

By: Miller of Comal

H.B. No. 4811

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Comal County Water Control and Improvement District No. 6; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

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

SECTION 1. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9037 to read as follows:

CHAPTER 9037. COMAL COUNTY WATER CONTROL AND IMPROVEMENT

DISTRICT NO. 6

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9037.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Comal County Water Control and Improvement District No. 6.

Sec. 9037.002. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9037.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 9037.004. CONSENT REQUIRED. (a) The temporary directors may not hold an election under Section 9037.003 until:

1 (1) each municipality in whose corporate limits or
2 extraterritorial jurisdiction the district is located has
3 consented by ordinance or resolution to the creation of the
4 district and to the inclusion of land in the district;

5 (2) each municipality in whose extraterritorial
6 jurisdiction the district is located has:

7 (A) approved and entered into a strategic
8 partnership agreement with the district under Section 43.0751,
9 Local Government Code; and

10 (B) approved and entered into a development
11 agreement with the owners of land in the district under Section
12 212.172, Local Government Code;

13 (3) an agreement that addresses the provision of water
14 and wastewater treatment to the land in the district has been
15 approved and entered into by:

16 (A) each municipality in whose extraterritorial
17 jurisdiction the district is located;

18 (B) the commissioners court of each county in
19 which the district is located;

20 (C) a retail or wholesale provider of water and
21 wastewater treatment; and

22 (D) the owners of land in the district;

23 (4) the commissioners court of each county in which
24 the district is located has issued an order making the findings
25 under Sections 51.021(a)(1), (2), (3), and (4), Water Code; and

26 (5) the commissioners court of each county in which
27 the district is located has approved and entered into an agreement

1 with the district that must include, but is not limited to,
2 provisions relating to the use of county right-of-way, the
3 district's exercise of the power of eminent domain outside the
4 boundaries of the district, drainage serving the land in the
5 district, platting of land in the district, and the provision of
6 water and wastewater treatment to the land in the district.

7 (b) A municipality that contains district territory in its
8 corporate limits or extraterritorial jurisdiction may include in
9 its consent to the creation of the district any restriction on or
10 condition to the consent, including a limitation on the powers of
11 the district otherwise granted by this chapter.

12 (c) Sections 51.022 through 51.025, Water Code, do not apply
13 to the district or the order of the county under Subsection (a)(4).

14 Sec. 9037.005. EXTRATERRITORIAL STATUS. All of the land
15 included in the district, as approved by the City of Bulverde for
16 inclusion in the district, is included in the extraterritorial
17 jurisdiction of the City of Bulverde on adoption of the resolution
18 or ordinance consenting to the creation of the district by the
19 governing body of the City of Bulverde.

20 Sec. 9037.006. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
21 The district is created to serve a public purpose and benefit.

22 (b) The district is created to accomplish the purposes of:

23 (1) a water control and improvement district as
24 provided by general law and Section 59, Article XVI, Texas
25 Constitution, as limited by this chapter, including the disposal of
26 waste and control of storm water; and

27 (2) Section 52, Article III, Texas Constitution, as

1 limited by this chapter, that relate to the construction,
2 acquisition, improvement, operation, or maintenance of
3 macadamized, graveled, or paved roads, or improvements, including
4 storm drainage, in aid of those roads.

5 Sec. 9037.007. INITIAL DISTRICT TERRITORY. (a) The
6 district is initially composed of the territory described by
7 Section 2 of the Act creating this chapter.

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

12 (1) organization, existence, or validity;

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

16 (3) right to impose a tax; or

17 (4) legality or operation.

18 [Sections 9037.008-9037.050 reserved for expansion]

19 SUBCHAPTER B. BOARD OF DIRECTORS

20 Sec. 9037.051. GOVERNING BODY; TERMS. (a) The district is
21 governed by a board of five elected directors.

22 (b) Except as provided by Section 9037.052, directors serve
23 staggered four-year terms.

24 Sec. 9037.052. TEMPORARY DIRECTORS. (a) The temporary
25 board consists of:

26 (1) Shannon Miller;

27 (2) Jim Leonard;

1 (3) David Rittenhouse;

2 (4) George Weron; and

3 (5) Blaine Lopez.

4 (b) Temporary directors serve until the earlier of:

5 (1) the date permanent directors are elected under
6 Section 9037.003; or

7 (2) the fourth anniversary of the effective date of
8 the Act creating this chapter.

9 (c) If permanent directors have not been elected under
10 Section 9037.003 and the terms of the temporary directors have
11 expired, successor temporary directors shall be appointed or
12 reappointed as provided by Subsection (d) to serve terms that
13 expire on the earlier of:

14 (1) the date permanent directors are elected under
15 Section 9037.003; or

16 (2) the fourth anniversary of the date of the
17 appointment or reappointment.

18 (d) If Subsection (c) applies, the owner or owners of a
19 majority of the assessed value of the real property in the district
20 may submit a petition to the Texas Commission on Environmental
21 Quality requesting that the commission appoint as successor
22 temporary directors the five persons named in the petition. The
23 commission shall appoint as successor temporary directors the five
24 persons named in the petition.

25 [Sections 9037.053-9037.100 reserved for expansion]

26 SUBCHAPTER C. POWERS AND DUTIES

27 Sec. 9037.101. GENERAL POWERS AND DUTIES. The district has

1 the powers and duties, as limited by this chapter, necessary to
2 accomplish the purposes for which the district is created.

3 Sec. 9037.102. WATER CONTROL AND IMPROVEMENT DISTRICT
4 POWERS AND DUTIES. The district has the powers and duties provided
5 by the general law of this state, including Chapters 49 and 51,
6 Water Code, applicable to water control and improvement districts
7 created under Section 59, Article XVI, Texas Constitution,
8 including the powers and duties that relate to the disposal of waste
9 and control of storm water under Section 51.331, Water Code, as
10 limited by this chapter.

11 Sec. 9037.103. AUTHORITY FOR ROAD PROJECTS. Under Section
12 52, Article III, Texas Constitution, as limited by this chapter,
13 the district may design, acquire, construct, finance, issue bonds
14 for, improve, operate, maintain, and convey to this state, a
15 county, or a municipality for operation and maintenance
16 macadamized, graveled, or paved roads, or improvements, including
17 storm drainage, in aid of those roads.

18 Sec. 9037.104. APPROVAL OF ROAD PROJECT. (a) The district
19 may not undertake a road project authorized by Section 9037.103
20 unless:

21 (1) the proposed road project complies with applicable
22 municipal or county subdivision ordinances or regulations; or

23 (2) the Texas Transportation Commission has approved
24 the plans and specifications of the road project, if the state will
25 operate and maintain the road.

26 (b) Except as provided by Subsection (a), the district is
27 not required to obtain approval from the Texas Transportation

1 Commission to design, acquire, construct, finance, issue bonds for,
2 improve, or convey a road project.

3 Sec. 9037.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
4 OR RESOLUTION. The district shall comply with all applicable
5 requirements of any ordinance or resolution that is adopted under
6 Section 42.042 or 42.0425, Local Government Code, and that consents
7 to the creation of the district or to the inclusion of land in the
8 district.

9 Sec. 9037.106. LIMITATION ON USE OF EMINENT DOMAIN. (a) The
10 district shall not exercise the power of eminent domain outside the
11 district to acquire a site or easement for:

- 12 (1) a road project authorized by Section 9037.103; or
13 (2) a recreational facility as defined by Section
14 49.462, Water Code.

15 (b) The district shall not exercise the power of eminent
16 domain outside the boundaries of the district for any purpose
17 unless the proposed exercise is approved by a written resolution of
18 the commissioners court of each county in which the district is
19 located.

20 Sec. 9037.107. WATER AND WASTEWATER INFRASTRUCTURE. The
21 district may not construct any water or wastewater improvement
22 unless the plans and specifications for the improvement have been
23 approved by Comal County, the City of Bulverde, and any wholesale
24 provider of water or wastewater treatment to the district.

25 [Sections 9037.108-9037.150 reserved for expansion]

26 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

27 Sec. 9037.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The

1 district may issue, without an election, bonds and other
2 obligations secured by:

3 (1) revenue other than ad valorem taxes; or

4 (2) contract payments described by Section 9037.153.

5 (b) The district must hold an election in the manner
6 provided by Chapters 49 and 51, Water Code, to obtain voter approval
7 before the district may impose an ad valorem tax or issue bonds
8 payable from ad valorem taxes.

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

13 Sec. 9037.152. OPERATION AND MAINTENANCE TAX. (a) If
14 authorized at an election held under Section 9037.151, the district
15 may impose an operation and maintenance tax on taxable property in
16 the district in accordance with Section 49.107, Water Code.

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

19 Sec. 9037.153. CONTRACT TAXES. (a) In accordance with
20 Section 49.108, Water Code, the district may impose a tax other than
21 an operation and maintenance tax and use the revenue derived from
22 the tax to make payments under a contract after the provisions of
23 the contract have been approved by a majority of the district voters
24 voting at an election held for that purpose.

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

1 [Sections 9037.154-9037.200 reserved for expansion]

2 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3 Sec. 9037.201. AUTHORITY TO ISSUE BONDS AND OTHER
4 OBLIGATIONS. The district may issue bonds or other obligations
5 payable wholly or partly from ad valorem taxes, impact fees,
6 revenue, contract payments, grants, or other district money, or any
7 combination of those sources, to pay for any authorized district
8 purpose.

9 Sec. 9037.202. TAXES FOR BONDS. At the time the district
10 issues bonds payable wholly or partly from ad valorem taxes, the
11 board shall provide for the annual imposition of a continuing
12 direct ad valorem tax, without limit as to rate or amount, while all
13 or part of the bonds are outstanding as required and in the manner
14 provided by Section 51.433, Water Code.

15 Sec. 9037.203. BONDS FOR ROAD PROJECTS. At the time of
16 issuance, the total principal amount of bonds or other obligations
17 issued or incurred to finance road projects and payable from ad
18 valorem taxes may not exceed one-fourth of the assessed value of the
19 real property in the district.

20 SECTION 2. The Comal County Water Control and Improvement
21 District No. 6 initially includes all the territory contained in
22 the following area:

23 FIELD NOTES OF A SURVEY OF 262.464 acres consisting of
24 approximately 0.24 acres out of the Christian Hofheinz Survey No.
25 845, Abstract 711, approximately 86.87 acres out of the Hugh White
26 Survey No. 430, Abstract 658, approximately 83.08 acres out of the
27 Heinrich Kabelmacher Survey No. 936, Abstract 842 and approximately

H.B. No. 4811

1 92.274 acres out of the Mary McVicar Survey No. 238, Abstract 387,
2 Comal County, Texas, being a portion of that 277.39-acre tract of
3 land described in deed of record in Document No. 200506038360 of the
4 Official Public Records of Comal County, Texas and being more
5 particularly described by metes and bounds, as surveyed, as
6 follows:

7 Beginning at an 1/2" iron bar with a Paul T. Carey cap found
8 set in the ground in the south right-of-way line of State Hwy. No.
9 46, the northeast corner of a 277.39-acre tract of land described in
10 deed of record in Document No. 200506038360 of the Official Public
11 Records of Comal County, Texas and the northwest corner of a
12 37.9291-acre tract of land described as Tract 5 in deed of record in
13 Volume 604 at page 294 of the Official Public Records of Comal
14 County, Texas, for the northeast corner of this tract;

15 Thence S 9°24'25" W with the east boundary line of said
16 277.39-acre tract and the west boundary line of said 37.9291-acre
17 tract of land described as Tract 5, a 37.9291-acre tract of land
18 described as Tract 6 in deed of record in Volume 604 at page 294 of
19 the Official Public Records of Comal County, Texas and a
20 37.9291-acre tract of land described as Tract 7 in deed of record in
21 Volume 604 at page 294 of the Official Public Records of Comal
22 County, Texas in deed of record in Volume 604 at page 294 of the
23 Official Public Records of Comal County, Texas a distance of
24 4,089.90 feet to an iron bar found set in the ground, the southeast
25 corner of said 277.39-acre tract, the southwest corner of said
26 37.9291-acre tract of land described as Tract 7 and the northwest
27 corner of a 528.84-acre tract of land described in deed of record in

1 Volume 107 at page 404 of the Deed Records of Comal County, Texas,
2 for the southeast corner of this tract;

3 Thence S 89°41'40" W with the south boundary line of said
4 277.39-acre tract a distance of 2,865.80 feet to a point, for the
5 southwest corner of this tract, whence an iron bar found set in the
6 ground in the west right-of-way line of Blanco Road, the southwest
7 corner of said 277.39-acre tract, bears S 89°41'40" W a distance of
8 200.03 feet;

9 Thence N 0°39'47" E crossing said 277.39-acre tract 200.00
10 feet from and parallel to the east right-of-way line of Blanco Road
11 and the west boundary line of said 277.39-acre tract a distance of
12 3,257.33 feet to a point in the north boundary line of said
13 277.39-acre tract and the south boundary line of a 50.71-acre tract
14 of land described in deed of record in Volume 95 at page 155 of the
15 Deed Records of Comal County, Texas, for the northwest corner of
16 this tract, whence an 1/2" iron bar with a Paul T. Carey cap found
17 set in the ground in the west right-of-way line of Blanco Road, the
18 northwest corner of said 277.39-acre tract, bears S 89°31'30" W a
19 distance of 200.04 feet;

20 Thence N 89°31'30" E with the north boundary line of said
21 277.39-acre tract and the south boundary lines of said 50.71-acre
22 tract and a 55.97-acre tract of land described in deed of record in
23 Volume 95 at page 159 of the Deed Records of Comal County, Texas a
24 distance of 1,898.70 feet to an iron bar found set in the ground, a
25 reentrant corner of said 277.39-acre tract and the southeast corner
26 of said 55.97-acre tract, for a reentrant corner of this tract;

27 Thence N 4°02'58" E with a west boundary line of said

1 277.39-acre tract and the east boundary line of said 55.97-acre
2 tract a distance of 926.02 feet to an 1/2" iron bar with a Schwartz
3 Surveying cap found set in the ground, a corner of said 277.39-acre
4 tract and a reentrant corner of said 55.97-acre tract, for a corner
5 of this tract;

6 Thence S 81°19'53" E with a north boundary line of said
7 277.39-acre tract and a south boundary line of said 55.97-acre
8 tract a distance of 351.44 feet to an 1/2" iron bar with a Schwartz
9 Surveying cap found set in the ground, a corner of said 277.39-acre
10 tract and a corner of said 55.97-acre tract, for a corner of this
11 tract;

12 Thence S 89°14'50" E with a north boundary line of said
13 277.39-acre tract and a south boundary line of said 55.97-acre
14 tract a distance of 493.56 feet to an 1/2" iron bar with an orange
15 Sinclair and Associates cap set in the ground in the arc of a curve
16 having a radius of 1,482.39 feet, the south right-of-way line of
17 State Hwy. No. 46, a corner of said 277.39-acre tract and a corner
18 of said 55.97-acre tract, for a corner of this tract;

19 Thence curve left in a southeasterly direction along the arc
20 of said curve having a radius of 1,482.39 feet with the south
21 right-of-way line of State Hwy. No. 46 and a north boundary line of
22 said 277.39-acre tract, through a central angle of 17°58'53", a
23 chord bearing and distance of S 79°48'28" E - 463.32 feet, a distance
24 of 465.22 feet to an 1/2" iron bar with an orange Sinclair and
25 Associates cap set in the ground, a corner of said 277.39-acre
26 tract, for a corner of this tract;

27 Thence S 88°47'55" E with the south right-of-way line of State

1 Hwy. No. 46 and a north boundary line of said 277.39-acre tract a
2 distance of 235.62 feet to the point of beginning.

3 Containing 262.464 acres (11,432,924 square feet) of land,
4 more or less.

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

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

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

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

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