



Bill Text: TX HB4668 | 2021-2022 | 87th Legislature | Enrolled Texas House Bill 4668 (*Prior Session Legislation*)

Bill Title: Relating to the creation of the Medina County Water Control and Improvement District No. 4; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

Spectrum: Bipartisan Bill

Status: (*Passed*) 2021-06-14 - Effective immediately [HB4668 Detail]

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H.B. No. 4668

AN ACT

relating to the creation of the Medina County Water Control and Improvement District No. 4; 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 I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9031 to read as follows:

CHAPTER 9031. MEDINA COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 4

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9031.0101. 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 Medina County Water Control
and Improvement District No. 4.

Sec. 9031.0102. NATURE OF DISTRICT. The district is a water
control and improvement district created under Section 59, Article
XVI, Texas Constitution.

Sec. 9031.0103. 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. 9031.0104. CONSENT OF MUNICIPALITY REQUIRED. The
temporary directors may not hold an election under Section

9031.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 9031.0105. 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, including the collection, transportation, processing, disposal, and control of domestic, industrial, or communal waste and the gathering, conducting, diverting, and control of local stormwater or other harmful excesses of water; and

(2) Section 52, Article III, Texas Constitution, 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. 9031.0106. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting 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.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9031.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 9031.0202, directors serve staggered four-year terms.

Sec. 9031.0202. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Jim Welch;

(2) Allen Hoover;

(3) Matt Baillio;

(4) Skip Lietz; and

(5) David Higgins.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 9031.0103; or

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

(c) If permanent directors have not been elected under Section 9031.0103 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 9031.0103; 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 commission 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.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9031.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 9031.0302. 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, and specifically including the powers and duties authorized under Subchapter H, Chapter 51, Water Code.

Sec. 9031.0303. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, 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. 9031.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

Sec. 9031.0305. 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 consents to the creation of the district or to the inclusion of land

in the district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9031.0401. 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 9031.0403.

(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. 9031.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 9031.0401, 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. 9031.0403. 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.

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 9031.0501. 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. 9031.0502. 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. 9031.0503. 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 Medina County Water Control and Improvement District No. 4 initially includes all the territory contained in the following area:

FIELD NOTES FOR A 386.666 ACRE TRACT OF LAND IN THE JOSE JACINTO GONZALES SURVEY 255, ABSTRACT NO. 408, AND THE BERIANA SANDOVAL SURVEY 40, ABSTRACT NO. 840, MEDINA COUNTY, TEXAS, BEING ALL OF A CALLED 177.28 ACRE TRACT OF LAND AS CONVEYED UNTO TAUNA R. WILTZ IN VOLUME 690, PAGE 494 OF THE OFFICIAL RECORDS OF MEDINA COUNTY, TEXAS, ALL OF A CALLED 58.588 ACRE TRACT OF LAND (TRACT 5) AS CONVEYED UNTO ROSALIE J. KAIL IN VOLUME 295, PAGE 857 OF THE DEED RECORDS OF MEDINA COUNTY, TEXAS, ALL OF A CALLED 116.2 ACRE TRACT OF LAND AS CONVEYED UNTO CHRIS RANDAL SCHUCHART IN VOLUME 106, PAGE 705 OF THE OFFICIAL PUBLIC RECORDS OF MEDINA COUNTY, TEXAS, AND A PORTION OF THE REMAINING PORTION OF A CALLED 285.71 ACRE TRACT OF LAND AS CONVEYED UNTO CHRIS SCHUCHART IN DOCUMENT NUMBER 2019007792 OF THE PUBLIC RECORDS OF MEDINA COUNTY, TEXAS; SAID 386.666 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point of the curvilinear west right-of-way line of Farm-to-Market (F.M.) Road 471 (R.O.W. ~ 80') a shown on the Texas Department of Transportation Right-of-way retracement map dated 12/17/2004 at the common corner of said 177.28 acre tract and a called 58.588 acre tract of land (Tract 4) as conveyed unto Millard G. Schuchart in the aforementioned Volume 295, Page 857, for the easterly northeast corner and POINT OF BEGINNING of the herein described tract:

THENCE, coincident with the common line of said west right-of-way, the 177.28 acre tract and the aforementioned 58.588 acre tract (Tract 5) the following three (3) courses:

1) Curving to the left, with a radius of 612.96 feet, an arc length of 22.15 feet, a central angle of 02°04'13", a chord bearing of S 05°52'13" W, and a chord distance of 22.15 feet to a calculated point for a point of tangency of the herein described tract;

2) S 04°50'07" W, a distance of 1,545.14 feet to a calculated point for an angle point of the herein described tract;

3) S 06°01'04" W, a distance of 851.43 feet to a calculated point at the common corner of said Tract 5 and Rio Medina Estates as recorded in Volume 4, Pages 32-33 of the Plat Records of Medina County, Texas, for the easterly southeast corner of the herein described tract;

THENCE, S 89°33'31" W, departing said common line, coincident with the common line of Tract 5 and said Rio Medina Estates, a distance of 2,280.86 feet to a calculated point on the east line of the aforementioned 116.2 acre tract at the common corner of Tract 5 and Rio Medina Estates, for a re-entrant corner of the herein described tract:

THENCE, S 00°52'29" W, coincident with the common line of Rio Medina Estates and said 116.2 acre tract, a distance of 1,109.01

feet to a calculated point on the north line of a called 114.675 acre tract of land conveyed unto Randall Allen Haby and described in Volume 241, Page 85 of the Official Public Records of Medina County, Texas, at the common corner of the 116.2 acre tract and Rio Medina Estates, for the southerly southeast corner of the herein described tract:

THENCE, S 89°29'24" W, coincident with the common line of the 116.2 acre tract, said 114.675 acre tract, the aforementioned remaining portion of the 285.71 acre tract, a called 47.175 acre tract of land as conveyed unto Newcity Communications of SA, Inc in Volume 108, Page 281 of the Official Public Records of Medina County, Texas and a called 375.53 acre tract of land as conveyed unto Linda Haby Wurzbach in Volume 758, Page 1132 of the Official Records of Medina County, Texas, a distance of 3,060.72 feet to a calculated point for the southwest corner of the herein described tract;

THENCE, departing said common line, over and across said remaining portion of the 285.71 acre tract the following six (6) courses:

- 1) N 21°29'40" E, a distance of 410.53 feet to a calculated point for an angle point of the herein described tract;
- 2) N 77°53'57" E, a distance of 1,305.08 feet to a calculated point for an angle point of the herein described tract;
- 3) N 10°39'31" E, a distance of 597.05 feet to a calculated point for an angle point of the herein described tract;
- 4) N 07°19'17" W, a distance of 1,014.63 feet to a calculated point for an angle point of the herein described tract;
- 5) N 58°37'44" W, a distance of 713.48 feet to a calculated point for an angle point of the herein described tract;
- 6) N 28°45'29" E, a distance of 957.02 feet to a calculated point on the common line of the remaining portion of the 285.71 acre tract and the aforementioned 116.2 acre tract, for an angle point of the herein described tract;

THENCE, N 09°48'15" W, coincident with the common line of the remaining portion of 285.71 acre tract and said 116.2 acre tract, a distance of 937.08 feet to a calculated point on the southeast right-of-way line of County Road (C.R.) 371, (R.O.W. ~ varies), no reference found, at the common corner of the remaining portion of the 285.71 acre tract and the 116.2 acre tract, for an angle point of the herein described tract;

THENCE, N 31°22'00" E, coincident with the common line of said 116.2 acre tract and said right-of-way, a distance of 510.54 feet to a calculated point at the southwest end of the cutback line from the south right-of-way line of F.M. 1283, (R.O.W. ~ varies, 100' min.) as shown on the Texas Department of Transportation Right-of-way Retracement Map dated 3/30/2005, for an angle point of the herein described tract:

THENCE, N 75°12'03" E, coincident with the common line of said cutback and the 116.2 acre tract, a distance of 146.97 feet to a

calculated point on the curvilinear south right-of-way line of said F.M. 1283, at the beginning of a non-tangent curve for an angle point of the herein described tract;

THENCE, coincident with the common line of said right-of-way, the 116.2 acre tract and the aforementioned 177.28 acre tract the following three (3) courses:

1) Curving to the left, with a radius of 1,969.64 feet, an arc length of 1,538.16 feet, a central angle of 44°44'39", a chord bearing of S 84°46'27" E, and a chord distance of 1,499.37 feet to a calculated point at the end of this curve;

2) N 70°56'40" E, a distance of 300.17 feet to a calculated point, for an angle point of the herein described tract:

3) N 72°51'16" E, a distance of 930.81 feet to a calculated point, at the common corner of said 177.28 acre tract and the aforementioned 58.588 acre tract (Tract 4), for the northeast corner of the herein described tract:

THENCE, departing said common line, coincident with the common line of the 177.28 acre tract and said Tract 4, the following three (3) courses:

1) S 02°38'00" E, a distance of 673.15 feet to a calculated point for an angle point of the herein described tract:

2) S 49°26'10" E, a distance of 1,241.45 feet to a calculated point for an angle point of the herein described tract:

3) S 83°25'00" E, a distance of 435.47 feet to the POINT OF BEGINNING and containing 386.666 acres 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 under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 9031, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 9031.0306 to read as follows:

Sec. 9031.0306. NO EMINENT DOMAIN POWER. The district may

not exercise the power of eminent domain.

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

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 4668 was passed by the House on May 18, 2021, by the following vote: Yeas 100, Nays 37, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4668 was passed by the Senate on May 25, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor

BILL ANALYSIS

Senate Research Center
87R22157 MP-F

H.B. 4668
By: Murr (Gutierrez)
Local Government
5/19/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4668 amends the Special District Local Laws Code to create the Medina County Water Control and Improvement District No. 4 (district) as a political subdivision of the State of Texas. The district's powers and duties include water control and improvement district powers and, subject to certain requirements, the authority to undertake road projects, issue obligations, and impose property taxes. The district will be a water control and improvement district operating pursuant to Chapters 49 and 51, Water Code.

A special district is needed to finance and construct the infrastructure necessary to promote the development of the area within the district.

Special districts are created for specific areas. No special district currently serves the area proposed to be included in the district.

There is no known opposition to this legislation.

H.B. 4668 amends current law relating to the creation of the Medina County Water Control and Improvement District No. 4, grants a limited power of eminent domain, provides authority to issue bonds, and provides authority to impose assessments, fees, and taxes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle I, Title 6, Special District Local Laws Code, by adding Chapter 9031, as follows:

CHAPTER 9031. MEDINA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4

Sets forth standard language for the creation of the Medina County Water Control and Improvement District No. 4 (district) in Medina County. Sets forth standards, procedures, requirements, and criteria for:

General provisions, including the nature of the district, the requirements to confirm the creation of the district by election and to elect five permanent directors, consent to creation of the district by certain municipalities, the public purpose of the district, and the initial district territory (Sections 9031.0101-9031.0106);

Size, composition, election, and terms for the board of directors, including provisions related to initial temporary directors (Sections 9031.0201-9031.0202);

Powers and duties of the district (Sections 9031.0301-9031.0305);

General financial provisions, including the authority to impose an ad valorem tax once approved by voters at an election, and the authority to impose certain

other taxes (Sections 9031.0401-9031.0403); and

Authority to issue certain bonds and other obligations (9031.0501-9031.0503).

SECTION 2. Sets forth the initial boundaries of the district.

SECTION 3. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. (a) Provides that if this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 9031, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 9031.0306, as follows:

Sec. 9031.0306. $\frac{1}{2}$ NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

(b) Provides that this section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION 5. Effective date: upon passage or September 1, 2021.