

By: Smith

H.B. No. 4668

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Howe Municipal Utility District No. 1; 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 8100 to read as follows:

CHAPTER 8100. HOWE MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8100.0101. 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 Howe Municipal Utility District No. 1.

Sec. 8100.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8100.0103. 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. 8100.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8100.0103 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. 8100.0105. 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. 8100.0106. 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. 8100.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8100.0202, directors
6 serve staggered four-year terms.

7 Sec. 8100.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Linda Baker;

10 (2) Cynthia Lowe Bakhashab;

11 (3) Debra Brown;

12 (4) Telicia Marie Owens; and

13 (5) David Lee Taylor.

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

15 (1) the date permanent directors are elected under
16 Section 8100.0103; 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 8100.0103 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 8100.0103; 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. 8100.0301. 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. 8100.0302. 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. 8100.0303. 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 inside or outside the district.

24 Sec. 8100.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road project is located.

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

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

10 Sec. 8100.0305. COMPLIANCE WITH AGREEMENT AND MUNICIPAL
11 CONSENT ORDINANCE OR RESOLUTION. The district shall comply with
12 the terms of the October 2017 City of Howe and Howe Commercial Ltd.
13 Chapter 380 Economic Development Program and Agreement, as amended,
14 and all applicable requirements of any ordinance or resolution that
15 is adopted under Section 54.016 or 54.0165, Water Code, and that
16 consents to the creation of the district or to the inclusion of land
17 in the district.

18 Sec. 8100.0306. DIVISION OF DISTRICT. (a) The district may
19 be divided into two or more new districts only if the district:

20 (1) has no outstanding bonded debt; and

21 (2) is not imposing ad valorem taxes.

22 (b) This chapter applies to any new district created by the
23 division of the district, and a new district has all the powers and
24 duties of the district.

25 (c) Any new district created by the division of the district
26 may not, at the time the new district is created, contain any land
27 outside the area described by Section 2 of the Act enacting this

1 chapter.

2 (d) The board, on its own motion or on receipt of a petition
3 signed by the owner or owners of a majority of the assessed value of
4 the real property in the district, may adopt an order dividing the
5 district.

6 (e) The board may adopt an order dividing the district
7 before or after the date the board holds an election under Section
8 8100.0103 to confirm the creation of the district.

9 (f) An order dividing the district must:

10 (1) name each new district;

11 (2) include the metes and bounds description of the
12 territory of each new district;

13 (3) appoint temporary directors for each new district;

14 and

15 (4) provide for the division of assets and liabilities
16 between or among the new districts.

17 (g) On or before the 30th day after the date of adoption of
18 an order dividing the district, the district shall file the order
19 with the commission and record the order in the real property
20 records of each county in which the district is located.

21 (h) Any new district created by the division of the district
22 shall hold a confirmation and directors' election as required by
23 Section 8100.0103.

24 (i) If the creation of the new district is confirmed, the
25 new district shall provide the election date and results to the
26 commission.

27 (j) Any new district created by the division of the district

1 must hold an election as required by this chapter to obtain voter
2 approval before the district may impose a maintenance tax or issue
3 bonds payable wholly or partly from ad valorem taxes.

4 (k) Municipal consent to the creation of the district and to
5 the inclusion of land in the district granted under Section
6 8100.0104 acts as municipal consent to the creation of any new
7 district created by the division of the district and to the
8 inclusion of land in the new district.

9 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

10 Sec. 8100.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
11 The district may issue, without an election, bonds and other
12 obligations secured by:

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

14 (2) contract payments described by Section 8100.0403.

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

19 (c) The district may not issue bonds payable from ad valorem
20 taxes to finance a road project unless the issuance is approved by a
21 vote of a two-thirds majority of the district voters voting at an
22 election held for that purpose.

23 Sec. 8100.0402. OPERATION AND MAINTENANCE TAX. (a) If
24 authorized at an election held under Section 8100.0401, the
25 district may impose an operation and maintenance tax on taxable
26 property in the district in accordance with Section 49.107, Water
27 Code.

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

3 Sec. 8100.0403. CONTRACT TAXES. (a) In accordance with
4 Section 49.108, Water Code, the district may impose a tax other than
5 an operation and maintenance tax and use the revenue derived from
6 the tax to make payments under a contract after the provisions of
7 the contract have been approved by a majority of the district voters
8 voting at an election held for that purpose.

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

12 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

13 Sec. 8100.0501. AUTHORITY TO ISSUE BONDS AND OTHER
14 OBLIGATIONS. The district may issue bonds or other obligations
15 payable wholly or partly from ad valorem taxes, impact fees,
16 revenue, contract payments, grants, or other district money, or any
17 combination of those sources, to pay for any authorized district
18 purpose.

19 Sec. 8100.0502. TAXES FOR BONDS. At the time the district
20 issues bonds payable wholly or partly from ad valorem taxes, the
21 board shall provide for the annual imposition of a continuing
22 direct ad valorem tax, without limit as to rate or amount, while all
23 or part of the bonds are outstanding as required and in the manner
24 provided by Sections 54.601 and 54.602, Water Code.

25 Sec. 8100.0503. BONDS FOR ROAD PROJECTS. At the time of
26 issuance, the total principal amount of bonds or other obligations
27 issued or incurred to finance road projects and payable from ad

1 valorem taxes may not exceed one-fourth of the assessed value of the
2 real property in the district.

3 SECTION 2. The Howe Municipal Utility District No. 1
4 initially includes all the territory contained in the following
5 area:

6 BEING A TRACT OF LAND LOCATED IN THE JOSEPH HAYHURST SURVEY,
7 ABSTRACT No. 530 AND THE JOHN H. MILLER SURVEY, ABSTRACT No. 834,
8 GRAYSON COUNTY, TEXAS, BEING ALL OF TRACTS ONE AND TWO OF LAND
9 DESCRIBED IN A DEED TO HOWE COMMERCIAL, LTD., RECORDED IN VOLUME
10 4046, PAGE 500, DEED RECORDS, GRAYSON COUNTY, TEXAS (D.R.G.C.T.),
11 AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS
12 FOLLOWS:

13 BEGINNING AT THE NORTHEAST CORNER OF SAID HOWE TRACT TWO AND
14 IN THE WEST RIGHT-OF-WAY LINE OF STATE HIGHWAY No. 5 (S.H. 5), AND
15 FROM WHICH A 1/2" IRON ROD FOUND BEARS N 24°17'01" W, 18.68 FEET;

16 THENCE ALONG THE EAST LINE OF SAID HOWE TRACT TWO AND THE WEST
17 RIGHT-OF-WAY LINE OF SAID S.H. 5 AS FOLLOWS:

18 1) S 19°49'23" E, 113.08 FEET TO POINT AT THE BEGINNING OF A
19 CURVE TO THE LEFT:

20 2) SOUTHEASTERLY, AN ARC LENGTH OF 460.36 FEET ALONG SAID
21 CURVE TO THE LEFT, HAVING A RADIUS OF 5779.58 FEET, A DELTA ANGLE OF
22 4°33'50", AND A CHORD BEARING OF S 22°02'08" E, 460.24 FEET TO A
23 POINT;

24 3) S 24°23'23" E, 968.50 FEET TO A POINT AT THE BEGINNING OF A
25 CURVE TO THE RIGHT:

26 4) SOUTHEASTERLY, AN ARC LENGTH OF 226.37 FEET ALONG SAID
27 CURVE TO THE RIGHT, HAVING A RADIUS OF 5679.58 FEET, A DELTA ANGLE

1 OF 2°17'01", AND A CHORD BEARING OF S 23°14'53" E, 226.35 FEET TO A
2 POINT;

3 5) S 22°06'22" E, 3924.23 FEET TO THE SOUTHEAST CORNER OF
4 SAID HOWE TRACT TWO;

5 THENCE ALONG THE SOUTH LINE OF SAID HOWE TRACT TWO AS FOLLOWS:

6 1) S 89°04'19" W, 1125.91 FEET TO A 3/4" IRON PIPE FOUND,
7 SAID IRON PIPE BEING THE NORTHWEST CORNER OF A TRACT OF LAND
8 DESCRIBED IN A DEED TO OPAL ANDERSON, RECORDED IN VOLUME 2598, PAGE
9 482, D.R.G.C.T., AND BEING THE NORTHEAST CORNER OF A TRACT OF LAND
10 DESCRIBED IN A DEED TO CLYDE RAY ASKEW AND DOROTHY J. ASKEW
11 REVOCABLE LIVING TRUST, RECORDED IN VOLUME 5137, PAGE 478,
12 D.R.G.C.T.;

13 2) S 88°50'49" W, ALONG THE NORTH LINE OF SAID ASKEW TRACT,
14 AT 1213.91 FEET, PASSING THE NORTHEAST CORNER OF A TRACT OF LAND
15 DESCRIBED IN A DEED TO HSIUTAO LING, YUN HUA LIN, TZU HSIANG HSU,
16 AND CONNIE L. HSU, RECORDED IN VOLUME 4536, PAGE 179, D.R.G.C.T.,
17 CONTINUING ALONG THE NORTH LINE OF SAID LIANG, LIN, AND HSU TRACT,
18 IN ALL A TOTAL DISTANCE OF 1513.88 FEET TO A 3/4" IRON ROD FOUND,
19 SAID IRON ROD BEING THE MOST NORTHERLY NORTHWEST OF SAID LIANG, LIN,
20 AND HSU TRACT;

21 3) S 88°57'29" W, 1795.46 FEET TO THE SOUTHWEST CORNER OF
22 SAID HOWE TRACT TWO AND THE SOUTHEAST CORNER OF SAID HOWE TRACT ONE;

23 THENCE S 89°17'02" W, ALONG THE SOUTH LINE OF SAID HOWE TRACT
24 ONE, 645.15 FEET TO THE SOUTHWEST CORNER OF SAID HOWE TRACT ONE AND
25 BEING IN THE EAST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 75 (I.H.
26 75) (A VARIABLE WIDTH RIGHT-OF-WAY), FROM WHICH A RAILROAD SPIKE
27 FOUND BEARS S 52°24'30" W, 1.41 FEET;

1 THENCE ALONG THE WEST LINE OF SAID HOWE TRACT ONE AND THE EAST
2 RIGHT-OF-WAY LINE SAID I.H. 75 AS FOLLOWS:

3 1) N 25°42'58" W, 22.05 FEET TO A POINT;

4 2) N 41°48'58" W, 180.40 FEET TO A POINT FROM WHICH THE
5 REMAINS OF A CONCRETE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT)
6 MONUMENT FOUND BEARS S 17°52' E, 0.8 FEET;

7 3) N 25°42'58"W, 695.20 FEET TO A POINT FROM WHICH THE
8 REMAINS OF A CONCRETE TXDOT MONUMENT FOUND BEARS S 55°25' E, 0.8
9 FEET;

10 4) N 28°34'58"W, 801.00 FEET TO A POINT FROM WHICH THE
11 REMAINS OF A CONCRETE TXDOT MONUMENT FOUND BEARS S 21°07' E, 0.7
12 FEET;

13 5) N 25°42'57"W, 397.69 FEET TO A 1" IRON PIPE FOUND, SAID
14 IRON PIPE FOUND BEING THE SOUTHWEST CORNER OF A TRACT OF LAND
15 DESCRIBED IN A DEED TO GEORGE F. MIXON, JR., THE ESTATE OF GEORGE F.
16 MIXON, SR., MAUDE L. DIXON, GEORGE F. MIXON, III, CYNTHIA MIXON
17 BYNUM, & MARJORIE E. MIXON, RECORDED IN VOLUME 1756, PAGE 789,
18 D.R.G.C.T.;

19 THENCE N 00°57'05"W, DEPARTING THE EAST RIGHT-OF-WAY LINE OF
20 SAID I.H. 75, ALONG A SOUTH LINE OF SAID MIXON TRACT, A DISTANCE OF
21 195.61 FEET TO A POINT;

22 THENCE N 89°09'02"E, CONTINUING ALONG A SOUTH LINE OF SAID
23 MIXON TRACT, 1608.51 FEET TO THE SOUTHEAST CORNER OF SAID MIXON
24 TRACT, THE NORTHEAST CORNER OF SAID HOWE TRACT ONE, AND IN THE WEST
25 LINE OF SAID HOWE TRACT TWO;

26 N 00°45'42"W, ALONG THE WEST LINE OF SAID HOWE TRACT TWO, THE
27 EAST LINE OF SAID MIXON TRACT, AND THE EAST LINE OF A TRACT OF LAND

1 DESCRIBED IN A DEED AS LOT 5 TO G. WARD PAXTON FLP II, LTD., RECORDED
2 IN VOLUME 4896, PAGE 246, D.R.G.C.T., 3253.45 FEET TO THE NORTHWEST
3 CORNER OF SAID HOWE TRACT TWO AND BEING THE SOUTHWEST CORNER OF A
4 TRACT OF LAND DESCRIBED IN A DEED AS LOT 8 TO SAID G. WARD PAXTON FLP
5 II, LTD., RECORDED IN VOLUME 4896, PAGE 246, D.R.G.C.T.;

6 N 89°10'53"E, ALONG THE NORTH LINE OF SAID HOWE TRACT TWO,
7 2328.21 FEET TO THE PLACE OF BEGINNING AND CONTAINING 468.939 ACRES
8 (20,426,981 SQ. FT.) OF LAND, MORE OR LESS.

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

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

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

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

27 SECTION 4. (a) If this Act does not receive a two-thirds

1 vote of all the members elected to each house, Subchapter C, Chapter
2 8100, Special District Local Laws Code, as added by Section 1 of
3 this Act, is amended by adding Section 8100.0307 to read as follows:

4 Sec. 8100.0307. NO EMINENT DOMAIN POWER. The district may
5 not exercise the power of eminent domain.

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

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