

1-1 By: Smith (Senate Sponsor - Fallon) H.B. No. 4668
 1-2 (In the Senate - Received from the House May 13, 2019;
 1-3 May 14, 2019, read first time and referred to Committee on
 1-4 Intergovernmental Relations; May 20, 2019, reported favorably by
 1-5 the following vote: Yeas 7, Nays 0; May 20, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7	X			
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the creation of the Howe Municipal Utility District No.
 1-18 1; granting a limited power of eminent domain; providing authority
 1-19 to issue bonds; providing authority to impose assessments, fees,
 1-20 and taxes.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-22 SECTION 1. Subtitle F, Title 6, Special District Local Laws
 1-23 Code, is amended by adding Chapter 8100 to read as follows:

1-24 CHAPTER 8100. HOWE MUNICIPAL UTILITY DISTRICT NO. 1

1-25 SUBCHAPTER A. GENERAL PROVISIONS

1-26 Sec. 8100.0101. DEFINITIONS. In this chapter:

1-27 (1) "Board" means the district's board of directors.

1-28 (2) "Commission" means the Texas Commission on

1-29 Environmental Quality.

1-30 (3) "Director" means a board member.

1-31 (4) "District" means the Howe Municipal Utility

1-32 District No. 1.

1-33 Sec. 8100.0102. NATURE OF DISTRICT. The district is a
 1-34 municipal utility district created under Section 59, Article XVI,
 1-35 Texas Constitution.

1-36 Sec. 8100.0103. CONFIRMATION AND DIRECTOR ELECTION
 1-37 REQUIRED. The temporary directors shall hold an election to
 1-38 confirm the creation of the district and to elect five permanent
 1-39 directors as provided by Section 49.102, Water Code.

1-40 Sec. 8100.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-41 temporary directors may not hold an election under Section
 1-42 8100.0103 until each municipality in whose corporate limits or
 1-43 extraterritorial jurisdiction the district is located has
 1-44 consented by ordinance or resolution to the creation of the
 1-45 district and to the inclusion of land in the district.

1-46 Sec. 8100.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-47 (a) The district is created to serve a public purpose and benefit.

1-48 (b) The district is created to accomplish the purposes of:

1-49 (1) a municipal utility district as provided by
 1-50 general law and Section 59, Article XVI, Texas Constitution; and

1-51 (2) Section 52, Article III, Texas Constitution, that
 1-52 relate to the construction, acquisition, improvement, operation,
 1-53 or maintenance of macadamized, graveled, or paved roads, or
 1-54 improvements, including storm drainage, in aid of those roads.

1-55 Sec. 8100.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-56 district is initially composed of the territory described by
 1-57 Section 2 of the Act enacting this chapter.

1-58 (b) The boundaries and field notes contained in Section 2 of
 1-59 the Act enacting this chapter form a closure. A mistake made in the
 1-60 field notes or in copying the field notes in the legislative process
 1-61 does not affect the district's:

- 2-1 (1) organization, existence, or validity;
- 2-2 (2) right to issue any type of bond for the purposes
- 2-3 for which the district is created or to pay the principal of and
- 2-4 interest on a bond;
- 2-5 (3) right to impose a tax; or
- 2-6 (4) legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

2-8 Sec. 8100.0201. GOVERNING BODY; TERMS. (a) The district is

2-9 governed by a board of five elected directors.

2-10 (b) Except as provided by Section 8100.0202, directors

2-11 serve staggered four-year terms.

2-12 Sec. 8100.0202. TEMPORARY DIRECTORS. (a) The temporary

2-13 board consists of:

- 2-14 (1) Linda Baker;
- 2-15 (2) Cynthia Lowe Bakhshab;
- 2-16 (3) Debra Brown;
- 2-17 (4) Telicia Marie Owens; and
- 2-18 (5) David Lee Taylor.

2-19 (b) Temporary directors serve until the earlier of:

2-20 (1) the date permanent directors are elected under

2-21 Section 8100.0103; or

2-22 (2) the fourth anniversary of the effective date of

2-23 the Act enacting this chapter.

2-24 (c) If permanent directors have not been elected under

2-25 Section 8100.0103 and the terms of the temporary directors have

2-26 expired, successor temporary directors shall be appointed or

2-27 reappointed as provided by Subsection (d) to serve terms that

2-28 expire on the earlier of:

- 2-29 (1) the date permanent directors are elected under
- 2-30 Section 8100.0103; or
- 2-31 (2) the fourth anniversary of the date of the
- 2-32 appointment or reappointment.

2-33 (d) If Subsection (c) applies, the owner or owners of a

2-34 majority of the assessed value of the real property in the district

2-35 may submit a petition to the commission requesting that the

2-36 commission appoint as successor temporary directors the five

2-37 persons named in the petition. The commission shall appoint as

2-38 successor temporary directors the five persons named in the

2-39 petition.

SUBCHAPTER C. POWERS AND DUTIES

2-41 Sec. 8100.0301. GENERAL POWERS AND DUTIES. The district

2-42 has the powers and duties necessary to accomplish the purposes for

2-43 which the district is created.

2-44 Sec. 8100.0302. MUNICIPAL UTILITY DISTRICT POWERS AND

2-45 DUTIES. The district has the powers and duties provided by the

2-46 general law of this state, including Chapters 49 and 54, Water Code,

2-47 applicable to municipal utility districts created under Section 59,

2-48 Article XVI, Texas Constitution.

2-49 Sec. 8100.0303. AUTHORITY FOR ROAD PROJECTS. Under Section

2-50 52, Article III, Texas Constitution, the district may design,

2-51 acquire, construct, finance, issue bonds for, improve, operate,

2-52 maintain, and convey to this state, a county, or a municipality for

2-53 operation and maintenance macadamized, graveled, or paved roads, or

2-54 improvements, including storm drainage, in aid of those roads,

2-55 inside or outside the district.

2-56 Sec. 8100.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A

2-57 road project must meet all applicable construction standards,

2-58 zoning and subdivision requirements, and regulations of each

2-59 municipality in whose corporate limits or extraterritorial

2-60 jurisdiction the road project is located.

2-61 (b) If a road project is not located in the corporate limits

2-62 or extraterritorial jurisdiction of a municipality, the road

2-63 project must meet all applicable construction standards,

2-64 subdivision requirements, and regulations of each county in which

2-65 the road project is located.

2-66 (c) If the state will maintain and operate the road, the

2-67 Texas Transportation Commission must approve the plans and

2-68 specifications of the road project.

2-69 Sec. 8100.0305. COMPLIANCE WITH MUNICIPAL CONSENT

3-1 ORDINANCE OR RESOLUTION. The district shall comply with all
 3-2 applicable requirements of any ordinance or resolution that is
 3-3 adopted under Section 54.016 or 54.0165, Water Code, and that
 3-4 consents to the creation of the district or to the inclusion of land
 3-5 in the district.

3-6 Sec. 8100.0306. DIVISION OF DISTRICT. (a) The district may
 3-7 be divided into two or more new districts only if the district:

3-8 (1) has no outstanding bonded debt; and

3-9 (2) is not imposing ad valorem taxes.

3-10 (b) This chapter applies to any new district created by the
 3-11 division of the district, and a new district has all the powers and
 3-12 duties of the district.

3-13 (c) Any new district created by the division of the district
 3-14 may not, at the time the new district is created, contain any land
 3-15 outside the area described by Section 2 of the Act enacting this
 3-16 chapter.

3-17 (d) The board, on its own motion or on receipt of a petition
 3-18 signed by the owner or owners of a majority of the assessed value of
 3-19 the real property in the district, may adopt an order dividing the
 3-20 district.

3-21 (e) The board may adopt an order dividing the district
 3-22 before or after the date the board holds an election under Section
 3-23 8100.0103 to confirm the creation of the district.

3-24 (f) An order dividing the district must:

3-25 (1) name each new district;

3-26 (2) include the metes and bounds description of the
 3-27 territory of each new district;

3-28 (3) appoint temporary directors for each new district;

3-29 and

3-30 (4) provide for the division of assets and liabilities
 3-31 between or among the new districts.

3-32 (g) On or before the 30th day after the date of adoption of
 3-33 an order dividing the district, the district shall file the order
 3-34 with the commission and record the order in the real property
 3-35 records of each county in which the district is located.

3-36 (h) Any new district created by the division of the district
 3-37 shall hold a confirmation and directors' election as required by
 3-38 Section 8100.0103.

3-39 (i) If the creation of the new district is confirmed, the
 3-40 new district shall provide the election date and results to the
 3-41 commission.

3-42 (j) Any new district created by the division of the district
 3-43 must hold an election as required by this chapter to obtain voter
 3-44 approval before the district may impose a maintenance tax or issue
 3-45 bonds payable wholly or partly from ad valorem taxes.

3-46 (k) Municipal consent to the creation of the district and to
 3-47 the inclusion of land in the district granted under Section
 3-48 8100.0104 acts as municipal consent to the creation of any new
 3-49 district created by the division of the district and to the
 3-50 inclusion of land in the new district.

3-51 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-52 Sec. 8100.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
 3-53 The district may issue, without an election, bonds and other
 3-54 obligations secured by:

3-55 (1) revenue other than ad valorem taxes; or

3-56 (2) contract payments described by Section 8100.0403.

3-57 (b) The district must hold an election in the manner
 3-58 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-59 before the district may impose an ad valorem tax or issue bonds
 3-60 payable from ad valorem taxes.

3-61 (c) The district may not issue bonds payable from ad valorem
 3-62 taxes to finance a road project unless the issuance is approved by a
 3-63 vote of a two-thirds majority of the district voters voting at an
 3-64 election held for that purpose.

3-65 Sec. 8100.0402. OPERATION AND MAINTENANCE TAX. (a) If
 3-66 authorized at an election held under Section 8100.0401, the
 3-67 district may impose an operation and maintenance tax on taxable
 3-68 property in the district in accordance with Section 49.107, Water
 3-69 Code.

4-1 (b) The board shall determine the tax rate. The rate may not
 4-2 exceed the rate approved at the election.

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

4-9 (b) A contract approved by the district voters may contain a
 4-10 provision stating that the contract may be modified or amended by
 4-11 the board without further voter approval.

4-12 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

4-13 Sec. 8100.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 4-14 OBLIGATIONS. The district may issue bonds or other obligations
 4-15 payable wholly or partly from ad valorem taxes, impact fees,
 4-16 revenue, contract payments, grants, or other district money, or any
 4-17 combination of those sources, to pay for any authorized district
 4-18 purpose.

4-19 Sec. 8100.0502. TAXES FOR BONDS. At the time the district
 4-20 issues bonds payable wholly or partly from ad valorem taxes, the
 4-21 board shall provide for the annual imposition of a continuing
 4-22 direct ad valorem tax, without limit as to rate or amount, while all
 4-23 or part of the bonds are outstanding as required and in the manner
 4-24 provided by Sections 54.601 and 54.602, Water Code.

4-25 Sec. 8100.0503. BONDS FOR ROAD PROJECTS. At the time of
 4-26 issuance, the total principal amount of bonds or other obligations
 4-27 issued or incurred to finance road projects and payable from ad
 4-28 valorem taxes may not exceed one-fourth of the assessed value of the
 4-29 real property in the district.

4-30 SECTION 2. The Howe Municipal Utility District No. 1
 4-31 initially includes all the territory contained in the following
 4-32 area:

4-33 BEING A TRACT OF LAND LOCATED IN THE JOSEPH HAYHURST SURVEY,
 4-34 ABSTRACT No. 530 AND THE JOHN H. MILLER SURVEY, ABSTRACT No. 834,
 4-35 GRAYSON COUNTY, TEXAS, BEING ALL OF TRACTS ONE AND TWO OF LAND
 4-36 DESCRIBED IN A DEED TO HOWE COMMERCIAL, LTD., RECORDED IN VOLUME
 4-37 4046, PAGE 500, DEED RECORDS, GRAYSON COUNTY, TEXAS (D.R.G.C.T.),
 4-38 AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS
 4-39 FOLLOWS:

4-40 BEGINNING AT THE NORTHEAST CORNER OF SAID HOWE TRACT TWO AND
 4-41 IN THE WEST RIGHT-OF-WAY LINE OF STATE HIGHWAY No. 5 (S.H. 5), AND
 4-42 FROM WHICH A 1/2" IRON ROD FOUND BEARS N 24°17'01" W, 18.68 FEET;

4-43 THENCE ALONG THE EAST LINE OF SAID HOWE TRACT TWO AND THE WEST
 4-44 RIGHT-OF-WAY LINE OF SAID S.H. 5 AS FOLLOWS:

4-45 1) S 19°49'23" E, 113.08 FEET TO POINT AT THE BEGINNING OF A
 4-46 CURVE TO THE LEFT:

4-47 2) SOUTHEASTERLY, AN ARC LENGTH OF 460.36 FEET ALONG SAID
 4-48 CURVE TO THE LEFT, HAVING A RADIUS OF 5779.58 FEET, A DELTA ANGLE OF
 4-49 4°33'50", AND A CHORD BEARING OF S 22°02'08" E, 460.24 FEET TO A
 4-50 POINT;

4-51 3) S 24°23'23" E, 968.50 FEET TO A POINT AT THE BEGINNING OF A
 4-52 CURVE TO THE RIGHT:

4-53 4) SOUTHEASTERLY, AN ARC LENGTH OF 226.37 FEET ALONG SAID
 4-54 CURVE TO THE RIGHT, HAVING A RADIUS OF 5679.58 FEET, A DELTA ANGLE
 4-55 OF 2°17'01", AND A CHORD BEARING OF S 23°14'53" E, 226.35 FEET TO A
 4-56 POINT;

4-57 5) S 22°06'22" E, 3924.23 FEET TO THE SOUTHEAST CORNER OF
 4-58 SAID HOWE TRACT TWO;

4-59 THENCE ALONG THE SOUTH LINE OF SAID HOWE TRACT TWO AS FOLLOWS:

4-60 1) S 89°04'19" W, 1125.91 FEET TO A 3/4" IRON PIPE FOUND,
 4-61 SAID IRON PIPE BEING THE NORTHWEST CORNER OF A TRACT OF LAND
 4-62 DESCRIBED IN A DEED TO OPAL ANDERSON, RECORDED IN VOLUME 2598, PAGE
 4-63 482, D.R.G.C.T., AND BEING THE NORTHEAST CORNER OF A TRACT OF LAND
 4-64 DESCRIBED IN A DEED TO CLYDE RAY ASKEW AND DOROTHY J. ASKEW
 4-65 REVOCABLE LIVING TRUST, RECORDED IN VOLUME 5137, PAGE 478,
 4-66 D.R.G.C.T.;

4-67 2) S 88°50'49" W, ALONG THE NORTH LINE OF SAID ASKEW TRACT,
 4-68 AT 1213.91 FEET, PASSING THE NORTHEAST CORNER OF A TRACT OF LAND
 4-69 DESCRIBED IN A DEED TO HSIUTAO LING, YUN HUA LIN, TZU HSIANG HSU,

5-1 AND CONNIE L. HSU, RECORDED IN VOLUME 4536, PAGE 179, D.R.G.C.T.,
5-2 CONTINUING ALONG THE NORTH LINE OF SAID LIANG, LIN, AND HSU TRACT,
5-3 IN ALL A TOTAL DISTANCE OF 1513.88 FEET TO A 3/4" IRON ROD FOUND,
5-4 SAID IRON ROD BEING THE MOST NORTHERLY NORTHWEST OF SAID LIANG, LIN,
5-5 AND HSU TRACT;
5-6 3) S 88°57'29" W, 1795.46 FEET TO THE SOUTHWEST CORNER OF
5-7 SAID HOWE TRACT TWO AND THE SOUTHEAST CORNER OF SAID HOWE TRACT ONE;
5-8 THENCE S 89°17'02" W, ALONG THE SOUTH LINE OF SAID HOWE TRACT
5-9 ONE, 645.15 FEET TO THE SOUTHWEST CORNER OF SAID HOWE TRACT ONE AND
5-10 BEING IN THE EAST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 75 (I.H.
5-11 75) (A VARIABLE WIDTH RIGHT-OF-WAY), FROM WHICH A RAILROAD SPIKE
5-12 FOUND BEARS S 52°24'30" W, 1.41 FEET;
5-13 THENCE ALONG THE WEST LINE OF SAID HOWE TRACT ONE AND THE EAST
5-14 RIGHT-OF-WAY LINE SAID I.H. 75 AS FOLLOWS:
5-15 1) N 25°42'58" W, 22.05 FEET TO A POINT;
5-16 2) N 41°48'58" W, 180.40 FEET TO A POINT FROM WHICH THE
5-17 REMAINS OF A CONCRETE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT)
5-18 MONUMENT FOUND BEARS S 17°52' E, 0.8 FEET;
5-19 3) N 25°42'58"W, 695.20 FEET TO A POINT FROM WHICH THE
5-20 REMAINS OF A CONCRETE TXDOT MONUMENT FOUND BEARS S 55°25' E, 0.8
5-21 FEET;
5-22 4) N 28°34'58"W, 801.00 FEET TO A POINT FROM WHICH THE
5-23 REMAINS OF A CONCRETE TXDOT MONUMENT FOUND BEARS S 21°07' E, 0.7
5-24 FEET;
5-25 5) N 25°42'57"W, 397.69 FEET TO A 1" IRON PIPE FOUND, SAID
5-26 IRON PIPE FOUND BEING THE SOUTHWEST CORNER OF A TRACT OF LAND
5-27 DESCRIBED IN A DEED TO GEORGE F. MIXON, JR., THE ESTATE OF GEORGE F.
5-28 MIXON, SR., MAUDE L. DIXON, GEORGE F. MIXON, III, CYNTHIA MIXON
5-29 BYNUM, & MARJORIE E. MIXON, RECORDED IN VOLUME 1756, PAGE 789,
5-30 D.R.G.C.T.;
5-31 THENCE N 00°57'05"W, DEPARTING THE EAST RIGHT-OF-WAY LINE OF
5-32 SAID I.H. 75, ALONG A SOUTH LINE OF SAID MIXON TRACT, A DISTANCE OF
5-33 195.61 FEET TO A POINT;
5-34 THENCE N 89°09'02"E, CONTINUING ALONG A SOUTH LINE OF SAID
5-35 MIXON TRACT, 1608.51 FEET TO THE SOUTHEAST CORNER OF SAID MIXON
5-36 TRACT, THE NORTHEAST CORNER OF SAID HOWE TRACT ONE, AND IN THE WEST
5-37 LINE OF SAID HOWE TRACT TWO;
5-38 N 00°45'42"W, ALONG THE WEST LINE OF SAID HOWE TRACT TWO, THE
5-39 EAST LINE OF SAID MIXON TRACT, AND THE EAST LINE OF A TRACT OF LAND
5-40 DESCRIBED IN A DEED AS LOT 5 TO G. WARD PAXTON FLP II, LTD., RECORDED
5-41 IN VOLUME 4896, PAGE 246, D.R.G.C.T., 3253.45 FEET TO THE NORTHWEST
5-42 CORNER OF SAID HOWE TRACT TWO AND BEING THE SOUTHWEST CORNER OF A
5-43 TRACT OF LAND DESCRIBED IN A DEED AS LOT 8 TO SAID G. WARD PAXTON FLP
5-44 II, LTD., RECORDED IN VOLUME 4896, PAGE 246, D.R.G.C.T.;
5-45 N 89°10'53"E, ALONG THE NORTH LINE OF SAID HOWE TRACT TWO,
5-46 2328.21 FEET TO THE PLACE OF BEGINNING AND CONTAINING 468.939 ACRES
5-47 (20,426,981 SQ. FT.) OF LAND, MORE OR LESS.
5-48 SECTION 3. (a) The legal notice of the intention to
5-49 introduce this Act, setting forth the general substance of this
5-50 Act, has been published as provided by law, and the notice and a
5-51 copy of this Act have been furnished to all persons, agencies,
5-52 officials, or entities to which they are required to be furnished
5-53 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-54 Government Code.
5-55 (b) The governor, one of the required recipients, has
5-56 submitted the notice and Act to the Texas Commission on
5-57 Environmental Quality.
5-58 (c) The Texas Commission on Environmental Quality has filed
5-59 its recommendations relating to this Act with the governor, the
5-60 lieutenant governor, and the speaker of the house of
5-61 representatives within the required time.
5-62 (d) All requirements of the constitution and laws of this
5-63 state and the rules and procedures of the legislature with respect
5-64 to the notice, introduction, and passage of this Act are fulfilled
5-65 and accomplished.
5-66 SECTION 4. (a) If this Act does not receive a two-thirds
5-67 vote of all the members elected to each house, Subchapter C, Chapter
5-68 8100, Special District Local Laws Code, as added by Section 1 of
5-69 this Act, is amended by adding Section 8100.0307 to read as follows:

6-1 Sec. 8100.0307. NO EMINENT DOMAIN POWER. The district may
6-2 not exercise the power of eminent domain.

6-3 (b) This section is not intended to be an expression of a
6-4 legislative interpretation of the requirements of Section 17(c),
6-5 Article I, Texas Constitution.

6-6 SECTION 5. This Act takes effect immediately if it receives
6-7 a vote of two-thirds of all the members elected to each house, as
6-8 provided by Section 39, Article III, Texas Constitution. If this
6-9 Act does not receive the vote necessary for immediate effect, this
6-10 Act takes effect September 1, 2019.

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