

1-1 By: Miller of Comal (Senate Sponsor - Wentworth) H.B. No. 4811
1-2 (In the Senate - Received from the House May 13, 2009;
1-3 May 14, 2009, read first time and referred to Committee on Natural
1-4 Resources; May 23, 2009, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 23, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Comal County Water Control and
1-9 Improvement District No. 6; providing authority to impose a tax and
1-10 issue bonds; granting a limited power of eminent domain.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle I, Title 6, Special District Local Laws
1-13 Code, is amended by adding Chapter 9037 to read as follows:

1-14 CHAPTER 9037. COMAL COUNTY WATER CONTROL AND IMPROVEMENT

1-15 DISTRICT NO. 6

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 9037.001. DEFINITIONS. In this chapter:

1-18 (1) "Board" means the district's board of directors.

1-19 (2) "Director" means a board member.

1-20 (3) "District" means the Comal County Water Control
1-21 and Improvement District No. 6.

1-22 Sec. 9037.002. NATURE OF DISTRICT. The district is a water
1-23 control and improvement district created under Section 59, Article
1-24 XVI, Texas Constitution.

1-25 Sec. 9037.003. CONFIRMATION AND DIRECTORS' ELECTION
1-26 REQUIRED. The temporary directors shall hold an election to
1-27 confirm the creation of the district and to elect five permanent
1-28 directors as provided by Section 49.102, Water Code.

1-29 Sec. 9037.004. CONSENT REQUIRED. (a) The temporary
1-30 directors may not hold an election under Section 9037.003 until:

1-31 (1) each municipality in whose corporate limits or
1-32 extraterritorial jurisdiction the district is located has
1-33 consented by ordinance or resolution to the creation of the
1-34 district and to the inclusion of land in the district;

1-35 (2) each municipality in whose extraterritorial
1-36 jurisdiction the district is located has:

1-37 (A) approved and entered into a strategic
1-38 partnership agreement with the district under Section 43.0751,
1-39 Local Government Code; and

1-40 (B) approved and entered into a development
1-41 agreement with the owners of land in the district under Section
1-42 212.172, Local Government Code;

1-43 (3) an agreement that addresses the provision of water
1-44 and wastewater treatment to the land in the district has been
1-45 approved and entered into by:

1-46 (A) each municipality in whose extraterritorial
1-47 jurisdiction the district is located;

1-48 (B) the commissioners court of each county in
1-49 which the district is located;

1-50 (C) a retail or wholesale provider of water and
1-51 wastewater treatment; and

1-52 (D) the owners of land in the district;

1-53 (4) the commissioners court of each county in which
1-54 the district is located has issued an order making the findings
1-55 under Sections 51.021(a)(1), (2), (3), and (4), Water Code; and

1-56 (5) the commissioners court of each county in which
1-57 the district is located has approved and entered into an agreement
1-58 with the district that must include, but is not limited to,
1-59 provisions relating to the use of county right-of-way, the
1-60 district's exercise of the power of eminent domain outside the
1-61 boundaries of the district, drainage serving the land in the
1-62 district, platting of land in the district, and the provision of
1-63 water and wastewater treatment to the land in the district.

1-64 (b) A municipality that contains district territory in its

2-1 corporate limits or extraterritorial jurisdiction may include in
 2-2 its consent to the creation of the district any restriction on or
 2-3 condition to the consent, including a limitation on the powers of
 2-4 the district otherwise granted by this chapter.

2-5 (c) Sections 51.022 through 51.025, Water Code, do not apply
 2-6 to the district or the order of the county under Subsection (a)(4).

2-7 Sec. 9037.005. EXTRATERRITORIAL STATUS. All of the land
 2-8 included in the district, as approved by the City of Bulverde for
 2-9 inclusion in the district, is included in the extraterritorial
 2-10 jurisdiction of the City of Bulverde on adoption of the resolution
 2-11 or ordinance consenting to the creation of the district by the
 2-12 governing body of the City of Bulverde.

2-13 Sec. 9037.006. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
 2-14 The district is created to serve a public purpose and benefit.

2-15 (b) The district is created to accomplish the purposes of:

2-16 (1) a water control and improvement district as
 2-17 provided by general law and Section 59, Article XVI, Texas
 2-18 Constitution, as limited by this chapter, including the disposal of
 2-19 waste and control of storm water; and

2-20 (2) Section 52, Article III, Texas Constitution, as
 2-21 limited by this chapter, that relate to the construction,
 2-22 acquisition, improvement, operation, or maintenance of
 2-23 macadamized, graveled, or paved roads, or improvements, including
 2-24 storm drainage, in aid of those roads.

2-25 Sec. 9037.007. INITIAL DISTRICT TERRITORY. (a) The
 2-26 district is initially composed of the territory described by
 2-27 Section 2 of the Act creating this chapter.

2-28 (b) The boundaries and field notes contained in Section 2 of
 2-29 the Act creating this chapter form a closure. A mistake made in the
 2-30 field notes or in copying the field notes in the legislative process
 2-31 does not affect the district's:

2-32 (1) organization, existence, or validity;

2-33 (2) right to issue any type of bond for the purposes
 2-34 for which the district is created or to pay the principal of and
 2-35 interest on a bond;

2-36 (3) right to impose a tax; or

2-37 (4) legality or operation.

2-38 [Sections 9037.008-9037.050 reserved for expansion]

2-39 SUBCHAPTER B. BOARD OF DIRECTORS

2-40 Sec. 9037.051. GOVERNING BODY; TERMS. (a) The district is
 2-41 governed by a board of five elected directors.

2-42 (b) Except as provided by Section 9037.052, directors serve
 2-43 staggered four-year terms.

2-44 Sec. 9037.052. TEMPORARY DIRECTORS. (a) The temporary
 2-45 board consists of:

2-46 (1) Shannon Miller;

2-47 (2) Jim Leonard;

2-48 (3) David Rittenhouse;

2-49 (4) George Weron; and

2-50 (5) Blaine Lopez.

2-51 (b) Temporary directors serve until the earlier of:

2-52 (1) the date permanent directors are elected under
 2-53 Section 9037.003; or

2-54 (2) the fourth anniversary of the effective date of
 2-55 the Act creating this chapter.

2-56 (c) If permanent directors have not been elected under
 2-57 Section 9037.003 and the terms of the temporary directors have
 2-58 expired, successor temporary directors shall be appointed or
 2-59 reappointed as provided by Subsection (d) to serve terms that
 2-60 expire on the earlier of:

2-61 (1) the date permanent directors are elected under
 2-62 Section 9037.003; or

2-63 (2) the fourth anniversary of the date of the
 2-64 appointment or reappointment.

2-65 (d) If Subsection (c) applies, the owner or owners of a
 2-66 majority of the assessed value of the real property in the district
 2-67 may submit a petition to the Texas Commission on Environmental
 2-68 Quality requesting that the commission appoint as successor
 2-69 temporary directors the five persons named in the petition. The

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

3-3 [Sections 9037.053-9037.100 reserved for expansion]

3-4 SUBCHAPTER C. POWERS AND DUTIES

3-5 Sec. 9037.101. GENERAL POWERS AND DUTIES. The district has
 3-6 the powers and duties, as limited by this chapter, necessary to
 3-7 accomplish the purposes for which the district is created.

3-8 Sec. 9037.102. WATER CONTROL AND IMPROVEMENT DISTRICT
 3-9 POWERS AND DUTIES. The district has the powers and duties provided
 3-10 by the general law of this state, including Chapters 49 and 51,
 3-11 Water Code, applicable to water control and improvement districts
 3-12 created under Section 59, Article XVI, Texas Constitution,
 3-13 including the powers and duties that relate to the disposal of waste
 3-14 and control of storm water under Section 51.331, Water Code, as
 3-15 limited by this chapter.

3-16 Sec. 9037.103. AUTHORITY FOR ROAD PROJECTS. Under Section
 3-17 52, Article III, Texas Constitution, as limited by this chapter,
 3-18 the district may design, acquire, construct, finance, issue bonds
 3-19 for, improve, operate, maintain, and convey to this state, a
 3-20 county, or a municipality for operation and maintenance
 3-21 macadamized, graveled, or paved roads, or improvements, including
 3-22 storm drainage, in aid of those roads.

3-23 Sec. 9037.104. APPROVAL OF ROAD PROJECT. (a) The district
 3-24 may not undertake a road project authorized by Section 9037.103
 3-25 unless:

3-26 (1) the proposed road project complies with applicable
 3-27 municipal or county subdivision ordinances or regulations; or

3-28 (2) the Texas Transportation Commission has approved
 3-29 the plans and specifications of the road project, if the state will
 3-30 operate and maintain the road.

3-31 (b) Except as provided by Subsection (a), the district is
 3-32 not required to obtain approval from the Texas Transportation
 3-33 Commission to design, acquire, construct, finance, issue bonds for,
 3-34 improve, or convey a road project.

3-35 Sec. 9037.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
 3-36 OR RESOLUTION. The district shall comply with all applicable
 3-37 requirements of any ordinance or resolution that is adopted under
 3-38 Section 42.042 or 42.0425, Local Government Code, and that consents
 3-39 to the creation of the district or to the inclusion of land in the
 3-40 district.

3-41 Sec. 9037.106. LIMITATION ON USE OF EMINENT DOMAIN. (a) The
 3-42 district shall not exercise the power of eminent domain outside the
 3-43 district to acquire a site or easement for:

3-44 (1) a road project authorized by Section 9037.103; or

3-45 (2) a recreational facility as defined by Section
 3-46 49.462, Water Code.

3-47 (b) The district shall not exercise the power of eminent
 3-48 domain outside the boundaries of the district for any purpose
 3-49 unless the proposed exercise is approved by a written resolution of
 3-50 the commissioners court of each county in which the district is
 3-51 located.

3-52 Sec. 9037.107. WATER AND WASTEWATER INFRASTRUCTURE. The
 3-53 district may not construct any water or wastewater improvement
 3-54 unless the plans and specifications for the improvement have been
 3-55 approved by Comal County, the City of Bulverde, and any wholesale
 3-56 provider of water or wastewater treatment to the district.

3-57 [Sections 9037.108-9037.150 reserved for expansion]

3-58 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-59 Sec. 9037.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
 3-60 district may issue, without an election, bonds and other
 3-61 obligations secured by:

3-62 (1) revenue other than ad valorem taxes; or

3-63 (2) contract payments described by Section 9037.153.

3-64 (b) The district must hold an election in the manner
 3-65 provided by Chapters 49 and 51, Water Code, to obtain voter approval
 3-66 before the district may impose an ad valorem tax or issue bonds
 3-67 payable from ad valorem taxes.

3-68 (c) The district may not issue bonds payable from ad valorem
 3-69 taxes to finance a road project unless the issuance is approved by a

4-1 vote of a two-thirds majority of the district voters voting at an
4-2 election held for that purpose.

4-3 Sec. 9037.152. OPERATION AND MAINTENANCE TAX. (a) If
4-4 authorized at an election held under Section 9037.151, the district
4-5 may impose an operation and maintenance tax on taxable property in
4-6 the district in accordance with Section 49.107, Water Code.

4-7 (b) The board shall determine the tax rate. The rate may not
4-8 exceed the rate approved at the election.

4-9 Sec. 9037.153. CONTRACT TAXES. (a) In accordance with
4-10 Section 49.108, Water Code, the district may impose a tax other than
4-11 an operation and maintenance tax and use the revenue derived from
4-12 the tax to make payments under a contract after the provisions of
4-13 the contract have been approved by a majority of the district voters
4-14 voting at an election held for that purpose.

4-15 (b) A contract approved by the district voters may contain a
4-16 provision stating that the contract may be modified or amended by
4-17 the board without further voter approval.

4-18 [Sections 9037.154-9037.200 reserved for expansion]

4-19 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

4-20 Sec. 9037.201. AUTHORITY TO ISSUE BONDS AND OTHER
4-21 OBLIGATIONS. The district may issue bonds or other obligations
4-22 payable wholly or partly from ad valorem taxes, impact fees,
4-23 revenue, contract payments, grants, or other district money, or any
4-24 combination of those sources, to pay for any authorized district
4-25 purpose.

4-26 Sec. 9037.202. TAXES FOR BONDS. At the time the district
4-27 issues bonds payable wholly or partly from ad valorem taxes, the
4-28 board shall provide for the annual imposition of a continuing
4-29 direct ad valorem tax, without limit as to rate or amount, while all
4-30 or part of the bonds are outstanding as required and in the manner
4-31 provided by Section 51.433, Water Code.

4-32 Sec. 9037.203. BONDS FOR ROAD PROJECTS. At the time of
4-33 issuance, the total principal amount of bonds or other obligations
4-34 issued or incurred to finance road projects and payable from ad
4-35 valorem taxes may not exceed one-fourth of the assessed value of the
4-36 real property in the district.

4-37 SECTION 2. The Comal County Water Control and Improvement
4-38 District No. 6 initially includes all the territory contained in
4-39 the following area:

4-40 FIELD NOTES OF A SURVEY OF 262.464 acres consisting of
4-41 approximately 0.24 acres out of the Christian Hofheinz Survey No.
4-42 845, Abstract 711, approximately 86.87 acres out of the Hugh White
4-43 Survey No. 430, Abstract 658, approximately 83.08 acres out of the
4-44 Heinrich Kabelmacher Survey No. 936, Abstract 842 and approximately
4-45 92.274 acres out of the Mary McVicar Survey No. 238, Abstract 387,
4-46 Comal County, Texas, being a portion of that 277.39-acre tract of
4-47 land described in deed of record in Document No. 200506038360 of the
4-48 Official Public Records of Comal County, Texas and being more
4-49 particularly described by metes and bounds, as surveyed, as
4-50 follows:

4-51 Beginning at an 1/2" iron bar with a Paul T. Carey cap found
4-52 set in the ground in the south right-of-way line of State Hwy. No.
4-53 46, the northeast corner of a 277.39-acre tract of land described in
4-54 deed of record in Document No. 200506038360 of the Official Public
4-55 Records of Comal County, Texas and the northwest corner of a
4-56 37.9291-acre tract of land described as Tract 5 in deed of record in
4-57 Volume 604 at page 294 of the Official Public Records of Comal
4-58 County, Texas, for the northeast corner of this tract;

4-59 Thence S 9°24'25" W with the east boundary line of said
4-60 277.39-acre tract and the west boundary line of said 37.9291-acre
4-61 tract of land described as Tract 5, a 37.9291-acre tract of land
4-62 described as Tract 6 in deed of record in Volume 604 at page 294 of
4-63 the Official Public Records of Comal County, Texas and a
4-64 37.9291-acre tract of land described as Tract 7 in deed of record in
4-65 Volume 604 at page 294 of the Official Public Records of Comal
4-66 County, Texas in deed of record in Volume 604 at page 294 of the
4-67 Official Public Records of Comal County, Texas a distance of
4-68 4,089.90 feet to an iron bar found set in the ground, the southeast
4-69 corner of said 277.39-acre tract, the southwest corner of said

5-1 37.9291-acre tract of land described as Tract 7 and the northwest
 5-2 corner of a 528.84-acre tract of land described in deed of record in
 5-3 Volume 107 at page 404 of the Deed Records of Comal County, Texas,
 5-4 for the southeast corner of this tract;

5-5 Thence S 89°41'40" W with the south boundary line of said
 5-6 277.39-acre tract a distance of 2,865.80 feet to a point, for the
 5-7 southwest corner of this tract, whence an iron bar found set in the
 5-8 ground in the west right-of-way line of Blanco Road, the southwest
 5-9 corner of said 277.39-acre tract, bears S 89°41'40" W a distance of
 5-10 200.03 feet;

5-11 Thence N 0°39'47" E crossing said 277.39-acre tract 200.00
 5-12 feet from and parallel to the east right-of-way line of Blanco Road
 5-13 and the west boundary line of said 277.39-acre tract a distance of
 5-14 3,257.33 feet to a point in the north boundary line of said
 5-15 277.39-acre tract and the south boundary line of a 50.71-acre tract
 5-16 of land described in deed of record in Volume 95 at page 155 of the
 5-17 Deed Records of Comal County, Texas, for the northwest corner of
 5-18 this tract, whence an 1/2" iron bar with a Paul T. Carey cap found
 5-19 set in the ground in the west right-of-way line of Blanco Road, the
 5-20 northwest corner of said 277.39-acre tract, bears S 89°31'30" W a
 5-21 distance of 200.04 feet;

5-22 Thence N 89°31'30" E with the north boundary line of said
 5-23 277.39-acre tract and the south boundary lines of said 50.71-acre
 5-24 tract and a 55.97-acre tract of land described in deed of record in
 5-25 Volume 95 at page 159 of the Deed Records of Comal County, Texas a
 5-26 distance of 1,898.70 feet to an iron bar found set in the ground, a
 5-27 reentrant corner of said 277.39-acre tract and the southeast corner
 5-28 of said 55.97-acre tract, for a reentrant corner of this tract;

5-29 Thence N 4°02'58" E with a west boundary line of said
 5-30 277.39-acre tract and the east boundary line of said 55.97-acre
 5-31 tract a distance of 926.02 feet to an 1/2" iron bar with a Schwartz
 5-32 Surveying cap found set in the ground, a corner of said 277.39-acre
 5-33 tract and a reentrant corner of said 55.97-acre tract, for a corner
 5-34 of this tract;

5-35 Thence S 81°19'53" E with a north boundary line of said
 5-36 277.39-acre tract and a south boundary line of said 55.97-acre
 5-37 tract a distance of 351.44 feet to an 1/2" iron bar with a Schwartz
 5-38 Surveying cap found set in the ground, a corner of said 277.39-acre
 5-39 tract and a corner of said 55.97-acre tract, for a corner of this
 5-40 tract;

5-41 Thence S 89°14'50" E with a north boundary line of said
 5-42 277.39-acre tract and a south boundary line of said 55.97-acre
 5-43 tract a distance of 493.56 feet to an 1/2" iron bar with an orange
 5-44 Sinclair and Associates cap set in the ground in the arc of a curve
 5-45 having a radius of 1,482.39 feet, the south right-of-way line of
 5-46 State Hwy. No. 46, a corner of said 277.39-acre tract and a corner
 5-47 of said 55.97-acre tract, for a corner of this tract;

5-48 Thence curve left in a southeasterly direction along the arc
 5-49 of said curve having a radius of 1,482.39 feet with the south
 5-50 right-of-way line of State Hwy. No. 46 and a north boundary line of
 5-51 said 277.39-acre tract, through a central angle of 17°58'53", a
 5-52 chord bearing and distance of S 79°48'28" E - 463.32 feet, a distance
 5-53 of 465.22 feet to an 1/2" iron bar with an orange Sinclair and
 5-54 Associates cap set in the ground, a corner of said 277.39-acre
 5-55 tract, for a corner of this tract;

5-56 Thence S 88°47'55" E with the south right-of-way line of State
 5-57 Hwy. No. 46 and a north boundary line of said 277.39-acre tract a
 5-58 distance of 235.62 feet to the point of beginning.

5-59 Containing 262.464 acres (11,432,924 square feet) of land,
 5-60 more or less.

5-61 SECTION 3. (a) The legal notice of the intention to
 5-62 introduce this Act, setting forth the general substance of this
 5-63 Act, has been published as provided by law, and the notice and a
 5-64 copy of this Act have been furnished to all persons, agencies,
 5-65 officials, or entities to which they are required to be furnished
 5-66 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
 5-67 Government Code.

5-68 (b) The governor, one of the required recipients, has
 5-69 submitted the notice and Act to the Texas Commission on

6-1 Environmental Quality.

6-2 (c) The Texas Commission on Environmental Quality has filed
6-3 its recommendations relating to this Act with the governor, the
6-4 lieutenant governor, and the speaker of the house of
6-5 representatives within the required time.

6-6 (d) All requirements of the constitution and laws of this
6-7 state and the rules and procedures of the legislature with respect
6-8 to the notice, introduction, and passage of this Act are fulfilled
6-9 and accomplished.

6-10 SECTION 4. This Act takes effect immediately if it receives
6-11 a vote of two-thirds of all the members elected to each house, as
6-12 provided by Section 39, Article III, Texas Constitution. If this
6-13 Act does not receive the vote necessary for immediate effect, this
6-14 Act takes effect September 1, 2009.

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