

By: Zaffirini

S.B. No. 871

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Caldwell County Municipal Utility District No. 2; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8053 to read as follows:

CHAPTER 8053. CALDWELL COUNTY MUNICIPAL UTILITY DISTRICT NO. 2

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8053.0101. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Caldwell County Municipal Utility District No. 2.

Sec. 8053.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8053.0103. CONFIRMATION AND DIRECTOR 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.

1 Sec. 8053.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8053.0103 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 8053.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

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

10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas 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. 8053.0106. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting 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 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 8053.0201. GOVERNING BODY; TERMS. (a) The district
4 is governed by a board of five elected directors.

5 (b) Except as provided by Section 8053.0202, directors
6 serve staggered four-year terms.

7 Sec. 8053.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Rene Abrego;

10 (2) Sam Sanborn;

11 (3) Danielle Benson;

12 (4) John Casey Roy; and

13 (5) Maya Ingram.

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

15 (1) the date permanent directors are elected under
16 Section 8053.0103; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 8053.0103 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 8053.0103; or

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

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

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 8053.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8053.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 8053.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 8053.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
24 road project must meet all applicable construction standards,
25 zoning and subdivision requirements, and regulations of each
26 municipality in whose corporate limits or extraterritorial
27 jurisdiction the road project is located.

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

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 8053.0305. COMPLIANCE WITH MUNICIPAL CONSENT
10 ORDINANCE OR RESOLUTION. The district shall comply with all
11 applicable requirements of any ordinance or resolution that is
12 adopted under Section 54.016 or 54.0165, Water Code, and that
13 consents to the creation of the district or to the inclusion of land
14 in the district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 8053.0401. ELECTIONS REGARDING TAXES OR BONDS.

17 (a) The district may issue, without an election, bonds and other
18 obligations secured by:

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

20 (2) contract payments described by Section 8053.0403.

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

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8053.0402. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8053.0401, the
4 district may impose an operation and maintenance tax on taxable
5 property in the district in accordance with Section 49.107, Water
6 Code.

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

9 Sec. 8053.0403. CONTRACT TAXES. (a) In accordance with
10 Section 49.108, Water Code, the district may impose a tax other than
11 an operation and maintenance tax and use the revenue derived from
12 the tax to make payments under a contract after the provisions of
13 the contract have been approved by a majority of the district voters
14 voting at an election held for that purpose.

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

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8053.0501. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 8053.0502. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8053.0503. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Caldwell County Municipal Utility District
10 No. 2 initially includes all the territory contained in the
11 following area:

12 BEING approximately 472.126 acres of land in Caldwell County,
13 Texas, said land being all of the 155.27 acres as described in Tract
14 "A", and all of the 316.856 acres as described in Tract "B". Those
15 individual tracts being described as follows:

16 Tract "A"

17 BEING 155.27 ACRES OF LAND CONSISTING OF A CALLED 35.0 ACRES OF
18 LAND, DESCRIBED AS FOURTH TRACT IN THE W. C. STEFFEY SURVEY,
19 ABSTRACT NUMBER 274 IN CALDWELL COUNTY, TEXAS; AND CONSISTING OF
20 THE REMAINDER OF A CALLED 142.5 ACRES OF LAND, DESCRIBED AS FIFTH
21 TRACT IN THE M. HUNT SURVEY, ABSTRACT NUMBER 137 IN CALDWELL COUNTY,
22 TEXAS; SAID FOURTH TRACT AND FIFTH TRACT, HAVING A COMBINED TOTAL OF
23 177.5 ACRES, BEING A PORTION OF A 494.8 ACRE TRACT OF LAND CONVEYED
24 IN A DEED TO WILLIAM JANNEY GAMBLE, TRUSTEE OF THE KATIE THOMSON
25 JANNEY REVOCABLE TRUST "A" AND RECORDED IN VOLUME 403, PAGE 671 OF
26 THE DEED RECORDS OF CALDWELL COUNTY, TEXAS (DRCCTX); SAID 155.27
27 ACRES OF LAND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS

1 FOLLOWS:

2 COMMENCING at a 1 1/2-inch iron pipe found in the southwest
3 Right-of-Way (ROW) line of Borchert Loop (County Road 108), being
4 the east corner of a 2.000 acre tract of land in the J. George
5 Survey, Abstract Number 118 in Caldwell County, Texas, described in
6 a deed to Dennis R. & Shalaina T. Walker, recorded in Volume 433,
7 Page 203, DRCCTC, and being the north corner of the remainder of
8 said 177.5 acre Gamble tract;

9 THENCE along the southeast line of said J. George Survey, Abstract
10 Number 118, being also the southeast line of said 2.000 acre Walker
11 tract; same being the northwest line of said M. Hunt Survey,
12 Abstract Number 137 and the northwest line of said 177.5 acre Gamble
13 tract, S59°45'36"W, a distance of 329.74 feet to an iron rod set with
14 a cap marked "TMG" for the north corner and POINT of BEGINNING of
15 the herein described tract of land;

16 THENCE through the interior of said 177.5 acre Gamble tract, the
17 following two (2) courses and distances:

18 1) S32°37'51"E, a distance of 560.05 to an iron rod set with a cap
19 marked "TMG" for an angle point, and

20 2) N57°21'07"E, a distance of 320.50 feet to an iron rod set with a
21 cap marked "TMG", being in the southwest ROW of Borchert Loop for an
22 angle point;

23 THENCE with the southwest ROW line of Borchert Loop, being the
24 northeast line of this 155.27 acre tract, S31°41'23"E, a distance of
25 90.01 feet to an iron rod set with a cap marked "TMG", for an angle
26 point;

27 THENCE continuing through the interior of said 177.5 acre Gamble

1 tract, the following three (3) courses and distances:

2 3) S57°21'07"W, a distance of 319.02 feet to an iron rod set with a
3 cap marked "TMG" for an angle point,

4 4) S32°37'51"E, a distance of 1817.85 feet to an iron rod set with a
5 cap marked "TMG" for an angle point, and

6 5) N57°23'55"E, a distance of 289.15 feet to an iron rod set with a
7 cap marked "TMG", being in the southwest ROW of Borchert Loop for an
8 angle point;

9 THENCE with the southwest ROW line of Borchert Loop, being the
10 northeast line of this 155.27 acre tract, S31°41'23"E, a distance of
11 90.01 feet to an iron rod set with a cap marked "TMG", for an angle
12 point;

13 THENCE continuing through the interior of said 177.5 acre Gamble
14 tract, the following four (4) courses and distances:

15 6) S57°23'55"W, a distance of 287.68 feet to an iron rod set with a
16 cap marked "TMG" for an angle point,

17 7) S32°37'51"E, a distance of 678.17 feet to an iron rod set with a
18 cap marked "TMG" for an angle point,

19 8) S81°34'47"E, a distance of 52.54 feet to an iron rod set with a
20 cap marked "TMG" for an angle point, and

21 9) N49°28'18"E, a distance of 239.16 feet to an iron rod set with a
22 cap marked "TMG", being in the southwest ROW of Borchert Loop for an
23 angle point;

24 THENCE with the southwest ROW line of Borchert Loop, being the
25 northeast line of this 155.27 acre tract, S31°41'23"E, a distance of
26 40.34 feet to a 60d nail found in the top of a wooden post being the
27 north corner of a 99.0 acre tract of land in the J. H. Finch Survey,

1 Abstract Number 108 in Caldwell County, Texas, described as Tract I
2 in a deed to Edgar L. and wife, Dorothy June Vogel, recorded in
3 Volume 8, Page 21, DRCCTC, and being the east corner of the
4 remainder of said 177.5 acre Gamble tract and being the east corner
5 of the herein described tract of land;
6 THENCE with the northwest line of said 99.0 acre tract, being the
7 southeast line of the remainder of said 177.5 acre Gamble tract,
8 S49°28'18"W, a distance of 2216.10 feet to a 1 1/2-inch iron pipe
9 found in the northwest line of said 99.0 acre tract, being the east
10 corner of a 340.331 acre tract of land described in a deed to Nami
11 Ranch, L.L.C. and recorded in Document Number 087087 of the
12 Official Public Records of Real Property for Caldwell County, Texas
13 (OPRRPCCTX), for the south corner of the remainder of said 177.5
14 acre Gamble tract and being the south corner of the herein described
15 tract of land;
16 THENCE with the northeast line of said 340.331 acre tract, being the
17 southwest line of the remainder of said 177.5 acre Gamble tract,
18 N32°37'49"W, at 3520.81 feet passing a calculated point marking the
19 north corner of said 340.331 acre tract and the southeast corner of
20 a 7.779 acre tract of land described in a deed to Belinda N. Garza
21 and recorded in Document Number 121466, OPRRPCCTX, from said point,
22 a 6" cedar fence corner post bears S57°22'11"W, 1.87 feet; and
23 continuing along the northeast line of said 7.779 acre tract, a
24 total distance of 3662.56 feet to a 1 1/2-inch iron pipe found in
25 the northeast line of said 7.779 acre tract, being along the
26 southeast line of the J. George Survey, Abstract Number 118, at the
27 south corner of a 5.052 acre tract of land described in a deed to

1 Woodmen of the World recorded in Volume 212, Page 545, DRCCTX, for
2 the west corner of the remainder of said 177.5 acre Gamble tract and
3 being the west corner of the herein described tract of land;
4 THENCE along the southeast line of said 5.052 acre tract, being the
5 northwest line of the remainder of said 177.5 acre Gamble tract,
6 N59°43'07"E, a distance of 356.48 feet to a
7 1/2-inch iron rod found for the east corner of said 5.052 acre
8 tract, being the south corner of a 5.583 acre tract of land
9 described in a deed to Raul & Christine Ybarra and recorded in
10 Volume 639, Page 893, DRCCTX, for an angle point in the northwest
11 line of the remainder of said 177.5 acre Gamble tract and being an
12 angle point in the northwest line of the herein described tract of
13 land;
14 THENCE continuing along the southeast line of said J. George
15 Survey, Abstract Number 118 and the northwest line of said 177.5
16 acre tract, N59°45'34"E, at a distance of 603.32 feet passing a
17 1/2-inch iron rod found for the east corner of said 5.583 acre
18 tract, being the south corner of a 5.162 acre tract of land
19 described in a deed to Pamala Francine Hunt and recorded in Volume
20 565, Page 474, DRCCTX; at a distance of 828.27 feet passing a
21 1/2-inch iron rod found for the east corner of said 5.162 acre
22 tract, being the south corner of 5.090 acre tract of land described
23 in a deed to Juan Carlos & Ramiro Ruvalcaba and recorded in Volume
24 306, Page 393, DRCCTX; at a distance of 1068.37 feet passing a
25 1/2-inch iron rod found for the east corner of said 5.090 acre
26 tract, being the south corner of a 5.028 acre tract of land
27 described in a deed to United Pentecostal Church and recorded in

1 Volume 484, Page 135, DRCCTX; at a distance of 1328.42 feet passing
2 a 1/2-inch iron rod found for the east corner of said 5.028 acre
3 tract, being the south corner of said 2.000 acre Walker tract; and,
4 in all, a total distance of 1564.29 feet to the PLACE of BEGINNING
5 and containing 155.27 acres of land, more or less.

6 Tract "B"

7 BEING 316.856 ACRES OF LAND LYING IN AND BEING SITUATED OUT OF
8 THE J.B. GRAY SURVEY, ABSTRACT 116 AND THE W. HOUSE SURVEY, ABSTRACT
9 15 IN CALDWELL COUNTY, TEXAS AND BEING ALL OF THAT CERTAIN 283 ACRE
10 TRACT AND 31.3 ACRE TRACT OF LAND CONVEYED TO GLENVOIR FARM AS
11 SECOND TRACT AND THIRD TRACT BY DEED RECORDED IN VOLUME 403, PAGE
12 671 OFFICIAL RECORDS, CALDWELL COUNTY, TEXAS; SAID 316.856 ACRES
13 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED UNDER
14 THE SUPERVISION OF JAMES E. GARON & ASSOCIATES IN JUNE, 2016:
15 BEGINNING at a 2" steel fence found on the easterly line of Borchert
16 Loop for the southwest corner hereof and said 31.3 acre tract and
17 the northwest corner of that certain 59.289 acre tract of land
18 conveyed to Jay S. Cheek and Brenda A. Cheek by deed recorded in
19 Volume 243, Page 830 of said official records;
20 THENCE along Borchert Loop, N 31°43'40" W a distance of 831.80 feet
21 to a 60D nail found in old fence post for the northwest corner of
22 said 31.3 acre tract and a common corner with said 283 acre tract
23 and N 31°07'52" W a distance of 1783.62 feet to a railroad tie fence
24 corner post found for the northwest corner hereof and said 283 acre
25 tract and the southwest corner of that certain 136 acre tract of
26 land conveyed to William R. Clark by deed recorded in Document #
27 122818 of said official records;

1 THENCE N 58°48'35" E a distance of 3760.23 feet to a "T" post found
2 in rock mound for a northerly, northeast corner hereof and said 283
3 acre tract and the northwest corner of that certain 57.29 acre tract
4 of land conveyed to Lisa Kay Jolley King and as described by deed
5 recorded in Volume 130, Page 865 of said official records;

6 THENCE S 31°48'55" E a distance of 1102.81 feet to a "T" post found
7 in 2" iron pipe found in rock mound for an ell corner hereof and the
8 southeast corner of said King 57.29 acre tract;

9 THENCE N 59°08'24" E a distance of 2444.46 feet to a 12" fence corner
10 post found on the westerly line of that certain 17.18 acre tract of
11 land conveyed to Kenneth D. Willenberg by deed recorded in Document
12 #2015-001132 of said official records for an ell corner hereof and
13 the southeast corner of that certain 5.257 acre tract of land
14 conveyed to Jose A. Cardenas and Carmen Cardenas by deed recorded in
15 Volume 439, Page 372 of said official records;

16 THENCE S 32°00'32" E a distance of 654.53 feet to a 2" steel fence
17 corner post found on the approximate common line of the J.B. Gray
18 Survey and the W. House Survey for an ell corner hereof and the
19 southwest corner of said Willenberg 17.18 acre tract;

20 THENCE N 59°17'01" E a distance of 262.32 feet along said line to a
21 2" steel fence corner post found for an ell corner hereof and the
22 northwest corner of that certain 14.6 acre tract of land conveyed to
23 Kenneth D. Willenberg by deed recorded in Document #2015-001132 of
24 said official records;

25 THENCE S 30°57'43" E a distance of 849.75 feet to a 2" steel fence
26 corner post found on the northerly line of that certain 45.76 acre
27 tract of land conveyed to Stephen R. Knox and Bonnie Lee Knox by

1 deed recorded in Volume 184, Page 505 of said official records for
2 the southeast corner hereof and said 283 acre tract and the
3 southwest corner of said Willenberg 14.6 acre tract;

4 THENCE S 58°49'37" W a distance of 2282.66 feet to a cotton gin
5 spindle set at a 3/4" iron pipe found for the northwest corner of
6 said Knox 45.76 acre tract and the northeast corner of the aforesaid
7 Cheek 59.289 acre tract;

8 THENCE S 58°54'26" W a distance of 4196.34 feet to the POINT OF
9 BEGINNING, containing 316.856 acres of land, more or less.

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

17 (b) The governor, one of the required recipients, has
18 submitted the notice and Act to the Texas Commission on
19 Environmental Quality.

20 (c) The Texas Commission on Environmental Quality has filed
21 its recommendations relating to this Act with the governor, the
22 lieutenant governor, and the speaker of the house of
23 representatives within the required time.

24 (d) All requirements of the constitution and laws of this
25 state and the rules and procedures of the legislature with respect
26 to the notice, introduction, and passage of this Act are fulfilled
27 and accomplished.

1 SECTION 4. (a) If this Act does not receive a two-thirds
2 vote of all the members elected to each house, Subchapter C, Chapter
3 8053, Special District Local Laws Code, as added by Section 1 of
4 this Act, is amended by adding Section 8053.0306 to read as follows:

5 Sec. 8053.0306. NO EMINENT DOMAIN POWER. The district may
6 not exercise the power of eminent domain.

7 (b) This section is not intended to be an expression of a
8 legislative interpretation of the requirements of Section 17(c),
9 Article I, Texas Constitution.

10 SECTION 5. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2019.