

1-1 By: Gerdes (Senate Sponsor - Schwertner) H.B. No. 5369
 1-2 (In the Senate - Received from the House May 8, 2023;
 1-3 May 9, 2023, read first time and referred to Committee on Local
 1-4 Government; May 17, 2023, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 17, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Bettencourt	X			
1-8 Springer	X			
1-9 Eckhardt	X			
1-10 Gutierrez	X			
1-11 Hall	X			
1-12 Nichols	X			
1-13 Parker	X			
1-14 Paxton	X			
1-15 West	X			

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

1-19 relating to the creation of the Sandow Municipal Utility District
 1-20 No. 1; granting a limited power of eminent domain; providing
 1-21 authority to issue bonds; providing authority to impose
 1-22 assessments, fees, and taxes.

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 7986A to read as follows:

1-26 CHAPTER 7986A. SANDOW MUNICIPAL UTILITY DISTRICT NO. 1

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7986A.0101. DEFINITIONS. In this chapter:

1-29 (1) "Board" means the district's board of directors.
 1-30 (2) "Commission" means the Texas Commission on
 1-31 Environmental Quality.

1-32 (3) "Director" means a board member.

1-33 (4) "District" means the Sandow Municipal Utility
 1-34 District No. 1.

1-35 Sec. 7986A.0102. NATURE OF DISTRICT. The district is a
 1-36 municipal utility district created under Section 59, Article XVI,
 1-37 Texas Constitution.

1-38 Sec. 7986A.0103. CONFIRMATION AND DIRECTOR ELECTION
 1-39 REQUIRED. The temporary directors shall hold an election to
 1-40 confirm the creation of the district and to elect five permanent
 1-41 directors as provided by Section 49.102, Water Code.

1-42 Sec. 7986A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-43 temporary directors may not hold an election under Section
 1-44 7986A.0103 until each municipality in whose corporate limits or
 1-45 extraterritorial jurisdiction the district is located has
 1-46 consented by ordinance or resolution to the creation of the
 1-47 district and to the inclusion of land in the district as required by
 1-48 applicable law.

1-49 Sec. 7986A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.
 1-50 (a) The district is created to serve a public purpose and benefit.

1-51 (b) The district is created to accomplish the purposes of:
 1-52 (1) a municipal utility district as provided by
 1-53 general law and Section 59, Article XVI, Texas Constitution; and
 1-54 (2) Section 52, Article III, Texas Constitution, that
 1-55 relate to the construction, acquisition, improvement, operation,
 1-56 or maintenance of macadamized, graveled, or paved roads, or
 1-57 improvements, including storm drainage, in aid of those roads.

1-58 Sec. 7986A.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-59 district is initially composed of the territory described by
 1-60 Section 2 of the Act enacting this chapter.

1-61 (b) The boundaries and field notes contained in Section 2 of

2-1 the Act enacting this chapter form a closure. A mistake made in the
 2-2 field notes or in copying the field notes in the legislative process
 2-3 does not affect the district's:

- 2-4 (1) organization, existence, or validity;
- 2-5 (2) right to issue any type of bond for the purposes
 2-6 for which the district is created or to pay the principal of and
 2-7 interest on a bond;
- 2-8 (3) right to impose a tax; or
- 2-9 (4) legality or operation.

2-10 SUBCHAPTER B. BOARD OF DIRECTORS

2-11 Sec. 7986A.0201. GOVERNING BODY; TERMS. (a) The district
 2-12 is governed by a board of five elected directors.

2-13 (b) Except as provided by Section 7986A.0202, directors
 2-14 serve staggered four-year terms.

2-15 Sec. 7986A.0202. TEMPORARY DIRECTORS. (a) On or after the
 2-16 effective date of the Act enacting this chapter, the owner or owners
 2-17 of a majority of the assessed value of the real property in the
 2-18 district may submit a petition to the commission requesting that
 2-19 the commission appoint as temporary directors the five persons
 2-20 named in the petition. The commission shall appoint as temporary
 2-21 directors the five persons named in the petition.

2-22 (b) Temporary directors serve until the earlier of:

2-23 (1) the date permanent directors are elected under
 2-24 Section 7986A.0103; or

2-25 (2) the fourth anniversary of the effective date of
 2-26 the Act enacting this chapter.

2-27 (c) If permanent directors have not been elected under
 2-28 Section 7986A.0103 and the terms of the temporary directors have
 2-29 expired, successor temporary directors shall be appointed or
 2-30 reappointed as provided by Subsection (d) to serve terms that
 2-31 expire on the earlier of:

2-32 (1) the date permanent directors are elected under
 2-33 Section 7986A.0103; or

2-34 (2) the fourth anniversary of the date of the
 2-35 appointment or reappointment.

2-36 (d) If Subsection (c) applies, the owner or owners of a
 2-37 majority of the assessed value of the real property in the district
 2-38 may submit a petition to the commission requesting that the
 2-39 commission appoint as successor temporary directors the five
 2-40 persons named in the petition. The commission shall appoint as
 2-41 successor temporary directors the five persons named in the
 2-42 petition.

2-43 SUBCHAPTER C. POWERS AND DUTIES

2-44 Sec. 7986A.0301. GENERAL POWERS AND DUTIES. The district
 2-45 has the powers and duties necessary to accomplish the purposes for
 2-46 which the district is created.

2-47 Sec. 7986A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
 2-48 DUTIES. The district has the powers and duties provided by the
 2-49 general law of this state, including Chapters 49 and 54, Water Code,
 2-50 applicable to municipal utility districts created under Section 59,
 2-51 Article XVI, Texas Constitution.

2-52 Sec. 7986A.0303. AUTHORITY FOR ROAD PROJECTS. Under
 2-53 Section 52, Article III, Texas Constitution, the district may
 2-54 design, acquire, construct, finance, issue bonds for, improve,
 2-55 operate, maintain, and convey to this state, a county, or a
 2-56 municipality for operation and maintenance macadamized, graveled,
 2-57 or paved roads, or improvements, including storm drainage, in aid
 2-58 of those roads.

2-59 Sec. 7986A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-60 road project must meet all applicable construction standards,
 2-61 zoning and subdivision requirements, and regulations of each
 2-62 municipality in whose corporate limits or extraterritorial
 2-63 jurisdiction the road project is located.

2-64 (b) If a road project is not located in the corporate limits
 2-65 or extraterritorial jurisdiction of a municipality, the road
 2-66 project must meet all applicable construction standards,
 2-67 subdivision requirements, and regulations of each county in which
 2-68 the road project is located.

2-69 (c) If the state will maintain and operate the road, the

3-1 Texas Transportation Commission must approve the plans and
 3-2 specifications of the road project.

3-3 Sec. 7986A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
 3-4 ORDINANCE OR RESOLUTION. The district shall comply with all
 3-5 applicable requirements of any ordinance or resolution that is
 3-6 adopted under Section 54.016 or 54.0165, Water Code, and that
 3-7 consents to the creation of the district or to the inclusion of land
 3-8 in the district.

3-9 Sec. 7986A.0306. DIVISION OF DISTRICT. (a) The board, on
 3-10 its own motion or on receipt of a petition signed by the owner or
 3-11 owners of a majority of the assessed value of the real property in
 3-12 the district, may adopt an order dividing the district.

3-13 (b) An order dividing a district may create one or more new
 3-14 districts and may provide for the continuation of the district.

3-15 (c) An order dividing the district shall:

3-16 (1) name any new district;

3-17 (2) include the metes and bounds description of the
 3-18 territory of each of the districts;

3-19 (3) appoint temporary directors for any new district;
 3-20 and

3-21 (4) provide for the division of assets and liabilities
 3-22 between the districts.

3-23 (d) The board may adopt an order dividing the district
 3-24 before or after the date the board holds an election to confirm the
 3-25 district's creation.

3-26 (e) The district may be divided only if the district:

3-27 (1) has never issued any bonds; and

3-28 (2) is not imposing ad valorem taxes.

3-29 (f) A new district created by the division of the district
 3-30 may not, at the time the new district is created, contain any land
 3-31 outside the area described by Section 2 of the Act enacting this
 3-32 chapter.

3-33 (g) On or before the 30th day after the date of adoption of
 3-34 an order dividing the district, the district shall file the order
 3-35 with the commission and record the order in the real property
 3-36 records of each county in which the district is located.

3-37 (h) This chapter applies to any new district created by the
 3-38 division of the district, and a new district has all the powers and
 3-39 duties of the district.

3-40 (i) A new district created by the division of the district
 3-41 shall hold a confirmation and directors' election.

3-42 (j) If the creation of the new district is confirmed, the
 3-43 new district shall provide the election date and results to the
 3-44 commission.

3-45 (k) A new district created by the division of the district
 3-46 must hold an election as required by this chapter to obtain voter
 3-47 approval before the district may impose a maintenance tax or issue
 3-48 bonds payable wholly or partly from ad valorem taxes.

3-49 (l) The district may continue to rely on confirmation,
 3-50 directors', bond, or tax elections held prior to the division.

3-51 (m) Municipal consent to the creation of the district and to
 3-52 the inclusion of land in the district acts as municipal consent to
 3-53 the creation of any new district created by the division of the
 3-54 district and to the inclusion of land in the new district.

3-55 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-56 Sec. 7986A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
 3-57 The district may issue, without an election, bonds and other
 3-58 obligations secured by:

3-59 (1) revenue other than ad valorem taxes; or

3-60 (2) contract payments described by
 3-61 Section 7986A.0403.

3-62 (b) The district must hold an election in the manner
 3-63 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-64 before the district may impose an ad valorem tax or issue bonds
 3-65 payable from ad valorem taxes.

3-66 (c) The district may not issue bonds payable from ad valorem
 3-67 taxes to finance a road project unless the issuance is approved by a
 3-68 vote of a two-thirds majority of the district voters voting at an
 3-69 election held for that purpose.

4-1 Sec. 7986A.0402. OPERATION AND MAINTENANCE TAX. (a) If
4-2 authorized at an election held under Section 7986A.0401, the
4-3 district may impose an operation and maintenance tax on taxable
4-4 property in the district in accordance with Section 49.107, Water
4-5 Code.

4-6 (b) The board shall determine the tax rate. The rate may not
4-7 exceed the rate approved at the election.

4-8 Sec. 7986A.0403. CONTRACT TAXES. (a) In accordance with
4-9 Section 49.108, Water Code, the district may impose a tax other than
4-10 an operation and maintenance tax and use the revenue derived from
4-11 the tax to make payments under a contract after the provisions of
4-12 the contract have been approved by a majority of the district voters
4-13 voting at an election held for that purpose.

4-14 (b) A contract approved by the district voters may contain a
4-15 provision stating that the contract may be modified or amended by
4-16 the board without further voter approval.

4-17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

4-18 Sec. 7986A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
4-19 OBLIGATIONS. The district may issue bonds or other obligations
4-20 payable wholly or partly from ad valorem taxes, impact fees,
4-21 revenue, contract payments, grants, or other district money, or any
4-22 combination of those sources, to pay for any authorized district
4-23 purpose.

4-24 Sec. 7986A.0502. TAXES FOR BONDS. At the time the district
4-25 issues bonds payable wholly or partly from ad valorem taxes, the
4-26 board shall provide for the annual imposition of a continuing
4-27 direct ad valorem tax, without limit as to rate or amount, while all
4-28 or part of the bonds are outstanding as required and in the manner
4-29 provided by Sections 54.601 and 54.602, Water Code.

4-30 Sec. 7986A.0503. BONDS FOR ROAD PROJECTS. At the time of
4-31 issuance, the total principal amount of bonds or other obligations
4-32 issued or incurred to finance road projects and payable from ad
4-33 valorem taxes may not exceed one-fourth of the assessed value of the
4-34 real property in the district.

4-35 SECTION 2. The Sandow Municipal Utility District No. 1
4-36 initially includes all the territory contained in the following
4-37 area:

4-38 BEING A 201.0 ACRES TRACT OF LAND SITUATED IN THE ELIZABETH
4-39 MILBOURN SURVEY, ABSTRACT 414 AND OLIVER FARNSWORTH SURVEY,
4-40 ABSTRACT 163, MILAM COUNTY, TEXAS; AND BEING A PORTION OF A CALLED
4-41 15,022.733 ACRES TRACT OF LAND DESIGNATED AS "TRACT 018-R3" AND
4-42 DESCRIBED TO SLR PROPERTY I, LP, AS SHOWN ON INSTRUMENT RECORDED
4-43 UNDER DOCUMENT NO. 2021-5108 OF THE OFFICIAL PUBLIC RECORDS OF
4-44 MILAM COUNTY, TEXAS (O.P.R.M.C.T.); AND BEING MORE PARTICULARLY
4-45 DESCRIBED AS FOLLOWS:

4-46 BEGINNING IN THE WEST BOUNDARY LINE OF SAID TRACT 018-R3 AND
4-47 FOR THE SOUTHEAST CORNER OF A CALLED 61.006 ACRES TRACT OF LAND
4-48 DESCRIBED TO KAREN ANN YOUNT, AS SHOWN ON INSTRUMENT RECORDED UNDER
4-49 DOCUMENT NO. 2022-5130 OF THE OFFICIAL PUBLIC RECORDS OF MILAM
4-50 COUNTY, TEXAS (O.P.R.M.C.T.);

4-51 THENCE, WITH SAID WEST BOUNDARY LINE OF TRACT 018-R3, SAME
4-52 BEING THE EAST BOUNDARY LINE OF SAID 61.006 ACRES TRACT, THE
4-53 FOLLOWING TWO (2) COURSES AND DISTANCES:

- 4-54 1. NORTH 21°10'24" WEST, A DISTANCE OF 2,162.68 FEET;
- 4-55 2. NORTH 68°55'41" EAST, A DISTANCE OF 1,308.45 FEET;

4-56 THENCE, NORTH 21°29'53" WEST, CONTINUING WITH SAID WEST
4-57 BOUNDARY LINE OF TRACT 018-R3, SAME BEING SAID EAST BOUNDARY LINE OF
4-58 THE 61.006 ACRES TRACT, THE EAST BOUNDARY LINE OF A CALLED 28.718
4-59 ACRES TRACT OF LAND DESCRIBED TO RUSSELL D. LEWIS AND LISA LEWIS, AS
4-60 SHOWN ON INSTRUMENT RECORDED UNDER DOCUMENT NO. 2020-1490 OF THE
4-61 O.P.R.M.C.T., AND THE EAST BOUNDARY LINE OF A CALLED 20.0 ACRES
4-62 TRACT OF LAND DESCRIBED TO KREGG YOUNT, AS SHOWN ON INSTRUMENT
4-63 RECORDED UNDER DOCUMENT NO. 1129-451 OF THE O.P.R.M.C.T., A
4-64 DISTANCE OF 1,916.67 FEET TO THE SOUTH BOUNDARY LINE OF A CALLED
4-65 27.527 ACRES TRACT OF LAND DESCRIBED TO KAREN ANN YOUNT, AS SHOWN ON
4-66 INSTRUMENT RECORDED UNDER DOCUMENT NO. 2022-5130 OF THE
4-67 O.P.R.M.C.T.;

4-68 THENCE, NORTH 69°10'24" EAST, CONTINUING WITH SAID WEST
4-69 BOUNDARY LINE OF TRACT 018-R3, SAME BEING SAID SOUTH BOUNDARY LINE

5-1 OF 27.527 ACRES TRACT AND THE SOUTH BOUNDARY LINE OF A CALLED 73.703
5-2 ACRES TRACT OF LAND DESCRIBED TO WILFORD ALLEN TATE, AS SHOWN ON
5-3 INSTRUMENT RECORDED UNDER DOCUMENT NO. 1264-251 OF THE
5-4 O.P.R.M.C.T., A DISTANCE OF 1,809.84 FEET TO THE SOUTHEAST CORNER
5-5 OF SAID 73.703 ACRES TRACT;

5-6 THENCE, NORTH 20°34'38" WEST, CONTINUING WITH SAID WEST
5-7 BOUNDARY LINE OF TRACT 018-R3, SAME BEING THE EAST BOUNDARY LINE OF
5-8 SAID 73.703 ACRES TRACT, A DISTANCE OF 996.83 FEET TO THE SOUTHWEST
5-9 CORNER OF A CALLED 150.0 ACRES TRACT OF LAND DESCRIBED TO HOBBS
5-10 MARTIN D ESTATE (RECORDING INFORMATION UNKNOWN);

5-11 THENCE, NORTH 68°13'17" EAST, DEPARTING SAID EAST BOUNDARY
5-12 LINE OF THE 73.703 ACRES TRACT OF LAND, CONTINUING WITH SAID WEST
5-13 BOUNDARY LINE OF TRACT 018-R3, SAME BEING THE SOUTH BOUNDARY LINE OF
5-14 SAID 150.0 ACRES TRACT, DISTANCE OF 1,314.13 FEET TO THE SOUTHEAST
5-15 CORNER OF SAID 150.0 ACRE TRACT;

5-16 THENCE, DEPARTING SAID WEST BOUNDARY LINE OF TRACT 018-R3 AND
5-17 SAID SOUTH BOUNDARY LINE OF THE 150.0 ACRES TRACT, OVER AND ACROSS
5-18 SAID TRACT 018-R3, THE FOLLOWING THREE (3) COURSES AND DISTANCES:

- 5-19 1. SOUTH 20°34'38" EAST, A DISTANCE OF 1,234.87 FEET;
- 5-20 2. SOUTH 25°30'16" WEST, A DISTANCE OF 3,635.53 FEET;
- 5-21 3. SOUTH 31°36'25" WEST, A DISTANCE OF 2,227.86 FEET TO THE POINT
- 5-22 OF BEGINNING AND CONTAINING 201.0 ACRES OF LAND, MORE OR LESS, IN
- 5-23 MILAM COUNTY, TEXAS. THIS DOCUMENT WAS PREPARED IN THE OFFICE OF
- 5-24 KIMLEY-HORN INC. IN AUSTIN, TEXAS.

5-25 SECTION 3. (a) The legal notice of the intention to
5-26 introduce this Act, setting forth the general substance of this
5-27 Act, has been published as provided by law, and the notice and a
5-28 copy of this Act have been furnished to all persons, agencies,
5-29 officials, or entities to which they are required to be furnished
5-30 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-31 Government Code.

5-32 (b) The governor, one of the required recipients, has
5-33 submitted the notice and Act to the Texas Commission on
5-34 Environmental Quality.

5-35 (c) The Texas Commission on Environmental Quality has filed
5-36 its recommendations relating to this Act with the governor, the
5-37 lieutenant governor, and the speaker of the house of
5-38 representatives within the required time.

5-39 (d) All requirements of the constitution and laws of this
5-40 state and the rules and procedures of the legislature with respect
5-41 to the notice, introduction, and passage of this Act are fulfilled
5-42 and accomplished.

5-43 SECTION 4. (a) If this Act does not receive a two-thirds
5-44 vote of all the members elected to each house, Subchapter C, Chapter
5-45 7986A, Special District Local Laws Code, as added by Section 1 of
5-46 this Act, is amended by adding Section 7986A.0307 to read as
5-47 follows:

5-48 Sec. 7986A.0307. NO EMINENT DOMAIN POWER. The district may
5-49 not exercise the power of eminent domain.

5-50 (b) This section is not intended to be an expression of a
5-51 legislative interpretation of the requirements of Section 17(c),
5-52 Article I, Texas Constitution.

5-53 SECTION 5. This Act takes effect immediately if it receives
5-54 a vote of two-thirds of all the members elected to each house, as
5-55 provided by Section 39, Article III, Texas Constitution. If this
5-56 Act does not receive the vote necessary for immediate effect, this
5-57 Act takes effect September 1, 2023.

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