THENCE, leaving said right-of-way line and along the Southerly line
13 of said Tract 1B the following two (2) courses;

14 South 46°05'00" West, a distance of 527.55 feet;

15 South 45°00'00" West, a distance of 580.58 feet to said
16 North right-of-way line of Highway 20;

17 THENCE, along said right-of-way line, North 58°16'00" West, a
18 distance of 20.55 feet to the POINT OF BEGINNING and containing
19 1.599 acres of land.

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

27 (b) The governor, one of the required recipients, has

1 submitted the notice and Act to the Texas Commission on
2 Environmental Quality.

3 (c) The Texas Commission on Environmental Quality has filed
4 its recommendations relating to this Act with the governor, the
5 lieutenant governor, and the speaker of the house of
6 representatives within the required time.

7 (d) All requirements of the constitution and laws of this
8 state and the rules and procedures of the legislature with respect
9 to the notice, introduction, and passage of this Act are fulfilled
10 and accomplished.

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