

LOCAL GOVERNMENT CODE
TITLE 13. WATER AND UTILITIES
SUBTITLE B. COUNTY WATER
CHAPTER 561. WATER CONTROL BY COUNTIES

Sec. 561.001. FLOOD CONTROL PROPERTY; CONDEMNATION. (a) A county may acquire public or private real property, including easements and rights-of-way, for the purpose of building canals, drains, levees, and other improvements to provide for flood control and water outlets. The county has the right of eminent domain to make an acquisition under this section.

(b) An appeal from a finding and assessment of damages by special commissioners in a condemnation case does not act to suspend the work for which the property is acquired.

(c) A county may, if the commissioners court of the county considers it necessary, obtain the fee title to the property that is the subject of the condemnation. However, a county may not obtain through condemnation the fee title to property lawfully used or occupied by a public utility, railroad, canal, levee, or any other person devoting its property to a public use. This prohibition does not prevent the county from condemning an easement or a right-of-way in favor of the county.

(d) If the commissioners court considers it necessary to condemn an easement on the property of a person that also has the power of eminent domain, the expense of acquisition, construction, and maintenance of the flood control or drainage project is the obligation of the county, flood control district, or drainage district, as the case may be.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 411.001 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.002. JOINT PROJECT. (a) The commissioners court of a county may contract with a governmental unit, including a county, municipality, or other political subdivision, to jointly acquire a right-of-way or to jointly construct or maintain a canal,

drain, levee, or other improvement for the purpose of providing flood control or drainage as it relates to flood control or for the purpose of providing and maintaining necessary outlets.

(b) The contract may contain any provisions that the governing bodies of the contracting entities consider necessary.

(c) The contracting entities may provide by contract, on mutually agreeable terms, that they shall jointly maintain the project or that one of them shall maintain the project under its exclusive direction and control while the other entity contributes to the expense of maintenance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 411.002 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.003. PLANS AND PROGRAMS. (a) The commissioners court of a county may contract with the federal soil conservation service, a state soil conservation district, the state extension service, a conservation and reclamation district, a drainage district, a water control and improvement district, a navigation district, a flood control district, a levee improvement district, or a municipality as provided by Section 256.006, Transportation Code, for the purpose of carrying out plans and programs for flood control and soil conservation. The contract may provide that payments due under the contract are payable from and secured by a pledge of any revenue of the county or the county's ad valorem taxes or a combination of those revenues and taxes.

(b) The contract may divide or delegate among the contracting parties the responsibility and cost of carrying out the plans and programs and may be for a specified term of years or may terminate when the plans or programs have been accomplished.

(c) The contract may provide that, if the contracting agency, district, or municipality issues bonds payable from and secured by revenues derived from the contract, the contract will continue in effect until the bonds, or any refunding bonds issued in their place, are fully paid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1997, 75th Leg., ch. 165, Sec. 30.228, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1183, Sec. 8, eff. Sept. 1, 2001.

Renumbered from Local Government Code, Section 411.003 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.004. SURVEY BY COUNTY WITH TAX VALUATION OF \$290 MILLION OR MORE. In a county with a tax valuation of \$290 million or more according to the most recently approved county tax roll, the commissioners court of the county may spend not more than \$15,000 in any one year out of the general fund of the county to make a preliminary engineering survey relating to drainage, reclamation, conservation, levee improvement, or water control.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 411.004 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.005. COOPERATION WITH UNITED STATES. (a) The commissioners court of a county that borders Mexico, or of a county adjacent to a county that borders Mexico, may, in consideration of the benefits of flood control work performed by the United States, by resolution agree to:

(1) indemnify and hold harmless the United States and its officers, agents, or employees for damage or a claim for damage asserted by any person if:

(A) the damage or claim arises from or is connected with the action of the United States or its officers, agents, or employees in entering, occupying, constructing on, or exercising a right in or to land located in the county; and

(B) the action by the United States or its officers, agents, or employees is in connection with the construction, reconstruction, alteration, extension, improvement, maintenance, or operation of flood control works or works that are connected or incidental to flood control works;

(2) obtain any release or waiver of claims and provide evidence of the county's interest in land located in the county and

needed for flood control works or works that are connected or incidental to flood control works, as required by the United States; and

(3) acquire and without monetary compensation convey to the United States any interest in land located in the county and needed for flood control works, on request of the United States.

(b) The commissioners court, county attorney, and county engineer shall do all things useful and necessary to carry out the provisions of the agreement.

(c) If the agreement provides for the conveyance of an interest in land to the United States, the county judge may convey the interest by warranty deed on behalf of the county according to the terms of the agreement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 411.005 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.006. GRANT OF SEAWALL RIGHT-OF-WAY. (a) The commissioners court of a county by order may, if it considers it proper, donate and grant to the state or to a nonprofit eleemosynary institution incorporated under the laws of this state and operated for the benefit of the public any part of a seawall right-of-way acquired by the county.

(b) If the commissioners court determines that a seawall right-of-way should be donated, the county judge may convey the property in accordance with the order of the commissioners court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 411.006 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.007. MASTER DRAINAGE PLAN FOR CERTAIN COUNTIES.

(a) This section applies only to a county that:

(1) has a population of 190,000 or more, is adjacent to a county with a population of 3.3 million or more, and borders the Gulf of Mexico; and

(2) operates a road department system under Subchapter D, Chapter 252, Transportation Code.

(b) The commissioners court may require the county road engineer to prepare and coordinate a county master drainage plan. The commissioners court by order may adopt regulations to implement the county master drainage plan.

Added by Acts 1997, 75th Leg., ch. 989, Sec. 1, eff. Sept. 1, 1997.

Renumbered from Local Government Code, Section 411.007 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 102, eff. September 1, 2011.

Sec. 561.008. BREAKWATERS IN CERTAIN COUNTIES. (a) The commissioners court of a county that borders the Gulf of Mexico, other than Jefferson, Kenedy, Kleberg, Nueces, Orange, or Willacy County, may:

- (1) construct breakwaters;
- (2) issue bonds, time warrants, or certificates of indebtedness of the county to pay for the construction; and
- (3) impose ad valorem taxes to pay the bonds, warrants, or certificates.

(b) The commissioners court shall:

- (1) issue any bonds and impose related taxes in compliance with Subtitles A and C, Title 9, Government Code; or
- (2) issue any time warrants in compliance with Subchapter C, Chapter 262, and impose related taxes in compliance with Chapter 1251, Government Code.

(c) A certificate of indebtedness must be authorized by order of the commissioners court. A certificate of indebtedness must mature not later than 35 years after its date and must be signed by the county judge and attested by the county clerk. The commissioners court shall impose a tax sufficient to pay the principal of and interest on the certificate as they become due.

(d) A county that maintains a permanent improvement fund shall pay the debt incurred under this section from that fund.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 14, eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 41, eff. Sept. 1, 1999.

Renumbered from Local Government Code, Section 411.008 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.009. REFERENDUM ON FLOOD CONTROL TAX AND PROJECTS FUNDED. (a) The commissioners court of a county may order a referendum on the question of whether:

- (1) flood control taxes should be increased;
- (2) flood control taxes should be decreased; or
- (3) an existing or proposed flood control project should receive funding.

(b) The ballot for a referendum under this section shall be printed to permit voting for or against one or more of the following propositions:

(1) "Whether the flood control tax imposed under Section 1-a, Article VIII, Texas Constitution, should be increased by (state amount of increase as a percentage or as a specific amount)";

(2) "Whether the flood control tax imposed under Section 1-a, Article VIII, Texas Constitution, should be decreased by (state amount of decrease as a percentage or as a specific amount)"; or

(3) "Whether the following flood control projects should receive funds generated by the flood control tax imposed under Section 1-a, Article VIII, Texas Constitution (list any flood control projects designated by the commissioners court as available for funding)."

(c) If a majority of votes cast in the referendum approve an increase in the flood control tax, the flood control tax is increased. If a majority of votes cast in the referendum approve a decrease in the flood control tax, the flood control tax is decreased. A flood control project for which a majority of the votes cast at the referendum do not approve funding may not receive funds from revenue generated by the flood control tax.

Added by Acts 2001, 77th Leg., ch. 273, Sec. 1, eff. May 22, 2001.

Renumbered from Local Government Code, Section 411.009 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(b)(1), eff. April 1, 2009.

Sec. 561.010. PROVISION OF FLOOD RELIEF TO COLONIAS. (a) In this section, "colonia" means a geographic area that consists of 11 or more dwellings located in close proximity to each other in an area that may be described as a community or neighborhood and that:

(1) has a majority population composed of individuals and families of low income, as defined by Section 2306.004, Government Code, and based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under Section 17.921, Water Code; or

(2) has the physical and economic characteristics of a colonia, as determined by the Texas Department of Housing and Community Affairs.

(b) A county may provide assistance for the removal from private property, including a road, of flood water resulting from a natural disaster in a colonia if the removal of the water is necessary to protect the health and safety of the colonia.

Added by Acts 2009, 81st Leg., R.S., Ch. 383 (H.B. 1579), Sec. 1, eff. June 19, 2009.