

1-1 By: Smith (Senate Sponsor - Hughes) H.B. No. 5377
 1-2 (In the Senate - Received from the House May 15, 2023;
 1-3 May 15, 2023, read first time and referred to Committee on Local
 1-4 Government; May 19, 2023, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 19, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
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	X			

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

1-19 relating to the creation of the Fannin Farms Municipal Utility
 1-20 District of Fannin County; granting a limited power of eminent
 1-21 domain; providing authority to issue bonds; providing authority to
 1-22 impose 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 8002A to read as follows:

1-26 CHAPTER 8002A. FANNIN FARMS MUNICIPAL UTILITY DISTRICT OF FANNIN
 1-27 COUNTY

1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Sec. 8002A.0101. DEFINITIONS. In this chapter:

1-30 (1) "Board" means the district's board of directors.

1-31 (2) "Commission" means the Texas Commission on
 1-32 Environmental Quality.

1-33 (3) "Director" means a board member.

1-34 (4) "District" means the Fannin Farms Municipal
 1-35 Utility District of Fannin County.

1-36 Sec. 8002A.0102. NATURE OF DISTRICT. The district is a
 1-37 municipal utility district created under Section 59, Article XVI,
 1-38 Texas Constitution.

1-39 Sec. 8002A.0103. CONFIRMATION AND DIRECTORS' ELECTION
 1-40 REQUIRED. The temporary directors shall hold an election to
 1-41 confirm the creation of the district and to elect five permanent
 1-42 directors as provided by Section 49.102, Water Code.

1-43 Sec. 8002A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-44 temporary directors may not hold an election under Section
 1-45 8002A.0103 until each municipality in whose corporate limits or
 1-46 extraterritorial jurisdiction the district is located has
 1-47 consented by ordinance or resolution to the creation of the
 1-48 district and to the inclusion of land in the district as required by
 1-49 applicable law.

1-50 Sec. 8002A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-51 (a) The district is created to serve a public purpose and benefit.

1-52 (b) The district is created to accomplish the purposes of:

1-53 (1) a municipal utility district as provided by
 1-54 general law and Section 59, Article XVI, Texas Constitution; and

1-55 (2) Section 52, Article III, Texas Constitution, that
 1-56 relate to the construction, acquisition, improvement, operation,
 1-57 or maintenance of macadamized, graveled, or paved roads, or
 1-58 improvements, including storm drainage, in aid of those roads.

1-59 Sec. 8002A.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-60 district is initially composed of the territory described by
 1-61 Section 2 of the Act enacting this chapter.

2-1 (b) The boundaries and field notes contained in Section 2 of
 2-2 the Act enacting this chapter form a closure. A mistake made in the
 2-3 field notes or in copying the field notes in the legislative process
 2-4 does not affect the district's:

- 2-5 (1) organization, existence, or validity;
- 2-6 (2) right to issue any type of bond for the purposes
 2-7 for which the district is created or to pay the principal of and
 2-8 interest on a bond;
- 2-9 (3) right to impose a tax; or
- 2-10 (4) legality or operation.

2-11 SUBCHAPTER B. BOARD OF DIRECTORS

2-12 Sec. 8002A.0201. GOVERNING BODY; TERMS. (a) The district
 2-13 is governed by a board of five elected directors.

2-14 (b) Except as provided by Section 8002A.0202, directors
 2-15 serve staggered four-year terms.

2-16 Sec. 8002A.0202. TEMPORARY DIRECTORS. (a) The temporary
 2-17 board consists of:

- 2-18 (1) Jamie Johnson;
- 2-19 (2) Jonathan Ferreira;
- 2-20 (3) Jared Brown;
- 2-21 (4) Brett McDonald; and
- 2-22 (5) Helen Mullen.

2-23 (b) Temporary directors serve until the earlier of:

- 2-24 (1) the date permanent directors are elected under
 2-25 Section 8002A.0103; or
- 2-26 (2) the fourth anniversary of the effective date of
 2-27 the Act enacting this chapter.

2-28 (c) If permanent directors have not been elected under
 2-29 Section 8002A.0103 and the terms of the temporary directors have
 2-30 expired, successor temporary directors shall be appointed or
 2-31 reappointed as provided by Subsection (d) to serve terms that
 2-32 expire on the earlier of:

- 2-33 (1) the date permanent directors are elected under
 2-34 Section 8002A.0103; or
- 2-35 (2) the fourth anniversary of the date of the
 2-36 appointment or reappointment.

2-37 (d) If Subsection (c) applies, the owner or owners of a
 2-38 majority of the assessed value of the real property in the district
 2-39 may submit a petition to the commission requesting that the
 2-40 commission appoint as successor temporary directors the five
 2-41 persons named in the petition. The commission shall appoint as
 2-42 successor temporary directors the five persons named in the
 2-43 petition.

2-44 SUBCHAPTER C. POWERS AND DUTIES

2-45 Sec. 8002A.0301. GENERAL POWERS AND DUTIES. The district
 2-46 has the powers and duties necessary to accomplish the purposes for
 2-47 which the district is created.

2-48 Sec. 8002A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
 2-49 DUTIES. The district has the powers and duties provided by the
 2-50 general law of this state, including Chapters 49 and 54, Water Code,
 2-51 applicable to municipal utility districts created under Section 59,
 2-52 Article XVI, Texas Constitution.

2-53 Sec. 8002A.0303. AUTHORITY FOR ROAD PROJECTS. Under
 2-54 Section 52, Article III, Texas Constitution, the district may
 2-55 design, acquire, construct, finance, issue bonds for, improve,
 2-56 operate, maintain, and convey to this state, a county, or a
 2-57 municipality for operation and maintenance macadamized, graveled,
 2-58 or paved roads, or improvements, including storm drainage, in aid
 2-59 of those roads.

2-60 Sec. 8002A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-61 road project must meet all applicable construction standards,
 2-62 zoning and subdivision requirements, and regulations of each
 2-63 municipality in whose corporate limits or extraterritorial
 2-64 jurisdiction the road project is located.

2-65 (b) If a road project is not located in the corporate limits
 2-66 or extraterritorial jurisdiction of a municipality, the road
 2-67 project must meet all applicable construction standards,
 2-68 subdivision requirements, and regulations of each county in which
 2-69 the road project is located.

3-1 (c) If the state will maintain and operate the road, the
3-2 Texas Transportation Commission must approve the plans and
3-3 specifications of the road project.

3-4 Sec. 8002A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
3-5 ORDINANCE OR RESOLUTION. The district shall comply with all
3-6 applicable requirements of any ordinance or resolution that is
3-7 adopted under Section 54.016 or 54.0165, Water Code, and that
3-8 consents to the creation of the district or to the inclusion of land
3-9 in the district.

3-10 Sec. 8002A.0306. DIVISION OF DISTRICT. (a) The board, on
3-11 its own motion or on receipt of a petition signed by the owner or
3-12 owners of a majority of the assessed value of the real property in
3-13 the district, may adopt an order dividing the district.

3-14 (b) An order dividing a district may create one or more new
3-15 districts and may provide for the continuation of the district.

3-16 (c) An order dividing the district shall:

3-17 (1) name any new district;

3-18 (2) include the metes and bounds description of the
3-19 territory of each of the districts;

3-20 (3) appoint temporary directors for any new district;
3-21 and

3-22 (4) provide for the division of assets and liabilities
3-23 between the districts.

3-24 (d) The board may adopt an order dividing the district
3-25 before or after the date the board holds an election to confirm the
3-26 district's creation.

3-27 (e) The district may be divided only if the district:

3-28 (1) has no outstanding bonded debt; and

3-29 (2) is not imposing ad valorem taxes.

3-30 (f) A new district created by the division of the district
3-31 may not, at the time the new district is created, contain any land
3-32 outside the area described by Section 2 of the Act enacting this
3-33 chapter.

3-34 (g) On or before the 30th day after the date of adoption of
3-35 an order dividing the district, the district shall file the order
3-36 with the commission and record the order in the real property
3-37 records of each county in which the district is located.

3-38 (h) This chapter applies to any new district created by the
3-39 division of the district, and a new district has all the powers and
3-40 duties of the district.

3-41 (i) A new district created by the division of the district
3-42 shall hold a confirmation and directors' election.

3-43 (j) If the creation of the new district is confirmed, the
3-44 new district shall provide the election date and results to the
3-45 commission.

3-46 (k) A new district created by the division of the district
3-47 must hold an election as required by this chapter to obtain voter
3-48 approval before the district may impose a maintenance tax or issue
3-49 bonds payable wholly or partly from ad valorem taxes.

3-50 (l) The district may continue to rely on confirmation,
3-51 directors', bond, or tax elections held prior to the division.

3-52 (m) Municipal consent to the creation of the district and to
3-53 the inclusion of land in the district acts as municipal consent to
3-54 the creation of any new district created by the division of the
3-55 district and to the inclusion of land in the new district.

3-56 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-57 Sec. 8002A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
3-58 The district may issue, without an election, bonds and other
3-59 obligations secured by:

3-60 (1) revenue other than ad valorem taxes; or

3-61 (2) contract payments described by Section
3-62 8002A.0403.

3-63 (b) The district must hold an election in the manner
3-64 provided by Chapters 49 and 54, Water Code, to obtain voter approval
3-65 before the district may impose an ad valorem tax or issue bonds
3-66 payable from ad valorem taxes.

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

4-1 election held for that purpose.

4-2 Sec. 8002A.0402. OPERATION AND MAINTENANCE TAX. (a) If
 4-3 authorized at an election held under Section 8002A.0401, the
 4-4 district may impose an operation and maintenance tax on taxable
 4-5 property in the district in accordance with Section 49.107, Water
 4-6 Code.

4-7 (b) The board shall determine the tax rate. The rate may not
 4-8 exceed the rate approved at the election.

4-9 Sec. 8002A.0403. CONTRACT TAXES. (a) In accordance with
 4-10 Section 49.108, Water Code, the district may impose a tax other than
 4-11 an operation and maintenance tax and use the revenue derived from
 4-12 the tax to make payments under a contract after the provisions of
 4-13 the contract have been approved by a majority of the district voters
 4-14 voting at an election held for that purpose.

4-15 (b) A contract approved by the district voters may contain a
 4-16 provision stating that the contract may be modified or amended by
 4-17 the board without further voter approval.

4-18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

4-19 Sec. 8002A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
 4-20 OBLIGATIONS. The district may issue bonds or other obligations
 4-21 payable wholly or partly from ad valorem taxes, impact fees,
 4-22 revenue, contract payments, grants, or other district money, or any
 4-23 combination of those sources, to pay for any authorized district
 4-24 purpose.

4-25 Sec. 8002A.0502. TAXES FOR BONDS. At the time the district
 4-26 issues bonds payable wholly or partly from ad valorem taxes, the
 4-27 board shall provide for the annual imposition of a continuing
 4-28 direct ad valorem tax, without limit as to rate or amount, while all
 4-29 or part of the bonds are outstanding as required and in the manner
 4-30 provided by Sections 54.601 and 54.602, Water Code.

4-31 Sec. 8002A.0503. BONDS FOR ROAD PROJECTS. At the time of
 4-32 issuance, the total principal amount of bonds or other obligations
 4-33 issued or incurred to finance road projects and payable from ad
 4-34 valorem taxes may not exceed one-fourth of the assessed value of the
 4-35 real property in the district.

4-36 SECTION 2. The Fannin Farms Municipal Utility District of
 4-37 Fannin County initially includes all the territory contained in the
 4-38 following area:

4-39 BEING a 103.805 acres tract of land out of the L. LEONARD SURVEY,
 4-40 ABSTRACT No. 669, Fannin County, Texas; being the remainder of that
 4-41 certain tract described in Volume 1494, Page 383, Real Property
 4-42 Records, Fannin County, Texas; and being further described by metes
 4-43 and bounds as follows:

4-44 The following Bearings, Distances, and/or Areas derived from GNSS
 4-45 observations performed by Texas Surveying, Inc. and reflect N.A.D.
 4-46 1983, Texas State Plane Coordinate System, North Central Zone 4202
 4-47 (GRID).

4-48 BEGINNING at a found 1/2" iron rod in the centerline of County Road
 4-49 No. 4940, same being at the southeast corner of said Volume 1494,
 4-50 Page 383 tract, for the southeast and beginning corner of this
 4-51 tract.

4-52 THENCE S 89°45'32" W 2695.19 feet along the south line of said Volume
 4-53 1494, Page 383 tract to a set 1/2" iron rod with blue plastic cap
 4-54 stamped "TEXAS SURVEYING INC" in the east line of Parcel A described
 4-55 in Volume 1804, Page 477, R.P.R.F.C.T., for the southwest corner of
 4-56 this tract.

4-57 THENCE N 01°18'16" E 797.55 feet along the east line of said Parcel A
 4-58 to a set 1/2" iron rod with blue plastic cap stamped "TEXAS
 4-59 SURVEYING INC", for a corner of this tract.

4-60 THENCE N 00°31'48" E 1023.20 feet to a point in the occupied north
 4-61 line of County Road No. 4941, for the northwest corner of this
 4-62 tract.

4-63 THENCE N 89°34'33" E 929.85 feet along said north line of County Road
 4-64 No. 4941 to a point, for a corner of this tract.

4-65 THENCE N 89°53'29" E 1310.55 feet along said north line of County
 4-66 Road No. 4941 to a found 1/2" capped iron rod, for the northerly
 4-67 northeast corner of this tract.

4-68 THENCE S 02°20'47" W 226.02 feet to a 8" wood fence post, for an ell
 4-69 corner of this tract.

5-1 THENCE S 88°36'58" E 443.71 feet pass a 10" wood fence post in the
5-2 occupied west line of said County Road 4940 to a found 1/2" iron rod
5-3 in said centerline of County Road No. 4940, for the easterly
5-4 northeast corner of this tract.

5-5 THENCE S 00°15'32" W 590.38 feet along said centerline of County
5-6 Road No. 4940 to a point at the easterly northeast corner of that
5-7 called 6.000 acres tract described in Volume 1766, Page 18,
5-8 R.P.R.F.C.T., for a corner of this tract.

5-9 THENCE along the north, west, and south lines of said 6.000 acres
5-10 tract as follows:

5-11 N 60°43'24" W at 15.93 feet pass a found 1/2" iron rod, for a total
5-12 distance of 432.50 feet to a found 1/2" iron rod, for a corner of
5-13 this tract.

5-14 S 89°27'22" W 271.21 feet to a found 1/2" capped iron rod, for a
5-15 corner of this tract.

5-16 S 00°00'16" E 464.40 feet to a found 1/2" iron rod, for a corner of
5-17 this tract.

5-18 S 89°57'30" E at 620.50 feet pass a found 1/2" capped iron rod, for a
5-19 total distance of 647.27 feet to a point in said centerline of
5-20 County Road No. 4940, for a corner of this tract.

5-21 THENCE S 00°15'32" W 735.68 feet along said centerline of County
5-22 Road No. 4940 to the POINT OF BEGINNING.

5-23 SECTION 3. (a) The legal notice of the intention to
5-24 introduce this Act, setting forth the general substance of this
5-25 Act, has been published as provided by law, and the notice and a
5-26 copy of this Act have been furnished to all persons, agencies,
5-27 officials, or entities to which they are required to be furnished
5-28 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-29 Government Code.

5-30 (b) The governor, one of the required recipients, has
5-31 submitted the notice and Act to the Texas Commission on
5-32 Environmental Quality.

5-33 (c) The Texas Commission on Environmental Quality has filed
5-34 its recommendations relating to this Act with the governor, the
5-35 lieutenant governor, and the speaker of the house of
5-36 representatives within the required time.

5-37 (d) All requirements of the constitution and laws of this
5-38 state and the rules and procedures of the legislature with respect
5-39 to the notice, introduction, and passage of this Act are fulfilled
5-40 and accomplished.

5-41 SECTION 4. (a) If this Act does not receive a two-thirds
5-42 vote of all the members elected to each house, Subchapter C, Chapter
5-43 8002A, Special District Local Laws Code, as added by Section 1 of
5-44 this Act, is amended by adding Section 8002A.0307 to read as
5-45 follows:

5-46 Sec. 8002A.0307. NO EMINENT DOMAIN POWER. The district may
5-47 not exercise the power of eminent domain.

5-48 (b) This section is not intended to be an expression of a
5-49 legislative interpretation of the requirements of Section 17(c),
5-50 Article I, Texas Constitution.

5-51 SECTION 5. This Act takes effect immediately if it receives
5-52 a vote of two-thirds of all the members elected to each house, as
5-53 provided by Section 39, Article III, Texas Constitution. If this
5-54 Act does not receive the vote necessary for immediate effect, this
5-55 Act takes effect September 1, 2023.

5-56 * * * * *