

Chapter 1370

H.B. No. 4749

1 AN ACT
2 relating to the creation of the Rose City Municipal Utility
3 District; granting a limited power of eminent domain; providing
4 authority to issue bonds; providing authority to impose assessments
5 and fees.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

9 CHAPTER 7958. ROSE CITY MUNICIPAL UTILITY DISTRICT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7958.0101. DEFINITIONS. In this chapter:

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

13 (2) "City" means the City of Tyler.

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

16 (4) "Director" means a board member.

17 (5) "District" means the Rose City Municipal Utility
18 District.

19 (6) "Utility commission" means the Public Utility
20 Commission of Texas.

21 Sec. 7958.0102. NATURE OF DISTRICT. The district is a
22 municipal utility district created under Section 59, Article XVI,
23 Texas Constitution.

24 Sec. 7958.0103. CONFIRMATION ELECTION REQUIRED. The

1 initial directors appointed under Section 7958.0201 shall hold an
2 election to confirm the creation of the district as provided by
3 Section 49.102, Water Code.

4 Sec. 7958.0104. CONSENT OF MUNICIPALITY REQUIRED. The
5 temporary directors may not hold an election under Section
6 7958.0103 until each municipality in whose corporate limits or
7 extraterritorial jurisdiction the district is located has
8 consented by ordinance or resolution to the creation of the
9 district and to the inclusion of land in the district.

10 Sec. 7958.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

12 (b) The district is created to accomplish the purposes of a
13 municipal utility district as provided by general law and Section
14 59, Article XVI, Texas Constitution.

15 Sec. 7958.0106. INITIAL DISTRICT TERRITORY. (a) The
16 district is initially composed of the territory described by
17 Section 2 of the Act enacting this chapter.

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

22 (1) organization, existence, or validity;

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

26 (3) legality or operation.

1 SUBCHAPTER B. BOARD OF DIRECTORS

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

4 (1) three directors appointed by the city; and

5 (2) two directors appointed by the Smith County
6 Commissioners Court.

7 (b) Directors serve staggered four-year terms.

8 (c) The appointing entities shall appoint the initial
9 directors not later than September 1, 2020. The initial directors
10 appointed under Subsection (a)(1) serve a four-year term, and the
11 directors appointed under Subsection (a)(2) serve a two-year term.
12 This subsection expires September 1, 2023.

13 Sec. 7958.0202. QUALIFICATIONS OF DIRECTORS. (a)

14 Notwithstanding any other law:

15 (1) an officer or employee of the city may serve as a
16 director of the district; and

17 (2) a member of the governing body of the city may
18 serve as a director of the district.

19 (b) A person who qualifies to serve as a director is
20 qualified to participate in all votes pertaining to the business of
21 the district, subject to Section 49.058, Water Code.

22 (c) Section 49.052, Water Code, does not apply to the
23 district.

24 Sec. 7958.0203. COMPENSATION; REIMBURSEMENT. A director
25 serves without compensation but may receive reimbursement for
26 actual expenses reasonably and necessarily incurred while engaging
27 in activities on behalf of the district.

1 SUBCHAPTER C. POWERS AND DUTIES

2 Sec. 7958.0301. GENERAL POWERS AND DUTIES. The district
3 has the powers and duties necessary to accomplish the purposes for
4 which the district is created.

5 Sec. 7958.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
6 DUTIES. (a) Subject to Subsection (b), the district has the powers
7 and duties provided by the general law of this state, including
8 Chapters 49 and 54, Water Code, applicable to municipal utility
9 districts created under Section 59, Article XVI, Texas
10 Constitution.

11 (b) The district may provide only sewer and wastewater
12 services, including the acquisition, construction, contracting,
13 financing, maintenance, operation, and planning of sewer and
14 wastewater facilities or systems.

15 Sec. 7958.0303. COMPLIANCE WITH MUNICIPAL CONSENT
16 ORDINANCE OR RESOLUTION. The district shall comply with all
17 applicable requirements of any ordinance or resolution that is
18 adopted under Section 54.016 or 54.0165, Water Code, and that
19 consents to the creation of the district or to the inclusion of land
20 in the district.

21 Sec. 7958.0304. LIMITED POWER OF EMINENT DOMAIN. The
22 district may exercise the power of eminent domain only for the
23 limited purpose of acquiring or constructing sewer and wastewater
24 facilities.

25 Sec. 7958.0305. CONTRACTING. The district may contract
26 with a political subdivision or private operator to operate and
27 maintain the district's sewer and wastewater facilities.

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

5 (b) Not later than the 30th day before the date the district
6 intends to provide sewer and wastewater service, the district must
7 notify the utility commission and each retail public utility that
8 provides sewer and wastewater services in the district.

9 (c) If the district does not acquire a retail public utility
10 that holds a certificate of public convenience and necessity for
11 providing sewer and wastewater service in the district territory,
12 the district shall:

13 (1) not later than the 30th day after the date the
14 district begins providing sewer and wastewater service, petition
15 the utility commission to decertify the territory inside the
16 district of the existing certificate holder; and

17 (2) compensate the existing certificate holder in an
18 amount determined by the utility commission.

19 Sec. 7958.0307. PROFESSIONAL SERVICES. The district may
20 contract with a political subdivision to provide professional
21 services for the district, including legal services related to the
22 exercise of eminent domain.

23 Sec. 7958.0308. SUPERMAJORITY VOTE REQUIRED FOR CERTAIN
24 ACTIONS. At least four board members must vote in favor of a
25 resolution before the board may:

26 (1) increase rates or assessments by more than five
27 percent;

1 (2) incur debt or increase the amount of debt that the
2 district has outstanding; or

3 (3) order a dissolution election under Section
4 7958.0601.

5 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

6 Sec. 7958.0401. ELECTIONS REGARDING BONDS. The district
7 may issue, without an election, bonds and other obligations secured
8 by revenue other than ad valorem taxes.

9 Sec. 7958.0402. PROHIBITION ON IMPOSITION OF TAXES. (a) The
10 district may not impose an ad valorem tax for any purpose.

11 (b) Section 49.107, Water Code, does not apply to the
12 district.

13 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

14 Sec. 7958.0501. AUTHORITY TO ISSUE BONDS AND OTHER
15 OBLIGATIONS. The district may issue bonds or other obligations
16 payable wholly or partly from impact fees, revenue, contract
17 payments, grants, or other district money, or any combination of
18 those sources, to pay for any authorized district purpose.

19 SUBCHAPTER F. DISSOLUTION BY ELECTION

20 Sec. 7958.0601. DISSOLUTION ELECTION CALLED BY BOARD. The
21 board may order an election on the question of dissolving the
22 district and transferring the district's assets and obligations to
23 another political subdivision of the state, if the board concludes
24 after a public hearing held on the issue that it is in the best
25 interest of the district's residents and of the persons served by
26 the district for the district to dissolve.

27 Sec. 7958.0602. DISSOLUTION ELECTION CALLED BY PETITION.

1 The board shall order an election on the question of dissolving the
2 district and transferring the district's assets and obligations to
3 another political subdivision of the state if the board receives a
4 petition requesting an election on that question. The petition
5 must be signed by at least 15 percent of the district's registered
6 voters.

7 Sec. 7958.0603. ELECTION ORDER. An order calling an
8 election held under this subchapter must state:

9 (1) the nature of the election, including the
10 proposition that is to appear on the ballot;

11 (2) the date of the election;

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

13 (4) the location of the polling places.

14 Sec. 7958.0604. NOTICE OF DISSOLUTION ELECTION. (a) The
15 board shall give notice of an election ordered under this
16 subchapter by publishing a substantial copy of the election order
17 in a newspaper with general circulation in the district once a week
18 for two consecutive weeks.

19 (b) The first publication must appear not later than the
20 30th day before the date set for the election.

21 Sec. 7958.0605. APPLICABILITY OF UNIFORM ELECTION DATES.
22 Section 41.001, Election Code, does not apply to an election held
23 under this subchapter.

24 Sec. 7958.0606. ELECTION RESULTS. (a) If a majority of the
25 votes in an election held under this subchapter favor dissolution,
26 the board shall order that the district be dissolved.

27 (b) If a majority of the votes in an election held under this

1 subchapter do not favor dissolution, the board shall continue to
2 administer the district, and another election on the question of
3 dissolution may not be held before the first anniversary of the date
4 of the most recent election held on the question of dissolving the
5 district.

6 Sec. 7958.0607. TRANSFER OF ASSETS, OBLIGATIONS, AND
7 PROVISION OF SERVICES. (a) As soon as practicable following the
8 issuance of an order under Section 7958.0606(a), the board shall:

9 (1) begin the process of transferring the district's
10 assets and obligations to one or more political subdivisions in a
11 fair and equitable manner; and

12 (2) administer the property, assets, and debts of the
13 district until all money has been disposed of and all district debts
14 have been paid or settled.

15 (b) If the district provides services, the board or a
16 receiver appointed under Section 7958.0608 shall make arrangements
17 for the uninterrupted provision of services.

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

23 Sec. 7958.0609. REPORT; DISSOLUTION ORDER. (a) After the
24 district has transferred all of the district's assets and
25 obligations and has arranged for the continued provision of
26 services provided by the district, if applicable, the board shall
27 file a written report with the commission summarizing the board's

1 actions in dissolving the district.

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

6 SUBCHAPTER G. ANNEXATION OF LAND

7 Sec. 7958.0701. GENERAL ANNEXATION PROVISIONS. (a) Except
8 as provided by this section, Subchapter J, Chapter 49, Water Code,
9 applies to the district.

10 (b) In addition to the requirements of Section 49.302(b),
11 Water Code, the petition must also be signed by a majority of
12 registered voters in the defined area to be annexed.

13 Sec. 7958.0702. RETALIATION FOR ANNEXATION DISAPPROVAL
14 PROHIBITED. (a) The disapproval of the proposed annexation of an
15 area by the district does not affect any existing legal obligation
16 of the district to continue to provide services in the area,
17 including wastewater services.

18 (b) The district may not initiate a rate proceeding solely
19 because of the disapproval of a proposed annexation of an area.

20 SECTION 2. The Rose City Municipal Utility District
21 initially includes all the territory contained in the following
22 area:

23 BEING a 21,118 acre tract of land situated in Smith County, Texas,
24 said 21,118 acre tract being more completely described by metes and
25 bounds as follows:

26 BEGINNING at the intersection of the centerline of State Highway
27 No. 155 with State Highway 57 (West Grande Boulevard);

1 THENCE Easterly with the centerline of West Grande Boulevard to its
2 intersection with F.M. 2493 (Old Jacksonville Highway);
3 THENCE Southwesterly with the centerline of F.M. 2493 (Old
4 Jacksonville Highway) to its intersection with Three Lakes Parkway;
5 THENCE Southeasterly with the centerline of Three Lakes Parkway to
6 its intersection with Dueling Oaks;
7 THENCE Easterly with the centerline of Dueling Oaks to its
8 intersection with Hollytree Drive;
9 THENCE Southwesterly with the centerline of Hollytree Drive to its
10 intersection with Maple Lane;
11 THENCE Southerly with the centerline of Maple Lane to its
12 intersection with West Cumberland Road;
13 THENCE Easterly with the centerline of West Cumberland Road to its
14 intersection with U.S. Highway 69 (South Broadway Ave.);
15 THENCE Southerly with the centerline of U.S. Highway 69 (South
16 Broadway Ave.) to its intersection with Loop 49;
17 THENCE Northeasterly with the centerline of Loop 49 to its
18 intersection with F.M. 756 (South Paluxy Drive);
19 THENCE Southeasterly with the centerline of F.M. 756 (South Paluxy
20 Drive) to its intersection with F.M. 346;
21 THENCE Southwesterly with the centerline of F.M. 346 to its
22 intersection with County Road 15;
23 THENCE Southerly with the centerline of County Road 15 to its
24 intersection with County Road 129;
25 THENCE Northeasterly with the centerline of County Road 129 to its
26 intersection with County Road 112;
27 THENCE with the centerline of County Road 112 to its intersection

1 with County Road 113;
2 THENCE with the centerline of County Road 113 to its intersection
3 with County Road 152;
4 THENCE Southwesterly with the centerline of County Road 152 to its
5 intersection with U.S. Highway No. 69;
6 THENCE Southeasterly with the centerline of U.S. Highway No. 69 to
7 its intersection with the South boundary line of Liberty Utilities
8 (Woodmark) CCN 20679 as shown by digital map on 3-08-2019 per the
9 Public Utility Commission of Texas website, same being on the East
10 boundary line of the City of Bullard, Texas, Sewer CCN 20903 as
11 shown by digital map on 3-08-2019 per the Public Utility Commission
12 of Texas website;
13 THENCE Southwesterly with said East boundary line of Bullard, Texas
14 CCN 20903 and South boundary line of Liberty Utilities (Woodmark)
15 CCN 20679 to its intersection with Tyler and Bullard ETJ Agreement
16 Boundary;
17 THENCE South $87^{\circ} 24 \text{ min } 9 \text{ sec}$ West with a distance of 228.46 ft;
18 THENCE South $87^{\circ} 15 \text{ min } 49 \text{ sec}$ West with a distance of 1,411.05 ft;
19 THENCE North $3^{\circ} 23 \text{ min } 18 \text{ sec}$ West with a distance of 116.67 ft;
20 THENCE South $57^{\circ} 12 \text{ min } 37 \text{ sec}$ West with a distance of 519.18 ft to
21 its intersection with F. M. 2493;
22 THENCE Northwesterly with the centerline of F.M. 2493 to an ell
23 corner in the West line of said CCN 20679;
24 THENCE West continuing with the West boundary line of said CCN 20679
25 to its intersection with the centerline of County Road 173 and being
26 the Westerly Southwest corner of said CCN 20679;
27 THENCE Northerly with the centerline of County Road 173 to its

1 intersection with the centerline of County Road 175;
2 THENCE Westerly with the centerline of County Road 175 to its
3 intersection with the centerline of F.M. 346;
4 THENCE Westerly with the centerline of F.M. 346 to its intersection
5 with the centerline of County Road 185 (Oak Hollow Road);
6 THENCE Westerly with the centerline of County Road 185 to its
7 intersection with the centerline of County Road 178 (Old Palestine
8 Highway);
9 THENCE Northeasterly with the centerline of County Road 178 (Old
10 Palestine Highway) to its intersection with the centerline of
11 County Road 168 (Saline Creek Road);
12 THENCE Northeasterly with the centerline of County Road 168 to its
13 intersection with the centerline of County Road 178 (Jonestown
14 Road);
15 THENCE North with the centerline of County Road 178 to its
16 intersection with the centerline of County Road 192 (Old Noonday
17 Road);
18 THENCE Northeasterly with the centerline of County Road 192 to its
19 intersection with the centerline of County Road 193 (Taylor Road);
20 THENCE Northwesterly with the centerline of County Road 193 to its
21 intersection with the centerline of State Highway No. 155;
22 THENCE Northeasterly with the centerline of State Highway No. 155
23 to the place of beginning containing 21,118 acres of land, plus or
24 minus.
25 "This document was prepared under 22 TAC §663.21, does not reflect
26 the results of an on the ground survey, and is not to be used to
27 convey or establish interests in real property except those rights

1 and interests implied or established by the creation or
2 reconfiguration of the boundary of the political subdivision for
3 which it was prepared."

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

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

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

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

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

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

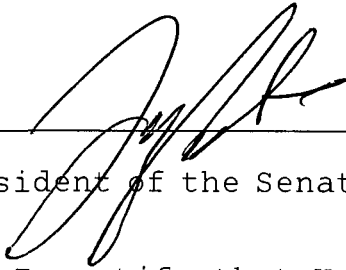
1 (b) If this Act does not receive a two-thirds vote of all the
2 members elected to each house, Subchapter C, Chapter 7958, Special
3 District Local Laws Code, as added by Section 1 of this Act, is
4 amended by adding Section 7958.0304 to read as follows:

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

7 (c) This section is not intended to be an expression of a
8 legislative interpretation of the requirements of Section 17(c),
9 Article I, Texas Constitution.

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

H.B. No. 4749



President of the Senate



Speaker of the House

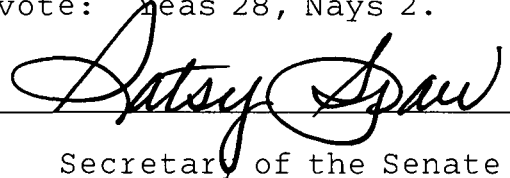
I certify that H.B. No. 4749 was passed by the House on May 10, 2019, by the following vote: Yeas 123, Nays 18, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 4749 on May 23, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 4749 on May 25, 2019, by the following vote: Yeas 75, Nays 62, 2 present, not voting.



Chief Clerk of the House

H.B. No. 4749

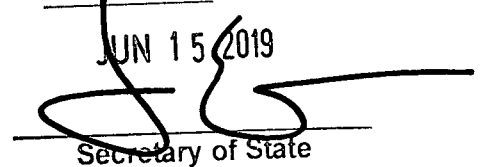
I certify that H.B. No. 4749 was passed by the Senate, with amendments, on May 21, 2019, by the following vote: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 4749 on May 25, 2019, by the following vote: Yeas 28, Nays 2.


Secretary of the Senate

APPROVED: 6-14-2019
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45 pm O'CLOCK

JUN 15 2019

Secretary of State