

that this Act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—S. B. No. 351 passed the Senate, March 1, 1937, by a vote of 25 yeas, 0 nays; passed the House, March 17, 1937, by a viva voce vote.]

Approved March 18, 1937.

Effective August 21, 1937.

CREATING THE COMAL COUNTY RECREATIONAL DISTRICT.

S. B. No. 419.]

CHAPTER 57.

An Act creating and establishing Comal County Water Recreational District No. 1 in Comal County, Texas, under Section 59 of Article 16 of the Constitution of Texas for the purpose of protecting and preserving the purity and sanitary condition of the waters of a portion of the Comal River in Comal County by keeping the same free and clear of weeds and other growths, and of other obstructions to the free flow thereof, and thereby protect the health of those residing in such District and keep such waters in good condition for the recreational purposes of swimming and fishing therein and boating thereon by those entitled to do so; describing and defining such District; declaring such District to be a governmental agency and body politic and corporate; prescribing the powers, authority, rights, privileges and functions of such District; providing for the maintenance and operation of such district and the levy and collection of taxes and assessments for such purposes; providing for the appointment of the first Board of Directors and the election of subsequent Boards of Directors of the District and for the election of officers thereof by the Directors and prescribing the duties and authority of such Board and Officers; enacting provisions incident and necessary to the subject and purpose of this Act and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. That Comal County Water Recreational District No. 1 in Comal County, Texas, as hereinafter described is hereby created and established under authority of Section 59 of Article 16 of the Constitution of the State of Texas for the purpose of protecting and preserving the purity and sanitary condition of a portion of the waters of the Comal River in Comal County by keeping the same free and clear of weeds and other growths and of other obstructions to the free flow thereof, and thereby protecting the health of those residing in such District, and maintaining such waters in good condition for the recreational purposes of swimming and fishing therein and boating thereon by those entitled to do so, and such District is hereby declared to be a governmental agency and body politic and corporate with the authority, powers, rights, privileges and functions conferred in this Act. Said Comal County Water Recreational District No. 1 hereby created and established shall consist of and contain

all lots and parcels of land situated within two certain additions to the City of New Braunfels in Comal County, Texas, one being known and described as "Landa Park Highlands", and the other known and described as "Landa Park Estates" and said additions being situated, located and bounded as shown by plats thereof recorded in the Deed Records of Comal County, Texas.

SEC. 2. The portion of the Comal River in Comal County as to which the purposes of this Act are to be carried out by said Comal County Water Recreational District No. 1 is that portion of such river extending from the Southeast corner of Tract No. 5 to the Southwest corner of Tract No. 25 in said Landa Park Highlands and it is now hereby declared and determined that by reason of and on account of each lot in said Landa Park Estates Subdivision and each tract in said Landa Park Highlands Addition being in close proximity to said portion of the waters of the Comal River, and having appurtenant and incident thereto certain easement for the free use of all or a substantial portion thereof for fishing and swimming therein, and boating thereon, each lot or tract of land within the District is benefitted by the creation of such District.

SEC. 3. Such District shall have such functions, powers, authority and duties as may permit the accomplishment of the purposes of its creation hereinbefore stated including full power and authority to keep the waters of said portion of said Comal River free and clear of weeds and other plant growths and other obstructions to the free flow thereof so as to bring about and maintain the same in a pure and sanitary condition, and in proper condition for use thereof for the recreational purposes of swimming and fishing therein and boating thereon by those otherwise entitled so to do. This Act, however, does not create, grant or give to anyone any right to use the waters of said Comal River for fishing, boating, swimming or any other purpose. Such District shall also have the power and authority to construct bridges over said portion of the waters of the Comal River and wharves along the same so as to make the same accessible for the recreational purposes named and for that purpose to acquire the rights, privileges, easements or property necessary to enable it to construct such improvements. Such District shall have the power to adopt and promulgate all reasonable regulations in carrying out the purposes herein provided for and to prescribe reasonable penalties for the breach of any regulation so adopted and promulgated which penalties shall not exceed fines of more than Two Hundred (\$200.00) Dollars, and shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in said Comal County. Such District shall have the power to employ and constitute its own peace officers with power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the District and/or against the laws of the State of Texas, when any such offenses, or threatened offenses, occur

upon said portion of said Comal River. Any such peace officer of the District shall, in any event, have the power to make specific complaint.

SEC. 4. The management and control of all the affairs of such District shall be vested in a Board of Directors consisting of three members, each of whom shall be twenty-one, or more, years of age and a freehold property taxpayer in and legal voter of the District. The members of the first Board of Directors shall be appointed by the Commissioners' Court of Comal County as soon as practicable after the passage of this Act and they shall hold office until the second Tuesday in January, 1939, at which time their successors shall be elected and the term of office of all elected Directors shall be two years. The Directors shall provide for the holding of all elections, and at the time of ordering an election shall appoint officers to hold the same consisting of a Presiding Judge, an Assistant Judge and two Clerks, and shall designate the polling places, and shall provide for notice to be given of such election. The notice shall state that the purpose of the election is that of electing new Directors, and shall designate the polling places, and the names of the officers of election, and state the date of the election. It shall be signed by the President and Secretary and be published for two consecutive weeks in a newspaper of general circulation in Comal County, the first of which publication shall be at least fourteen days prior to the election and not more than twenty-eight days prior thereto.

SEC. 5. The officers holding the election shall make and deliver the returns thereof in triplicate, one being retained by the Presiding Judge, one delivered to the President of the District and one delivered to the Secretary. The ballot boxes and other election records and supplies shall be delivered to the Secretary at the office of the District and be preserved as provided by law in said office. All boxes containing ballots voted or mutilated shall be preserved for one year subject to the orders of any Court in which a contest thereof may be filed. The officers of election at the time of making and sealing such election returns shall give to the newspapers or others calling for same the result of such election in their voting box. The Directors shall meet and canvass the returns of an election at any time not less than five full days thereafter, nor more than seven days thereafter, provided if same cannot be canvassed within seven days same shall be done as soon thereafter as possible.

SEC. 6. Those who are qualified voters in the District under the Constitution and provisions of Chapter 5, Title 50 of the Revised Civil Statutes of 1925 are entitled to vote at said election.

SEC. 7. Except as herein otherwise provided all elections in the District shall be ordered, held and conducted in accordance with the laws of this State for the holding of general elections for State and County Officers.

SEC. 8. As soon as practicable after the appointment of such first Board of Directors by the Commissioners' Court and as soon as practicable after the election of each succeeding Board of

Directors, there shall be elected by the Board a President, Vice-President and Secretary and Treasurer of the District, to serve during the tenure of the office of the Board of Directors so electing the same. The President and Vice-President shall be members of the Board of Directors but the office of Secretary and Treasurer, which is here constituted one office, may be filled by a person not a member of the Board of Directors. Two Directors shall constitute a quorum at any meeting and a concurrence of two shall be sufficient in all matters pertaining to the business of the District. The Board of Directors shall employ and prescribe the duties of all employees necessary for the proper handling of its business and the operation of the District. They may employ a General Manager for the District, or constitute one of their number such General Manager and may give the person so appointed full authority in the management and operation of the District's affairs, subject only to the orders of the Board of Directors. No compensation shall be received by any Director, even though he may serve as General Manager. The Directors shall be the managing officers in charge of all the business and affairs of the District, and make all contracts pertaining thereto. They may purchase such machinery, materials and supplies as may be required to carry out the purposes of the District. All vacancies in the office of Directors and other officers, shall be filled by appointment by the Board of Directors for the unexpired term. If the number of Directors shall be reduced to one, such Director shall call a special election to fill the vacancies. All directors and officers shall serve until their successors have qualified.

SEC. 9. A regular office shall be established and maintained for the conduct of the District's business, either within the District or at any place within the City of New Braunfels.

SEC. 10. Each Director of the District shall, within fifteen days after his appointment or election, take and subscribe an oath of office with conditions therein as provided by law for members of the County Commissioners' Court and enter into a good and sufficient bond in the sum of One Thousand (\$1,000.00) Dollars, payable to the District conditioned upon the faithful performance of his duties as such Director. The bonds of the first Board of Directors shall be approved by the County Judge of Comal County and the bonds of all Directors thereafter elected shall be approved by the Board of Directors. All officers, agents and employees of the District who shall be charged with the collection, custody or payment of any funds of the District, shall give bond conditioned on the faithful performance of their duties and an accounting for all funds and property of the District coming into their respective hands, each of which bonds shall be in form and amount and with a surety (which shall be a surety company authorized to do business in the State of Texas) approved by the Board of Directors of the District, and the premiums on such bonds as well as on the Directors' bonds shall be paid by the District and charged as an operating expense.

SEC. 11. The President shall preside at all meetings of the board and shall be the chief executive officer of the District. The Vice-President shall act as President in case of the absence or disability of the President. The Secretary and Treasurer shall act as Secretary of the Board of Directors and shall be charged with the duty of seeing that all records and books of the District are properly cared for. In the case of the absence or inability of the Secretary to act, a Secretary pro tem shall be selected by the Directors. The Directors shall hold regular meetings at the office of the District on the first Monday in February, May, August and November, of each year at 10 o'clock A. M., and may hold meetings at such other times as the business of the District may require. Any person owning taxable property in the District may attend any meeting of the Directors and may present such matters as they desire to such Directors in an orderly manner. The Directors shall keep a true and full account of all their meetings and proceedings and preserve their minutes, contracts, records, notices, accounts, receipts, and records of all kinds. The same shall be the property of the District and subject to public inspection.

SEC. 12. Such District can sue and be sued in any and all courts of this State in the name of the District. All courts shall take judicial knowledge and notice of the establishment of the District and the Boundaries thereof. Such District shall contract and be contracted within the name of the District. It shall have a common seal which shall be circular in form with the name of the District surrounding a five-pointed star.

SEC. 13. If, as to said portion of the Comal River hereinbefore described, or any part thereof, the City of New Braunfels, in which the same is situated, has the legal right to exercise the functions, or any part thereof, herein provided to be exercised by such District, then such District shall not as to any such portion of river exercise functions or perform services save and except with the consent of such city previously given.

SEC. 14. The District shall not have authority to borrow money to meet its obligations except in an emergency caused by the destruction of any of its improvements and such loans shall only be secured by a pledge of taxes then levied but not collected up to eighty-five per cent (85%) of same and the loans shall not exceed a sum equivalent to eighty-five per cent (85%) of such taxes then levied but not collected.

SEC. 15. The office of the Tax Assessor and Collector is hereby created for said District as one office to be filled by one person who shall be appointed by the Board of Directors or, if they so order, may be elected. He shall give good and sufficient bond with at least two sufficient sureties or a surety company to be approved by the Directors in the sum of Two Thousand (\$2,000.00) Dollars, conditioned for the faithful performance of his duties as Tax Assessor and Collector and for paying over to the Treasurer of the District all funds coming into his hands as such officer. It is further provided, however, that the Board

of Directors shall have the right to appoint its Secretary and Treasurer, or its General Manager, if there be one, to the office of Tax Assessor and Collector and if the same person holds the office of Tax Collector and Assessor and Treasurer, then the bond given by him as Tax Assessor and Collector shall be conditioned for the faithful performance of his duties as Tax Assessor and Collector and as Secretary and Treasurer, and for the accounting by him to the Board of Directors of the District for all funds coming into his hands by virtue of such offices.

SEC. 16. Property subject to taxation shall be all lots and tracts of land contained in said subdivisions composing the District, together with the improvements thereon constituting part thereof. The District shall have authority to levy and collect such taxes as its Board of Directors deem necessary and proper to obtain sufficient funds to carry out the purposes of the District as hereinbefore stated and to provide repair, and maintain improvements such as are hereinbefore authorized.

The District's taxes for the year 1937 and each succeeding year to obtain funds for said purposes may be levied, assessed and collected on an adopted basis to be chosen from the elective plans here provided, viz:

- (1) Wholly ad valorem.
- (2) Assessments in proportion to the respective individual benefits as the same may be specifically determined.
- (3) Ad valorem as to some part or per centum of the total tax required and on the basis of specific assessment of benefits as to the remainder of the total tax required.

At any regular or special meeting of the Board of Directors of the District such Board may adopt its plan of taxation for the particular year, stating in the order adopting the same the total amount of funds contemplated to be raised for the purposes stated for the particular year and whether the same are to be raised entirely under the first plan above described, or entirely under the second plan above described, or under the third plan above described and if under the third plan; then what part or per centum of the total amount of the funds for the year is contemplated to be raised by ad valorem taxes and what part or per centum of said total funds is contemplated to be raised by assessment of special benefit assessments.

If the district adopts the plan described in subdivision (2) above, or the plan described in subdivision (3) above, the Board of Directors shall apportion the amount designated to be raised by means of special benefit assessments among the lots and tracts of land in the District and the owners thereof in such proportion as it may deem just and equitable, having in view the special benefits to be received by such parcels of property and the owners thereof in enhanced value thereof or the preservation and maintenance of existing value thereof, by reason of carrying out the purposes for which taxes may be levied as hereinbefore provided and such apportionment shall be so adjusted as to produce a substantial equality of benefits received and burdens

imposed. When such apportionment is completed a roll shall be prepared containing a description of each lot or tract of land in the District and the name of the owner, if known, upon which shall be shown the sum so apportioned against each particular parcel of land and its owner. When such a tax plan has been so adopted, the same shall constitute the proposed plan of taxation of the District for such year and the Board of Directors shall thereupon publish notice in a newspaper of general circulation published in the City of New Braunfels, Texas, once a week for two consecutive weeks, advising all those interested that a proposed tax plan has been adopted; that the same is open for inspection in the District's office; that a hearing thereon will be held by the Directors at a specified place which place may be without the District provided it is in the City of New Braunfels, Texas, and at a certain time to be not less than fifteen days or more than twenty days after the first publication of notice; that all interested persons may appear and contend for or protest against the proposed tax plan, or any part thereof, and offer testimony in regard thereto. If as a part of such proposed tax plan it is contemplated that all, or any part or per centum of the funds to be raised shall be raised by special benefit assessment, then such notice shall so state and further state that the apportionment of the amount to be raised between the various lots and tracts of land in the District and the owners thereof has been made and that a roll showing the respective amounts is on file in the office of the District open for inspection to all owning or claiming parcels of land in the District, or any interest therein, and that at such hearing they will be entitled to contest the amounts of the proposed assessments and the special benefits to their respective parcels of property by reason of carrying out the said purposes for which funds are to be raised. After all persons appearing shall have been heard, the Directors may approve said tax plan as proposed or they may change or modify the same and thereupon approve and adopt such tax plan as will, in their judgment, under the evidence before them, most equitably distribute the District's tax burden and conserve the public welfare. The Board of Directors during such hearing shall have the power to correct any errors or inaccuracies and to supply any deficiencies and to determine the amounts of the respective special benefit assessments if the plan adopted involves such method of raising funds and all other matters necessary, and such hearing may be continued from day to day or be adjourned to any future regular or special meeting of the Board and upon the same being closed by an order of said Board, the Board of Directors shall levy taxes and/or special benefit assessments as the case may be, pursuant to such plan of taxation so adopted. Such order shall not be subject to judicial review, save upon the ground of fraud, palpable error or arbitrary and confiscatory abuse of discretion. Provided further, that instead of adopting such plan for raising funds only for the current year, the Board may adopt a plan to be in force and effect for a period of years,

not exceeding three years, if it appears that benefits to accrue will be substantially the same for each year of such period, in which event taxes for succeeding years may be levied, assessed and collected under such plan until the expiration of the period so fixed, or the plan is changed by the Board of Directors. In such event, however, the notice so published shall state that the proposed plan is one which may be adopted for and made effective for the current year only, or for a period not exceeding three years, unless a new plan is adopted in the meantime. Provided, further, that if, after having adopted a tax plan at any time the Directors find that the best interest of the District and the necessity to keep the District's taxes adequate and equitably distributed requires a change in the tax plan, they may give notice, hold a hearing and pass upon the advisability of adopting such changed tax plan in the same manner as is herein provided for the original adoption of a plan. The Tax Assessor of the District shall complete the tax rolls so as to show any change or changes so made at any such hearing as to any proposed plan of taxation and any change or changes made at any such hearing relating to the apportionment of special benefits between the various parcels of land and the owners thereof and the same shall then be examined by the Board of Directors and, if found to be correct, they shall approve the same and it shall then be delivered to the Assessor and Collector of taxes for the collection of the taxes as shown thereby. If a plan is adopted involving a period of years instead of the current year only, a separate roll shall be made out for each year by the Tax Assessor and examined and corrected and approved by the Board of Directors and then delivered to such Assessor and Collector for the purpose of having the taxes shown thereon collected. Any special benefit assessments levied by the District shall become due and payable at the time ad valorem taxes are to be due and collectible under the terms and provisions of this Act and, if not paid within the time so provided, should bear interest at the rate of six per cent (6%) per annum from the date they become delinquent and all provisions which, under the terms of this Act apply as to the accrual of penalties for failure to pay ad valorem taxes shall also apply to and provide penalties for non-payment of any such special benefit assessments. Assessments under any plan of taxation adopted may be made in one assessment against several parcels of land when owned by the same person, firm, corporation or estate and property owned jointly by one or more persons, firms or corporations may be assessed jointly.

All ad valorem taxes levied by the District shall become due and payable on October 1st of each year and be paid on or before the 31st day of January thereafter. The provisions of Articles 7880-56 to 7880-68, both inclusive, and 7880-70 to 7880-74, both inclusive, of the Revised Civil Statutes of 1925 shall apply to and govern the District hereby created and are adopted as a part of this Act so far as any ad valorem taxes levied by the District are concerned.

SEC. 17. All taxes or special benefit assessments levied by the District together with any penalties and interest accruing thereon shall be and constitute a lien against the parcels of land as to which such taxes or assessments have been levied and no law applying a limitation against actions for debt shall apply thereto and the same shall not become barred by limitation.

SEC. 18. During December of each year the Secretary and Treasurer, with the assistance of the General Manager of said District, shall make a budget for the next ensuing calendar year and submit same not later than on December 31st in each year to the Board of Directors for their information and assistance but the Board of Directors shall not be bound or limited thereby.

SEC. 19. Such District is hereby granted power and authority to rent or lease any island or islands in the portion of the Comal River hereinbefore described for use for recreational purposes and to exercise full power and authority over any island or islands so rented or leased for such purposes and is also granted full power and authority to enter into any contract or contracts deemed necessary or proper for the use of any property along the banks of said portion of the Comal River or the islands situated therein upon which to construct wharves or approaches to bridges.

SEC. 20. If any provision or provisions of this Act shall be held unconstitutional, or be held void for any other reason, such holding shall not have the effect of nullifying the remaining parts of this Act, and the parts not so held to be void shall nevertheless remain in full force and effect.

SEC. 21. Notice of the intention to apply for the passage of this law has heretofore been given in direct conformity with the provisions of the Constitution and laws of this State relating to the enactment of local and special laws, and proof of the due publication of such notice has been made and exhibited in the Legislature before the passage of this bill.

SEC. 22. The public importance of the purposes herein contemplated and the fact that weeds and other plant life cause the waters of said portion of the Comal River to become impure and unsanitary and to breed mosquitoes creates an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule requiring bills to be read upon three several days in each House, and the said Rule is hereby suspended, and that this Act take effect from and after its passage, and it is so enacted.

[NOTE.—S. B. No. 419 passed the Senate, March 8, 1937, by a vote of 29 yeas, 0 nays; passed the House, March 10, 1937, by a vote of 115 yeas, 0 nays.]

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