

By: Smith

H.B. No. 4709

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Grayson County 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 8041 to read as follows:

CHAPTER 8041. GRAYSON COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8041.0101. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Gunter, Texas.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Director" means a board member.

(5) "District" means the Grayson County Municipal Utility District No. 1.

Sec. 8041.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8041.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 8041.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 8041.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 8041.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

9 (a) The district is created to serve a public purpose and benefit.

10 (b) The district is created to accomplish the purposes of:

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

13 (2) Section 52, Article III, Texas Constitution, that
14 relate to the construction, acquisition, improvement, operation,
15 or maintenance of macadamized, graveled, or paved roads, or
16 improvements, including storm drainage, in aid of those roads.

17 Sec. 8041.0106. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

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

24 (1) organization, existence, or validity;

25 (2) right to issue any type of bond for the purposes
26 for which the district is created or to pay the principal of and
27 interest on a bond;

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 Sec. 8041.0107. EFFECT OF ANNEXATION. Notwithstanding any
4 other law, if all of the territory of the district is annexed by the
5 city into the city's corporate limits, the district:

6 (1) retains all of the district's outstanding debt and
7 obligations; and

8 (2) is not dissolved.

9 SUBCHAPTER B. BOARD OF DIRECTORS

10 Sec. 8041.0201. GOVERNING BODY; TERMS. (a) The district is
11 governed by a board of five elected directors.

12 (b) Except as provided by Section 8041.0202, directors
13 serve staggered four-year terms.

14 Sec. 8041.0202. TEMPORARY DIRECTORS. (a) On or after
15 September 1, 2019, the owner or owners of a majority of the assessed
16 value of the real property in the district may submit a petition to
17 the commission requesting that the commission appoint as temporary
18 directors the five persons named in the petition. The commission
19 shall appoint as temporary directors the five persons named in the
20 petition.

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

22 (1) the date permanent directors are elected under
23 Section 8041.0103; or

24 (2) September 1, 2023.

25 (c) If permanent directors have not been elected under
26 Section 8041.0103 and the terms of the temporary directors have
27 expired, successor temporary directors shall be appointed or

1 reappointed as provided by Subsection (d) to serve terms that
2 expire on the earlier of:

3 (1) the date permanent directors are elected under
4 Section 8041.0103; or

5 (2) the fourth anniversary of the date of the
6 appointment or reappointment.

7 (d) If Subsection (c) applies, the owner or owners of a
8 majority of the assessed value of the real property in the district
9 may submit a petition to the commission requesting that the
10 commission appoint as successor temporary directors the five
11 persons named in the petition. The commission shall appoint as
12 successor temporary directors the five persons named in the
13 petition.

14 SUBCHAPTER C. POWERS AND DUTIES

15 Sec. 8041.0301. GENERAL POWERS AND DUTIES. The district
16 has the powers and duties necessary to accomplish the purposes for
17 which the district is created.

18 Sec. 8041.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
19 DUTIES. (a) The district has the powers and duties provided by the
20 general law of this state, including Chapters 49 and 54, Water Code,
21 applicable to municipal utility districts created under Section 59,
22 Article XVI, Texas Constitution.

23 (b) Notwithstanding Subsection (a), the district may not
24 act as a retail provider of water or wastewater service.

25 (c) The district shall make the district's water and
26 wastewater facilities available to an entity holding the applicable
27 certificate of public convenience and necessity.

1 Sec. 8041.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
2 52, Article III, Texas Constitution, the district may design,
3 acquire, construct, finance, issue bonds for, improve, operate,
4 maintain, and convey to this state, a county, or a municipality for
5 operation and maintenance macadamized, graveled, or paved roads, or
6 improvements, including storm drainage, in aid of those roads.

7 Sec. 8041.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
8 road project must meet all applicable construction standards,
9 zoning and subdivision requirements, and regulations of each
10 municipality in whose corporate limits or extraterritorial
11 jurisdiction the road project is located.

12 (b) If a road project is not located in the corporate limits
13 or extraterritorial jurisdiction of a municipality, the road
14 project must meet all applicable construction standards,
15 subdivision requirements, and regulations of each county in which
16 the road project is located.

17 (c) If the state will maintain and operate the road, the
18 Texas Transportation Commission must approve the plans and
19 specifications of the road project.

20 Sec. 8041.0305. COMPLIANCE WITH MUNICIPAL CONSENT
21 ORDINANCE OR RESOLUTION. The district shall comply with all
22 applicable requirements of any ordinance or resolution that is
23 adopted under Section 54.016 or 54.0165, Water Code, and that
24 consents to the creation of the district or to the inclusion of land
25 in the district.

26 Sec. 8041.0306. DIVISION OF DISTRICT. (a) The district may
27 be divided into two or more new districts only if the district:

1 (1) has no outstanding bonded debt; and

2 (2) is not imposing ad valorem taxes.

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

6 (c) Any new district created by the division of the district
7 may not, at the time the new district is created, contain any land
8 outside the area described by Section 2 of the Act enacting this
9 chapter.

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

14 (e) The board may adopt an order dividing the district
15 before or after the date the board holds an election under Section
16 8041.0103 to confirm the district's creation.

17 (f) An order dividing the district shall:

18 (1) name each new district;

19 (2) include the metes and bounds description of the
20 territory of each new district;

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

22 and

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

25 (g) On or before the 30th day after the date of adoption of
26 an order dividing the district, the district shall file the order
27 with the commission and record the order in the real property

1 records of each county in which the district is located.

2 (h) Any new district created by the division of the district
3 shall hold a confirmation and directors' election as required by
4 Section 8041.0103. If the voters of a new district do not confirm
5 the creation of the new district, the assets, obligations,
6 territory, and governance of the new district revert to the
7 original district.

8 (i) Municipal consent to the creation of the district and to
9 the inclusion of land in the district granted under Section
10 8041.0104 acts as municipal consent to the creation of any new
11 district created by the division of the district and to the
12 inclusion of land in the new district.

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

17 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

18 Sec. 8041.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
19 The district may issue, without an election, bonds and other
20 obligations secured by:

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

22 (2) contract payments described by Section 8041.0403.

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

27 (c) The district may not issue bonds payable from ad valorem

1 taxes to finance a road project unless the issuance is approved by a
2 vote of a two-thirds majority of the district voters voting at an
3 election held for that purpose.

4 Sec. 8041.0402. OPERATION AND MAINTENANCE TAX. (a) If
5 authorized at an election held under Section 8041.0401, the
6 district may impose an operation and maintenance tax on taxable
7 property in the district in accordance with Section 49.107, Water
8 Code.

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

11 Sec. 8041.0403. CONTRACT TAXES. (a) In accordance with
12 Section 49.108, Water Code, the district may impose a tax other than
13 an operation and maintenance tax and use the revenue derived from
14 the tax to make payments under a contract after the provisions of
15 the contract have been approved by a majority of the district voters
16 voting at an election held for that purpose.

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

20 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

21 Sec. 8041.0501. AUTHORITY TO ISSUE BONDS AND OTHER
22 OBLIGATIONS. The district may issue bonds or other obligations
23 payable wholly or partly from ad valorem taxes, impact fees,
24 revenue, contract payments, grants, or other district money, or any
25 combination of those sources, to pay for any authorized district
26 purpose.

27 Sec. 8041.0502. TAXES FOR BONDS. At the time the district

1 issues bonds payable wholly or partly from ad valorem taxes, the
2 board shall provide for the annual imposition of a continuing
3 direct ad valorem tax, without limit as to rate or amount, while all
4 or part of the bonds are outstanding as required and in the manner
5 provided by Sections 54.601 and 54.602, Water Code.

6 Sec. 8041.0503. BONDS FOR ROAD PROJECTS. At the time of
7 issuance, the total principal amount of bonds or other obligations
8 issued or incurred to finance road projects and payable from ad
9 valorem taxes may not exceed one-fourth of the assessed value of the
10 real property in the district.

11 SECTION 2. The Grayson County Municipal Utility District
12 No. 1 initially includes all the territory contained in the
13 following area:

14 BEING a tract of land situated in the S. Shoto Survey,
15 Abstract No. 1079, Grayson County, Texas, the subject tract being
16 all of a tract conveyed to Donald Martinek, Trustee, and described
17 by the deed recorded in Volume 2562, Page 196 of the Deed Records,
18 Grayson County, Texas (DRGCT), with the subject tract being more
19 particularly described as follows:

20 BEGINNING at a 5/8" iron rod found in the intersection of
21 Kimberlin Road, a prescriptive right-of-way (county maintained)
22 and Vaughan Road, a prescriptive right-of-way (county maintained);

23 THENCE S 87°51'51" E, 2027.03 feet along Kimberlin Road to a
24 5/8" iron rod found for the northwest corner of a tract conveyed to
25 Brian Wang by deed recorded in Document No. 2012-00025304, Official
26 Public Records, Grayson County, Texas (OPRGCT), and from which a
27 1/2" iron rod found in Kimberlin road for the northeast corner

1 thereof bears S 87°52'56" E, 1988.00 feet;

2 THENCE S 01°20'35" W, 2279.78 feet along the west line of said
3 Wang tract to a point for the southwest corner thereof;

4 THENCE S 87°57'32" E, 1745.92 feet to a point for corner;

5 THENCE S 01°37'51" W, 4292.48 feet to a point on the north line
6 of a tract conveyed to JBJ/Calder Fund IV Joint Venture by deed
7 recorded in Document No. 2006-00017998 OPRGCT;

8 THENCE N 88°19'34" W, 3786.12 feet along the north line of
9 said JBJ/Calder Fund IV Joint Venture tract, and of a tract conveyed
10 to Kent Vaughan by deed recorded in Volume 1277, Page 543 DRGCT, to
11 a Mag nail found in Vaughan Road for the northwest corner of said
12 Vaughan tract;

13 THENCE N 01°38'49" E, 6599.76 feet along Vaughan Road to the
14 POINT OF BEGINNING with the subject tract containing 20,933,145
15 square feet or 480.559 acres of land.

16 SECTION 3. (a) The legal notice of the intention to
17 introduce this Act, setting forth the general substance of this
18 Act, has been published as provided by law, and the notice and a
19 copy of this Act have been furnished to all persons, agencies,
20 officials, or entities to which they are required to be furnished
21 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
22 Government Code.

23 (b) The governor, one of the required recipients, has
24 submitted the notice and Act to the Texas Commission on
25 Environmental Quality.

26 (c) The Texas Commission on Environmental Quality has filed
27 its recommendations relating to this Act with the governor, the

1 lieutenant governor, and the speaker of the house of
2 representatives within the required time.

3 (d) All requirements of the constitution and laws of this
4 state and the rules and procedures of the legislature with respect
5 to the notice, introduction, and passage of this Act are fulfilled
6 and accomplished.

7 SECTION 4. (a) If this Act does not receive a two-thirds
8 vote of all the members elected to each house, Subchapter C, Chapter
9 8041, Special District Local Laws Code, as added by Section 1 of
10 this Act, is amended by adding Section 8041.0307 to read as follows:

11 Sec. 8041.0307. NO EMINENT DOMAIN POWER. The district may
12 not exercise the power of eminent domain.

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

16 SECTION 5. This Act takes effect September 1, 2019.