

1-1 By: Schaefer (Senate Sponsor - Hughes) H.B. No. 4749
 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 adversely,
 1-5 with favorable Committee Substitute by the following vote: Yeas 6,
 1-6 Nays 0; May 20, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 4749 By: Nichols

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the creation of the Rose City Municipal Utility
 1-20 District; granting a limited power of eminent domain; providing
 1-21 authority to issue bonds; providing authority to impose assessments
 1-22 and fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle F, Title 6, Special District Local Laws
 1-25 Code, is amended by adding Chapter 7958 to read as follows:

1-26 CHAPTER 7958. ROSE CITY MUNICIPAL UTILITY DISTRICT

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7958.0101. DEFINITIONS. In this chapter:

1-29 (1) "Board" means the district's board of directors.

1-30 (2) "City" means the City of Tyler.

1-31 (3) "Commission" means the Texas Commission on
 1-32 Environmental Quality.

1-33 (4) "Director" means a board member.

1-34 (5) "District" means the Rose City Municipal Utility
 1-35 District.

1-36 (6) "Utility commission" means the Public Utility
 1-37 Commission of Texas.

1-38 Sec. 7958.0102. NATURE OF DISTRICT. The district is a
 1-39 municipal utility district created under Section 59, Article XVI,
 1-40 Texas Constitution.

1-41 Sec. 7958.0103. CONFIRMATION ELECTION REQUIRED. The
 1-42 initial directors appointed under Section 7958.0201 shall hold an
 1-43 election to confirm the creation of the district as provided by
 1-44 Section 49.102, Water Code.

1-45 Sec. 7958.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-46 temporary directors may not hold an election under Section
 1-47 7958.0103 until each municipality in whose corporate limits or
 1-48 extraterritorial jurisdiction the district is located has
 1-49 consented by ordinance or resolution to the creation of the
 1-50 district and to the inclusion of land in the district.

1-51 Sec. 7958.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-52 (a) The district is created to serve a public purpose and benefit.

1-53 (b) The district is created to accomplish the purposes of a
 1-54 municipal utility district as provided by general law and Section
 1-55 59, Article XVI, Texas Constitution.

1-56 Sec. 7958.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-57 district is initially composed of the territory described by
 1-58 Section 2 of the Act enacting this chapter.

1-59 (b) The boundaries and field notes contained in Section 2 of
 1-60 the Act enacting this chapter form a closure. A mistake made in the

2-1 field notes or in copying the field notes in the legislative process
2-2 does not affect the district's:

- 2-3 (1) organization, existence, or validity;
- 2-4 (2) right to issue any type of bond for the purposes
2-5 for which the district is created or to pay the principal of and
2-6 interest on a bond; or
- 2-7 (3) legality or operation.

2-8 SUBCHAPTER B. BOARD OF DIRECTORS

2-9 Sec. 7958.0201. GOVERNING BODY; TERMS. (a) The district is
2-10 governed by a board of five directors appointed as follows:

- 2-11 (1) three directors appointed by the city; and
- 2-12 (2) two directors appointed by the Smith County
2-13 Commissioners Court.

2-14 (b) Directors serve staggered four-year terms.

2-15 (c) The appointing entities shall appoint the initial
2-16 directors not later than September 1, 2020. The initial directors
2-17 appointed under Subsection (a)(1) serve a four-year term, and the
2-18 directors appointed under Subsection (a)(2) serve a two-year term.
2-19 This subsection expires September 1, 2023.

2-20 Sec. 7958.0202. QUALIFICATIONS OF DIRECTORS. (a)
2-21 Notwithstanding any other law:

2-22 (1) an officer or employee of the city may serve as a
2-23 director of the district; and

2-24 (2) a member of the governing body of the city may
2-25 serve as a director of the district.

2-26 (b) A person who qualifies to serve as a director is
2-27 qualified to participate in all votes pertaining to the business of
2-28 the district, subject to Section 49.058, Water Code.

2-29 (c) Section 49.052, Water Code, does not apply to the
2-30 district.

2-31 Sec. 7958.0203. COMPENSATION; REIMBURSEMENT. A director
2-32 serves without compensation but may receive reimbursement for
2-33 actual expenses reasonably and necessarily incurred while engaging
2-34 in activities on behalf of the district.

2-35 SUBCHAPTER C. POWERS AND DUTIES

2-36 Sec. 7958.0301. GENERAL POWERS AND DUTIES. The district
2-37 has the powers and duties necessary to accomplish the purposes for
2-38 which the district is created.

2-39 Sec. 7958.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
2-40 DUTIES. (a) Subject to Subsection (b), the district has the powers
2-41 and duties provided by the general law of this state, including
2-42 Chapters 49 and 54, Water Code, applicable to municipal utility
2-43 districts created under Section 59, Article XVI, Texas
2-44 Constitution.

2-45 (b) The district may provide only sewer and wastewater
2-46 services, including the acquisition, construction, contracting,
2-47 financing, maintenance, operation, and planning of sewer and
2-48 wastewater facilities or systems.

2-49 Sec. 7958.0303. COMPLIANCE WITH MUNICIPAL CONSENT
2-50 ORDINANCE OR RESOLUTION. The district shall comply with all
2-51 applicable requirements of any ordinance or resolution that is
2-52 adopted under Section 54.016 or 54.0165, Water Code, and that
2-53 consents to the creation of the district or to the inclusion of land
2-54 in the district.

2-55 Sec. 7958.0304. LIMITED POWER OF EMINENT DOMAIN. The
2-56 district may exercise the power of eminent domain only for the
2-57 limited purpose of acquiring or constructing sewer and wastewater
2-58 facilities.

2-59 Sec. 7958.0305. CONTRACTING. The district may contract
2-60 with a political subdivision or private operator to operate and
2-61 maintain the district's sewer and wastewater facilities.

2-62 Sec. 7958.0306. CERTIFICATE OF PUBLIC CONVENIENCE AND
2-63 NECESSITY. (a) Notwithstanding Chapter 13, Water Code, the
2-64 district may provide sewer and wastewater service without a
2-65 certificate of convenience and necessity.

2-66 (b) Not later than the 30th day before the date the district
2-67 intends to provide sewer and wastewater service, the district must
2-68 notify the utility commission and each retail public utility that
2-69 provides sewer and wastewater services in the district.

3-1 (c) If the district does not acquire a retail public utility
 3-2 that holds a certificate of public convenience and necessity for
 3-3 providing sewer and wastewater service in the district territory,
 3-4 the district shall:

3-5 (1) not later than the 30th day after the date the
 3-6 district begins providing sewer and wastewater service, petition
 3-7 the utility commission to decertify the territory inside the
 3-8 district of the existing certificate holder; and

3-9 (2) compensate the existing certificate holder in an
 3-10 amount determined by the utility commission.

3-11 Sec. 7958.0307. PROFESSIONAL SERVICES. The district may
 3-12 contract with a political subdivision to provide professional
 3-13 services for the district, including legal services related to the
 3-14 exercise of eminent domain.

3-15 Sec. 7958.0308. SUPERMAJORITY VOTE REQUIRED FOR CERTAIN
 3-16 ACTIONS. At least four board members must vote in favor of a
 3-17 resolution before the board may:

3-18 (1) increase rates or assessments by more than five
 3-19 percent;

3-20 (2) incur debt or increase the amount of debt that the
 3-21 district has outstanding; or

3-22 (3) order a dissolution election under Section
 3-23 7958.0601.

3-24 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-25 Sec. 7958.0401. ELECTIONS REGARDING BONDS. The district
 3-26 may issue, without an election, bonds and other obligations secured
 3-27 by revenue other than ad valorem taxes.

3-28 Sec. 7958.0402. PROHIBITION ON IMPOSITION OF TAXES. (a) The
 3-29 district may not impose an ad valorem tax for any purpose.

3-30 (b) Section 49.107, Water Code, does not apply to the
 3-31 district.

3-32 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-33 Sec. 7958.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 3-34 OBLIGATIONS. The district may issue bonds or other obligations
 3-35 payable wholly or partly from impact fees, revenue, contract
 3-36 payments, grants, or other district money, or any combination of
 3-37 those sources, to pay for any authorized district purpose.

3-38 SUBCHAPTER F. DISSOLUTION BY ELECTION

3-39 Sec. 7958.0601. DISSOLUTION ELECTION CALLED BY BOARD. The
 3-40 board may order an election on the question of dissolving the
 3-41 district and transferring the district's assets and obligations to
 3-42 another political subdivision of the state, if the board concludes
 3-43 after a public hearing held on the issue that it is in the best
 3-44 interest of the district's residents and of the persons served by
 3-45 the district for the district to dissolve.

3-46 Sec. 7958.0602. DISSOLUTION ELECTION CALLED BY PETITION.
 3-47 The board shall order an election on the question of dissolving the
 3-48 district and transferring the district's assets and obligations to
 3-49 another political subdivision of the state if the board receives a
 3-50 petition requesting an election on that question. The petition
 3-51 must be signed by at least 15 percent of the district's registered
 3-52 voters.

3-53 Sec. 7958.0603. ELECTION ORDER. An order calling an
 3-54 election held under this subchapter must state:

3-55 (1) the nature of the election, including the
 3-56 proposition that is to appear on the ballot;

3-57 (2) the date of the election;

3-58 (3) the hours during which the polls will be open; and

3-59 (4) the location of the polling places.

3-60 Sec. 7958.0604. NOTICE OF DISSOLUTION ELECTION. (a) The
 3-61 board shall give notice of an election ordered under this
 3-62 subchapter by publishing a substantial copy of the election order
 3-63 in a newspaper with general circulation in the district once a week
 3-64 for two consecutive weeks.

3-65 (b) The first publication must appear not later than the
 3-66 30th day before the date set for the election.

3-67 Sec. 7958.0605. APPLICABILITY OF UNIFORM ELECTION DATES.
 3-68 Section 41.001, Election Code, does not apply to an election held
 3-69 under this subchapter.

4-1 Sec. 7958.0606. ELECTION RESULTS. (a) If a majority of the
4-2 votes in an election held under this subchapter favor dissolution,
4-3 the board shall order that the district be dissolved.

4-4 (b) If a majority of the votes in an election held under this
4-5 subchapter do not favor dissolution, the board shall continue to
4-6 administer the district, and another election on the question of
4-7 dissolution may not be held before the first anniversary of the date
4-8 of the most recent election held on the question of dissolving the
4-9 district.

4-10 Sec. 7958.0607. TRANSFER OF ASSETS, OBLIGATIONS, AND
4-11 PROVISION OF SERVICES. (a) As soon as practicable following the
4-12 issuance of an order under Section 7958.0606(a), the board shall:

4-13 (1) begin the process of transferring the district's
4-14 assets and obligations to one or more political subdivisions in a
4-15 fair and equitable manner; and

4-16 (2) administer the property, assets, and debts of the
4-17 district until all money has been disposed of and all district debts
4-18 have been paid or settled.

4-19 (b) If the district provides services, the board or a
4-20 receiver appointed under Section 7958.0608 shall make arrangements
4-21 for the uninterrupted provision of services.

4-22 Sec. 7958.0608. RECEIVER. If the executive director of the
4-23 commission determines that the board has failed to make substantial
4-24 progress in transferring the district's assets and obligations to
4-25 one or more political subdivisions in a fair and equitable manner,
4-26 the executive director shall appoint a receiver for the district.

4-27 Sec. 7958.0609. REPORT; DISSOLUTION ORDER. (a) After the
4-28 district has transferred all of the district's assets and
4-29 obligations and has arranged for the continued provision of
4-30 services provided by the district, if applicable, the board shall
4-31 file a written report with the commission summarizing the board's
4-32 actions in dissolving the district.

4-33 (b) Not later than the 10th day after the date the
4-34 commission receives the report and determines that the requirements
4-35 of this subchapter have been fulfilled, the commission shall enter
4-36 an order dissolving the district.

4-37 SUBCHAPTER G. ANNEXATION OF LAND

4-38 Sec. 7958.0701. GENERAL ANNEXATION PROVISIONS. (a) Except
4-39 as provided by this section, Subchapter J, Chapter 49, Water Code,
4-40 applies to the district.

4-41 (b) In addition to the requirements of Section 49.302(b),
4-42 Water Code, the petition must also be signed by a majority of
4-43 registered voters in the defined area to be annexed.

4-44 Sec. 7958.0702. RETALIATION FOR ANNEXATION DISAPPROVAL
4-45 PROHIBITED. (a) The disapproval of the proposed annexation of an
4-46 area by the district does not affect any existing legal obligation
4-47 of the district to continue to provide services in the area,
4-48 including wastewater services.

4-49 (b) The district may not initiate a rate proceeding solely
4-50 because of the disapproval of a proposed annexation of an area.

4-51 SECTION 2. The Rose City Municipal Utility District
4-52 initially includes all the territory contained in the following
4-53 area:

4-54 BEING a 21,118 acre tract of land situated in Smith County, Texas,
4-55 said 21,118 acre tract being more completely described by metes and
4-56 bounds as follows:

4-57 BEGINNING at the intersection of the centerline of State Highway
4-58 No. 155 with State Highway 57 (West Grande Boulevard);

4-59 THENCE Easterly with the centerline of West Grande Boulevard to its
4-60 intersection with F.M. 2493 (Old Jacksonville Highway);

4-61 THENCE Southwesterly with the centerline of F.M. 2493 (Old
4-62 Jacksonville Highway) to its intersection with Three Lakes Parkway;

4-63 THENCE Southeasterly with the centerline of Three Lakes Parkway to
4-64 its intersection with Dueling Oaks;

4-65 THENCE Easterly with the centerline of Dueling Oaks to its
4-66 intersection with Hollytree Drive;

4-67 THENCE Southwesterly with the centerline of Hollytree Drive to its
4-68 intersection with Maple Lane;

4-69 THENCE Southerly with the centerline of Maple Lane to its

5-1 intersection with West Cumberland Road;
 5-2 THENCE Easterly with the centerline of West Cumberland Road to its
 5-3 intersection with U.S. Highway 69 (South Broadway Ave.);
 5-4 THENCE Southerly with the centerline of U.S. Highway 69 (South
 5-5 Broadway Ave.) to its intersection with Loop 49;
 5-6 THENCE Northeasterly with the centerline of Loop 49 to its
 5-7 intersection with F.M. 756 (South Paluxy Drive);
 5-8 THENCE Southeasterly with the centerline of F.M. 756 (South Paluxy
 5-9 Drive) to its intersection with F.M. 346;
 5-10 THENCE Southwesterly with the centerline of F.M. 346 to its
 5-11 intersection with County Road 15;
 5-12 THENCE Southerly with the centerline of County Road 15 to its
 5-13 intersection with County Road 129;
 5-14 THENCE Northeasterly with the centerline of County Road 129 to its
 5-15 intersection with County Road 112;
 5-16 THENCE with the centerline of County Road 112 to its intersection
 5-17 with County Road 113;
 5-18 THENCE with the centerline of County Road 113 to its intersection
 5-19 with County Road 152;
 5-20 THENCE Southwesterly with the centerline of County Road 152 to its
 5-21 intersection with U.S. Highway No. 69;
 5-22 THENCE Southeasterly with the centerline of U.S. Highway No. 69 to
 5-23 its intersection with the South boundary line of Liberty Utilities
 5-24 (Woodmark) CCN 20679 as shown by digital map on 3-08-2019 per the
 5-25 Public Utility Commission of Texas website, same being on the East
 5-26 boundary line of the City of Bullard, Texas, Sewer CCN 20903 as
 5-27 shown by digital map on 3-08-2019 per the Public Utility Commission
 5-28 of Texas website;
 5-29 THENCE Southwesterly with said East boundary line of Bullard, Texas
 5-30 CCN 20903 and South boundary line of Liberty Utilities (Woodmark)
 5-31 CCN 20679 to its intersection with Tyler and Bullard ETJ Agreement
 5-32 Boundary;
 5-33 THENCE South 87° 24 min 9 sec West with a distance of 228.46 ft;
 5-34 THENCE South 87° 15 min 49 sec West with a distance of 1,411.05 ft;
 5-35 THENCE North 3° 23 min 18 sec West with a distance of 116.67 ft;
 5-36 THENCE South 57° 12 min 37 sec West with a distance of 519.18 ft to
 5-37 its intersection with F. M. 2493;
 5-38 THENCE Northwesterly with the centerline of F.M. 2493 to an ell
 5-39 corner in the West line of said CCN 20679;
 5-40 THENCE West continuing with the West boundary line of said CCN 20679
 5-41 to its intersection with the centerline of County Road 173 and being
 5-42 the Westerly Southwest corner of said CCN 20679;
 5-43 THENCE Northerly with the centerline of County Road 173 to its
 5-44 intersection with the centerline of County Road 175;
 5-45 THENCE Westerly with the centerline of County Road 175 to its
 5-46 intersection with the centerline of F.M. 346;
 5-47 THENCE Westerly with the centerline of F.M. 346 to its intersection
 5-48 with the centerline of County Road 185 (Oak Hollow Road);
 5-49 THENCE Westerly with the centerline of County Road 185 to its
 5-50 intersection with the centerline of County Road 178 (Old Palestine
 5-51 Highway);
 5-52 THENCE Northeasterly with the centerline of County Road 178 (Old
 5-53 Palestine Highway) to its intersection with the centerline of
 5-54 County Road 168 (Saline Creek Road);
 5-55 THENCE Northeasterly with the centerline of County Road 168 to its
 5-56 intersection with the centerline of County Road 178 (Jonestown
 5-57 Road);
 5-58 THENCE North with the centerline of County Road 178 to its
 5-59 intersection with the centerline of County Road 192 (Old Noonday
 5-60 Road);
 5-61 THENCE Northeasterly with the centerline of County Road 192 to its
 5-62 intersection with the centerline of County Road 193 (Taylor Road);
 5-63 THENCE Northwesterly with the centerline of County Road 193 to its
 5-64 intersection with the centerline of State Highway No. 155;
 5-65 THENCE Northeasterly with the centerline of State Highway No. 155
 5-66 to the place of beginning containing 21,118 acres of land, plus or
 5-67 minus.
 5-68 "This document was prepared under 22 TAC §663.21, does not reflect
 5-69 the results of an on the ground survey, and is not to be used to

6-1 convey or establish interests in real property except those rights
6-2 and interests implied or established by the creation or
6-3 reconfiguration of the boundary of the political subdivision for
6-4 which it was prepared."

6-5 The acreage shown were calculated from aerial photography and are
6-6 an approximation only.

6-7 SECTION 3. (a) The legal notice of the intention to
6-8 introduce this Act, setting forth the general substance of this
6-9 Act, has been published as provided by law, and the notice and a
6-10 copy of this Act have been furnished to all persons, agencies,
6-11 officials, or entities to which they are required to be furnished
6-12 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6-13 Government Code.

6-14 (b) The governor, one of the required recipients, has
6-15 submitted the notice and Act to the Texas Commission on
6-16 Environmental Quality.

6-17 (c) The Texas Commission on Environmental Quality has filed
6-18 its recommendations relating to this Act with the governor, the
6-19 lieutenant governor, and the speaker of the house of
6-20 representatives within the required time.

6-21 (d) All requirements of the constitution and laws of this
6-22 state and the rules and procedures of the legislature with respect
6-23 to the notice, introduction, and passage of this Act are fulfilled
6-24 and accomplished.

6-25 SECTION 4. (a) Section 7958.0304, Special District Local
6-26 Laws Code, as added by Section 1 of this Act, takes effect only if
6-27 this Act receives a two-thirds vote of all the members elected to
6-28 each house.

6-29 (b) If this Act does not receive a two-thirds vote of all the
6-30 members elected to each house, Subchapter C, Chapter 7958, Special
6-31 District Local Laws Code, as added by Section 1 of this Act, is
6-32 amended by adding Section 7958.0304 to read as follows:

6-33 Sec. 7958.0304. NO EMINENT DOMAIN POWER. The district may
6-34 not exercise the power of eminent domain.

6-35 (c) This section is not intended to be an expression of a
6-36 legislative interpretation of the requirements of Section 17(c),
6-37 Article I, Texas Constitution.

6-38 SECTION 5. This Act takes effect September 1, 2019.

6-39

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