

1-1 By: Wentworth S.B. No. 2539
1-2 (In the Senate - Filed April 17, 2009; April 20, 2009, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 28, 2009, rereferred to Committee on Natural
1-5 Resources; May 8, 2009, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-7 May 8, 2009, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 2539 By: Estes

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the creation of the Comal County Water Control and
1-12 Improvement District No. 6; providing authority to impose a tax and
1-13 issue bonds; granting a limited power of eminent domain.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subtitle I, Title 6, Special District Local Laws
1-16 Code, is amended by adding Chapter 9037 to read as follows:

1-17 CHAPTER 9037. COMAL COUNTY WATER CONTROL AND IMPROVEMENT

1-18 DISTRICT NO. 6

1-19 SUBCHAPTER A. GENERAL PROVISIONS

1-20 Sec. 9037.001. DEFINITIONS. In this chapter:

1-21 (1) "Board" means the district's board of directors.

1-22 (2) "Director" means a board member.

1-23 (3) "District" means the Comal County Water Control
1-24 and Improvement District No. 6.

1-25 Sec. 9037.002. NATURE OF DISTRICT. The district is a water
1-26 control and improvement district created under Section 59, Article
1-27 XVI, Texas Constitution.

1-28 Sec. 9037.003. CONFIRMATION AND DIRECTORS' ELECTION
1-29 REQUIRED. The temporary directors shall hold an election to
1-30 confirm the creation of the district and to elect five permanent
1-31 directors as provided by Section 49.102, Water Code.

1-32 Sec. 9037.004. CONSENT REQUIRED. (a) The temporary
1-33 directors may not hold an election under Section 9037.003 until:

1-34 (1) each municipality in whose corporate limits or
1-35 extraterritorial jurisdiction the district is located has
1-36 consented by ordinance or resolution to the creation of the
1-37 district and to the inclusion of land in the district;

1-38 (2) each municipality in whose extraterritorial
1-39 jurisdiction the district is located has:

1-40 (A) approved and entered into a strategic
1-41 partnership agreement with the district under Section 43.0751,
1-42 Local Government Code; and

1-43 (B) approved and entered into a development
1-44 agreement with the owners of land in the district under Section
1-45 212.172, Local Government Code;

1-46 (3) an agreement that addresses the provision of water
1-47 and wastewater treatment to the land in the district has been
1-48 approved and entered into by:

1-49 (A) each municipality in whose extraterritorial
1-50 jurisdiction the district is located;

1-51 (B) the commissioners court of each county in
1-52 which the district is located;

1-53 (C) a retail or wholesale provider of water and
1-54 wastewater treatment; and

1-55 (D) the owners of land in the district;

1-56 (4) the commissioners court of each county in which
1-57 the district is located has issued an order making the findings
1-58 under Sections 51.021(a)(1), (2), (3), and (4), Water Code; and

1-59 (5) the commissioners court of each county in which
1-60 the district is located has approved and entered into an agreement
1-61 with the district that must include, but is not limited to,
1-62 provisions relating to the use of county right-of-way, the
1-63 district's exercise of the power of eminent domain outside the

boundaries of the district, drainage serving the land in the district, platting of land in the district, and the provision of water and wastewater treatment to the land in the district.

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

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

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

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

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

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

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

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

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

(1) organization, existence, or validity;

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

(3) right to impose a tax; or

(4) legality or operation.

[Sections 9037.008-9037.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

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

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

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

(1) Shannon Miller;

(2) Jim Leonard;

(3) David Rittenhouse;

(4) George Weron; and

(5) Blaine Lopez.

(b) Temporary directors serve until the earlier of:

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

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

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

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

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

(d) If Subsection (c) applies, the owner or owners of a

majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 9037.053-9037.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

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

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

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

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

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

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

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

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

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

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

(2) a recreational facility as defined by Section 49.462, Water Code.

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

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

[Sections 9037.108-9037.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 9037.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval

before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem 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 board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Section 51.433, Water Code.

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

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

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

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

Thence S 9°24'25" W with the east boundary line of said 277.39-acre tract and the west boundary line of said 37.9291-acre tract of land described as Tract 5, a 37.9291-acre tract of land described as Tract 6 in deed of record in Volume 604 at page 294 of the Official Public Records of Comal County, Texas and a 37.9291-acre tract of land described as Tract 7 in deed of record in Volume 604 at page 294 of the Official Public Records of Comal

County, Texas in deed of record in Volume 604 at page 294 of the Official Public Records of Comal County, Texas a distance of 4,089.90 feet to an iron bar found set in the ground, the southeast corner of said 277.39-acre tract, the southwest corner of said 37.9291-acre tract of land described as Tract 7 and the northwest corner of a 528.84-acre tract of land described in deed of record in Volume 107 at page 404 of the Deed Records of Comal County, Texas, for the southeast corner of this tract;

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

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

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

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

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

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

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

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

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

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished

6-1 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6-2 Government Code.

6-3 (b) The governor, one of the required recipients, has
6-4 submitted the notice and Act to the Texas Commission on
6-5 Environmental Quality.

6-6 (c) The Texas Commission on Environmental Quality has filed
6-7 its recommendations relating to this Act with the governor, the
6-8 lieutenant governor, and the speaker of the house of
6-9 representatives within the required time.

6-10 (d) All requirements of the constitution and laws of this
6-11 state and the rules and procedures of the legislature with respect
6-12 to the notice, introduction, and passage of this Act are fulfilled
6-13 and accomplished.

6-14 SECTION 4. This Act takes effect immediately if it receives
6-15 a vote of two-thirds of all the members elected to each house, as
6-16 provided by Section 39, Article III, Texas Constitution. If this
6-17 Act does not receive the vote necessary for immediate effect, this
6-18 Act takes effect September 1, 2009.

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