

By: Wentworth

S.B. No. 2539

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 OF MUNICIPALITY AND COUNTY REQUIRED. The temporary directors may not hold an election under Section

1 9037.003 until each municipality in whose corporate limits or
2 extraterritorial jurisdiction the district is located has
3 consented by ordinance or resolution and the county in which the
4 district is located has consented by order to the creation of the
5 district and to the inclusion of land in the district.

6 Sec. 9037.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
7 The district is created to serve a public purpose and benefit.

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

9 (1) a water control and improvement district as
10 provided by general law and Section 59, Article XVI, Texas
11 Constitution; and

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 9037.006. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act creating this chapter.

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

23 (1) organization, existence, or validity;

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

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 [Sections 9037.007-9037.050 reserved for expansion]

3 SUBCHAPTER B. BOARD OF DIRECTORS

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

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

8 Sec. 9037.052. TEMPORARY DIRECTORS. (a) The temporary
9 board consists of:

10 (1) Shannon Miller;

11 (2) Jim Leonard;

12 (3) David Rittenhouse;

13 (4) George Weron; and

14 (5) Blaine Lopez.

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

16 (1) the date permanent directors are elected under
17 Section 9037.003; or

18 (2) the fourth anniversary of the effective date of
19 the Act creating this chapter.

20 (c) If permanent directors have not been elected under
21 Section 9037.003 and the terms of the temporary directors have
22 expired, successor temporary directors shall be appointed or
23 reappointed as provided by Subsection (d) to serve terms that
24 expire on the earlier of:

25 (1) the date permanent directors are elected under
26 Section 9037.003; or

27 (2) the fourth anniversary of the date of the

1 appointment or reappointment.

2 (d) If Subsection (c) applies, the owner or owners of a
3 majority of the assessed value of the real property in the district
4 may submit a petition to the Texas Commission on Environmental
5 Quality requesting that the commission appoint as successor
6 temporary directors the five persons named in the petition. The
7 commission shall appoint as successor temporary directors the five
8 persons named in the petition.

9 [Sections 9037.053-9037.100 reserved for expansion]

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 9037.101. GENERAL POWERS AND DUTIES. The district has
12 the powers and duties necessary to accomplish the purposes for
13 which the district is created.

14 Sec. 9037.102. WATER CONTROL AND IMPROVEMENT DISTRICT
15 POWERS AND DUTIES. The district has the powers and duties provided
16 by the general law of this state, including Chapters 49 and 51,
17 Water Code, applicable to water control and improvement districts
18 created under Section 59, Article XVI, Texas Constitution,
19 including the powers and duties that relate to the disposal of waste
20 and control of storm water under Section 51.331, Water Code.

21 Sec. 9037.103. AUTHORITY FOR ROAD PROJECTS. Under Section
22 52, Article III, Texas Constitution, the district may design,
23 acquire, construct, finance, issue bonds for, improve, operate,
24 maintain, and convey to this state, a county, or a municipality for
25 operation and maintenance macadamized, graveled, or paved roads, or
26 improvements, including storm drainage, in aid of those roads.

27 Sec. 9037.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road

1 project must meet all applicable construction standards, zoning and
2 subdivision requirements, and regulations of each municipality in
3 whose corporate limits or extraterritorial jurisdiction the road
4 project is located.

5 (b) If a road project is not located in the corporate limits
6 or extraterritorial jurisdiction of a municipality, the road
7 project must meet all applicable construction standards,
8 subdivision requirements, and regulations of each county in which
9 the road project is located.

10 (c) If the state will maintain and operate the road, the
11 Texas Transportation Commission must approve the plans and
12 specifications of the road project.

13 Sec. 9037.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
14 OR RESOLUTION. The district shall comply with all applicable
15 requirements of any ordinance or resolution that is adopted under
16 Section 42.042 or 42.0425, Local Government Code, and that consents
17 to the creation of the district or to the inclusion of land in the
18 district.

19 Sec. 9037.106. LIMITATION ON USE OF EMINENT DOMAIN. The
20 district may not exercise the power of eminent domain outside the
21 district to acquire a site or easement for:

22 (1) a road project authorized by Section 9037.103; or
23 (2) a recreational facility as defined by Section
24 49.462, Water Code.

25 Sec. 9037.107. DIVISION OF DISTRICT. (a) The district may
26 be divided into two or more new districts only if the district:

27 (1) has no outstanding bonded debt; and

1 (2) is not imposing ad valorem taxes.

2 (b) This chapter applies to any new district created by the
3 division of the district, and a new district has all the powers and
4 duties of the district.

5 (c) Any new district created by the division of the district
6 may not, at the time the new district is created, contain any land
7 outside the area described by Section 2 of the Act creating this
8 chapter.

9 (d) The board, on its own motion or on receipt of a petition
10 signed by the owner or owners of a majority of the assessed value of
11 the real property in the district, may adopt an order dividing the
12 district.

13 (e) The board may adopt an order dividing the district
14 before or after the date the board holds an election under Section
15 9037.003 to confirm the district's creation.

16 (f) An order dividing the district shall:

17 (1) name each new district;

18 (2) include the metes and bounds description of the
19 territory of each new district;

20 (3) appoint temporary directors for each new district;
21 and

22 (4) provide for the division of assets and liabilities
23 between or among the new districts.

24 (g) On or before the 30th day after the date of adoption of
25 an order dividing the district, the district shall file the order
26 with the Texas Commission on Environmental Quality and record the
27 order in the real property records of each county in which the

1 district is located.

2 (h) Any new district created by the division of the district
3 shall hold a confirmation and directors' election as required by
4 Section 9037.003. A new district that is not confirmed is subject
5 to dissolution under general law.

6 (i) Municipal and county consent to the creation of the
7 district and to the inclusion of land in the district granted under
8 Section 9037.004 acts as municipal and county consent to the
9 creation of any new district created by the division of the district
10 and to the inclusion of land in the new district.

11 (j) Any new district created by the division of the district
12 must hold an election as required by this chapter to obtain voter
13 approval before the district may impose a maintenance tax or issue
14 bonds payable wholly or partly from ad valorem taxes.

15 [Sections 9037.108-9037.150 reserved for expansion]

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 9037.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
18 district may issue, without an election, bonds and other
19 obligations secured by:

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

21 (2) contract payments described by Section 9037.153.

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

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

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

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

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

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

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

[Sections 9037.154-9037.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

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

Sec. 9037.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the

1 board shall provide for the annual imposition of a continuing
2 direct ad valorem tax, without limit as to rate or amount, while all
3 or part of the bonds are outstanding as required and in the manner
4 provided by Section 51.433, Water Code.

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

10 SECTION 2. The Comal County Water Control and Improvement
11 District No. 6 initially includes all the territory contained in
12 the following area:

13 FIELD NOTES OF A SURVEY OF 262.464 acres consisting of
14 approximately 0.24 acres out of the Christian Hofheinz Survey No.
15 845, Abstract 711, approximately 86.87 acres out of the Hugh White
16 Survey No. 430, Abstract 658, approximately 83.08 acres out of the
17 Heinrich Kabelmacher Survey No. 936, Abstract 842 and approximately
18 92.274 acres out of the Mary McVicar Survey No. 238, Abstract 387,
19 Comal County, Texas, being a portion of that 277.39-acre tract of
20 land described in deed of record in Document No. 200506038360 of the
21 Official Public Records of Comal County, Texas and being more
22 particularly described by metes and bounds, as surveyed, as
23 follows:

24 Beginning at an 1/2" iron bar with a Paul T. Carey cap found
25 set in the ground in the south right-of-way line of State Hwy. No.
26 46, the northeast corner of a 277.39-acre tract of land described in
27 deed of record in Document No. 200506038360 of the Official Public

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1 Records of Comal County, Texas and the northwest corner of a
2 37.9291-acre tract of land described as Tract 5 in deed of record in
3 Volume 604 at page 294 of the Official Public Records of Comal
4 County, Texas, for the northeast corner of this tract;

5 Thence S 9°24'25" W with the east boundary line of said
6 277.39-acre tract and the west boundary line of said 37.9291-acre
7 tract of land described as Tract 5, a 37.9291-acre tract of land
8 described as Tract 6 in deed of record in Volume 604 at page 294 of
9 the Official Public Records of Comal County, Texas and a
10 37.9291-acre tract of land described as Tract 7 in deed of record in
11 Volume 604 at page 294 of the Official Public Records of Comal
12 County, Texas in deed of record in Volume 604 at page 294 of the
13 Official Public Records of Comal County, Texas a distance of
14 4,089.90 feet to an iron bar found set in the ground, the southeast
15 corner of said 277.39-acre tract, the southwest corner of said
16 37.9291-acre tract of land described as Tract 7 and the northwest
17 corner of a 528.84-acre tract of land described in deed of record in
18 Volume 107 at page 404 of the Deed Records of Comal County, Texas,
19 for the southeast corner of this tract;

20 Thence S 89°41'40" W with the south boundary line of said
21 277.39-acre tract a distance of 2,865.80 feet to a point, for the
22 southwest corner of this tract, whence an iron bar found set in the
23 ground in the west right-of-way line of Blanco Road, the southwest
24 corner of said 277.39-acre tract, bears S 89°41'40" W a distance of
25 200.03 feet;

26 Thence N 0°39'47" E crossing said 277.39-acre tract 200.00
27 feet from and parallel to the east right-of-way line of Blanco Road

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1 and the west boundary line of said 277.39-acre tract a distance of
2 3,257.33 feet to a point in the north boundary line of said
3 277.39-acre tract and the south boundary line of a 50.71-acre tract
4 of land described in deed of record in Volume 95 at page 155 of the
5 Deed Records of Comal County, Texas, for the northwest corner of
6 this tract, whence an 1/2" iron bar with a Paul T. Carey cap found
7 set in the ground in the west right-of-way line of Blanco Road, the
8 northwest corner of said 277.39-acre tract, bears S 89°31'30" W a
9 distance of 200.04 feet;

10 Thence N 89°31'30" E with the north boundary line of said
11 277.39-acre tract and the south boundary lines of said 50.71-acre
12 tract and a 55.97-acre tract of land described in deed of record in
13 Volume 95 at page 159 of the Deed Records of Comal County, Texas a
14 distance of 1,898.70 feet to an iron bar found set in the ground, a
15 reentrant corner of said 277.39-acre tract and the southeast corner
16 of said 55.97-acre tract, for a reentrant corner of this tract;

17 Thence N 4°02'58" E with a west boundary line of said
18 277.39-acre tract and the east boundary line of said 55.97-acre
19 tract a distance of 926.02 feet to an 1/2" iron bar with a Schwartz
20 Surveying cap found set in the ground, a corner of said 277.39-acre
21 tract and a reentrant corner of said 55.97-acre tract, for a corner
22 of this tract;

23 Thence S 81°19'53" E with a north boundary line of said
24 277.39-acre tract and a south boundary line of said 55.97-acre
25 tract a distance of 351.44 feet to an 1/2" iron bar with a Schwartz
26 Surveying cap found set in the ground, a corner of said 277.39-acre
27 tract and a corner of said 55.97-acre tract, for a corner of this

1 tract;

2 Thence S 89°14'50" E with a north boundary line of said
3 277.39-acre tract and a south boundary line of said 55.97-acre
4 tract a distance of 493.56 feet to an 1/2" iron bar with an orange
5 Sinclair and Associates cap set in the ground in the arc of a curve
6 having a radius of 1,482.39 feet, the south right-of-way line of
7 State Hwy. No. 46, a corner of said 277.39-acre tract and a corner
8 of said 55.97-acre tract, for a corner of this tract;

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

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

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

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

1 Government Code.

2 (b) The governor, one of the required recipients, has
3 submitted the notice and Act to the Texas Commission on
4 Environmental Quality.

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

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

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