

Amend CSHB 2120 (Senate committee printing) as follows:

(1) Insert the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Chapter 372, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. IMPROVEMENT PROJECTS IN CERTAIN COUNTIES

Sec. 372.101. DEFINITIONS. In this subchapter:

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

(2) "Commissioners court" means the governing body of the county.

(3) "County" means the county in which the public improvement project authorized by this subchapter or the district is located.

(4) "District" means a public improvement district that may be created by a county authorized under this subchapter.

(5) "Hotel" has the meaning assigned by Section 156.001, Tax Code, and includes a timeshare, overnight lodging unit, or condominium during the time the timeshare, overnight lodging unit, or condominium is rented by a person who is not the owner of the timeshare, overnight lodging unit, or condominium.

(6) "Municipality" means the municipality in whose extraterritorial jurisdiction the improvement project is to be located.

Sec. 372.102. PURPOSE. By enacting this subchapter, the legislature has created a program for economic development as provided in Section 52-a, Article III, Texas Constitution. A county eligible under this subchapter is authorized to engage in economic development projects as provided in this subchapter, and, upon a determination of the governing body of an eligible county, may delegate the authority to oversee and manage the economic development project to an appointed board of directors. In appointing such a board of directors, the governing body of the eligible county delegates its authority to serve a public use and benefit.

Sec. 372.103. COUNTY MAY ESTABLISH DISTRICT. In the event a county determines it is in the best interest of the county, it may

create a public improvement district. A district created under this subchapter is a political subdivision of this state.

Sec. 372.104. APPLICABILITY; CONFLICT OF LAWS. In the event of a conflict between this subchapter and Subchapter A, this subchapter controls.

Sec. 372.105. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PROJECTS; OPTIONAL CREATION OF PUBLIC IMPROVEMENT DISTRICT. (a) The governing body of a county with a population of one million or more, but not more than 3.3 million, may by order, upon receipt of a petition satisfying the requirements of Section 372.005, establish an economic development project in a designated portion of that county, or, if the county determines it is in the best interests of the county, create a district only in an area located in the extraterritorial jurisdiction of a municipality in that county.

(b) The order must:

(1) describe the territory in which the economic development project is to be located or the boundaries of a public improvement district;

(2) if the county has determined that the creation of a district is in the best interests of the county, specifically authorize the district to exercise the powers of this subchapter; and

(3) state whether the petition requests improvements to be financed and paid for with taxes authorized by this subchapter instead of or in addition to assessments.

Sec. 372.106. GOVERNING BODY; TERMS. If a county elects to delegate the authority granted under this subchapter, it shall appoint a board of seven directors to serve staggered two-year terms, with three or four directors' terms expiring June 1 of each year to manage the economic development project or, at the option of the county, govern the public improvement district.

Sec. 372.107. ELIGIBILITY. (a) The county must appoint directors who are at least 18 years old.

(b) If the population of the district is more than 1,000, the county must appoint as directors individuals who are at least 18 years old, reside in the district, and meet the qualifications of

Section 375.063.

Sec. 372.108. VACANCIES; QUORUM. (a) A board vacancy is filled in the same manner as the original appointment.

(b) A vacant board position is not counted for the purposes of establishing a quorum of the board.

Sec. 372.109. CONFLICTS OF INTEREST. The governing body of an eligible county must comply with Chapter 171 in considering any conflicts of interest for directors.

Sec. 372.110. COMPENSATION. (a) A county is authorized to compensate the directors when they perform the duties of a director. For purposes of this section, "performs the duties of a director" means substantial performance of the management of the district's business, including participation in board and committee meetings and other activities involving the substantive deliberation of district business and in pertinent educational programs, but does not include routine or ministerial activities such as the execution of documents or self-preparation for meetings.

(b) The county shall compensate a director not more than \$50 a day for each day that the director performs the duties of a director.

Sec. 372.111. OATH AND BOND; OFFICER ELECTIONS. As soon as practicable, a board member shall give the bond and take the oath of office in accordance with Section 375.067, and the board shall elect officers in accordance with Section 375.068.

Sec. 372.112. ELECTION DATES. (a) For an election ordered by the county under this subchapter before December 31, 2005, the uniform election dates under the Election Code in effect on January 1, 2005, apply.

(b) This section expires January 1, 2007.

Sec. 372.113. POWERS AND DUTIES. (a) A county operating under this subchapter has the powers and duties of:

(1) a county development district under Chapter 383, except for Section 383.066;

(2) a road district created by a county under Section 52, Article III, Texas Constitution; and

(3) a municipality or county under Chapter 380 or 381,

or under Section 372.003(b)(9).

(b) A county is authorized to manage an economic development project in a designated portion of the county, or to create a public improvement district and to delegate to an appointed board of directors the county's powers and duties, as provided in this subchapter.

(c) A county may not delegate to a district the powers and duties of a road district or provide water, wastewater, or drainage facilities under this section unless the municipality and county both consent by resolution.

Sec. 372.114. DEVELOPMENT AGREEMENTS. A county may enter into a development agreement with owners of land in the territory designated for the economic development project or, if the county has determined to create a district, that entity is authorized to enter into an agreement, for a term not to exceed 30 years on any terms and conditions the county or the board considers advisable. The parties may amend the agreement.

Sec. 372.115. ECONOMIC DEVELOPMENT AGREEMENT; ELECTION; TAXES. (a) A county may enter into an agreement only on terms and conditions the commissioners court, and any board of directors of a district created under this subchapter, consider advisable, to make a grant or loan of public money to promote state or local economic development and to stimulate business and commercial activity in the territory where the economic development project is located, or in the district, including a grant or loan to induce the construction of a tourist destination or attraction in accordance with Chapter 380 or 381.

(b) If the county so authorizes it, an election may be ordered by the district created by the county so that a grant or loan agreement may be approved by the voters of the district at an election held in the district for that purpose, the grant or loan may be payable over a term of years and be binding and enforceable on the district in accordance with the terms of the agreement and the conditions of the election, which may, subject to the requirements of Sections 372.127(c), include the irrevocable obligation to impose an ad valorem tax, sales and use tax, or hotel occupancy tax for a term not to exceed 30 years. If authorized at

the election, the county appointed board may contract and covenant to pay the taxes to the recipient of the grant or loan in accordance with the agreement.

(c) If the property owners petitioning a county to create a district under Section 372.105 propose that the district be created only to provide economic development grants or loans and road improvements and not to impose assessments, and the county determines that the creation of the district is in the best interests of the county, the district is not required to prepare a feasibility report, a service plan or assessment plan, or prepare an assessment roll as required by this chapter.

Sec. 372.116. CONTRACTS; GENERAL. (a) In the event the county creates a district, the district may contract with any person, including the municipality or county, on the terms and conditions and for a period of time the board determines, to:

(1) accomplish any district purpose, including a contract to pay, repay, or reimburse from tax proceeds or another specified source of money any costs, including reasonable interest, incurred by a person on the county's or the district's behalf, including all or part of the costs of an improvement project; and

(2) receive, administer, and perform the county's or the district's duties and obligations under a gift, grant, loan, conveyance, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or another person of an improvement project or proposed improvement project.

(b) A state agency, municipality, county, other political subdivision, corporation, or other person may contract with the county or district to carry out the purposes of this subchapter.

Sec. 372.117. PROCUREMENT CONTRACTS. In the event a county creates a district under this subchapter, such district may contract for materials, supplies, and construction:

(1) in accordance with the laws applicable to counties; or

(2) in the same manner that a local government corporation created pursuant to Chapter 431, Transportation Code,

is authorized to contract.

Sec. 372.118. RULES; ENFORCEMENT. A county may authorize the board of a district created under this subchapter to adopt rules:

(1) to administer and operate a district authorized by the commissioners court;

(2) for the use, enjoyment, availability, protection, security, and maintenance of district property, including facilities; or

(3) to provide for public safety and security in the district.

Sec. 372.119. FEES. A county may authorize a board to establish, revise, repeal, enforce, collect, and apply the proceeds from user fees or charges for the enjoyment, sale, rental, or other use of its facilities or other property, or for services or improvement projects.

Sec. 372.120. RULES; REGULATION OF ROADS AND OTHER PUBLIC AREAS. (a) A county may authorize a board to adopt rules to regulate the private use of public roadways, open spaces, parks, sidewalks, and similar public areas in the district, if the use is for a public purpose.

(b) To the extent a rule adopted under this section conflicts with a rule, order, ordinance, or regulation of the county or municipality, the county or municipality rule, order, ordinance, or regulation controls.

(c) A rule adopted under this section may provide for the safe and orderly use of public roadways, open spaces, parks, sidewalks, and similar public areas in the area of the district or economic development project.

Sec. 372.121. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the county may delegate to the district the authority to construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the territory targeted by the county for an economic development project, or the district.

(b) A road project must meet all applicable construction

standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is located outside the extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located.

Sec. 372.122. UTILITIES. (a) This subchapter does not grant the board appointed by a county under this subchapter any right-of-way management authority over public utilities.

(b) To the extent the construction, maintenance, or operation of a project under this subchapter requires the relocation or extension of a public utility facility, the district shall reimburse the public utility for all costs associated with the relocation, removal, extension, or other adjustment of the facility.

Sec. 372.123. SERVICE PLAN REQUIRED. The commissioners court may require an annual service plan, in the manner provided for by Section 372.013, which must meet the commissioners court's review and approval.

Sec. 372.124. NO EMINENT DOMAIN. If a county creates a district under this subchapter, the district may not exercise the power of eminent domain.

Sec. 372.125. NO TAX ABATEMENTS. A county may not grant a tax abatement or enter into a tax abatement agreement for a district created under this subchapter.

Sec. 372.126. BONDS; NOTES. (a) The county commissioners court must grant prior approval to a district it creates under this subchapter before a district is authorized to issue bonds. If the population in the district is more than 1,000, a bond issuance must be approved by a majority of those voting in an election held for that purpose. A bond election under this subsection does not affect prior bond issuances and is not required for refunding bond issuances.

(b) A commissioners court must grant prior approval to a district it creates under this subchapter before such district is authorized to issue a negotiable promissory note or notes.

(c) If the commissioners court grants the approvals in this section, bonds, notes, and other district obligations may be secured by district revenue or any type of district taxes or assessments.

Sec. 372.127. AUTHORITY TO IMPOSE ASSESSMENTS AND AD VALOREM, SALES AND USE, AND HOTEL OCCUPANCY TAXES; ELECTION. (a) A county or a district created under this subchapter may accomplish its purposes and pay the cost of services and improvements by imposing:

- (1) an assessment;
- (2) an ad valorem tax;
- (3) a sales and use tax; or
- (4) a hotel occupancy tax.

(b) If approved by the county commissioners court, and if approved at an election called by the district, and in accordance with Section 372.127(c), a district may impose an ad valorem tax, hotel occupancy tax, or sales and use tax to accomplish the economic development purposes prescribed by Section 52a, Article III, Texas Constitution.

(c) A county must adopt an order providing whether a district created under this subchapter may have authority to impose a hotel occupancy tax, sales and use tax, or ad valorem tax, and must provide the rate at which the district may impose such tax or taxes. A tax rate approved by the commissioners court and pledged to secure bonds, notes, grant agreements, or development agreements may not be reduced until the obligations of those instruments have been satisfied.

Sec. 372.128. USE OF REVENUE FROM TAXES. A tax authorized by a county to be imposed under this subchapter may be used to accomplish any improvement project or road project, or to provide any service authorized by this subchapter, chapter or Chapter 380, 381, or 383.

Sec. 372.129. HOTEL OCCUPANCY TAX. (a) A county may authorize a district to impose a hotel occupancy tax on a person who pays for the use or possession of or for the right to the use or possession of a room that is ordinarily used for sleeping in a hotel in the district.

(b) If authorized by a county, a district shall impose a hotel occupancy tax as provided by Chapter 383, Local Government Code, and Section 352.107, Tax Code, except that a hotel occupancy tax:

(1) may be used for any purpose authorized in this subchapter; and

(2) is authorized by the county to be imposed by the district.

(c) The hotel occupancy tax rate is the greater of nine percent or the rate imposed by the municipality.

(d) A hotel occupancy tax may not be imposed on the occupants of a hotel unless the owner of the hotel agrees to the imposition of the hotel occupancy taxes under this subchapter. After the owner agrees, the agreement may not be revoked by the owner of the hotel or any subsequent owner of the hotel. After an agreement under this section, the district may impose hotel occupancy taxes as provided by this subchapter.

Sec. 372.130. SALES AND USE TAX. (a) A commissioners court may authorize a district to impose a sales and use tax in increments of 1/8 of one percent up to a rate of two percent.

(b) Except as otherwise provided in this subchapter, a sales and use tax must be imposed in accordance with Chapter 383, Local Government Code, and Chapter 323, Tax Code.

Sec. 372.131. AD VALOREM TAX. A commissioners court may authorize a district to impose an ad valorem tax on property in the district in accordance with Chapter 257, Transportation Code.

Sec. 372.132. BORROWING. The commissioners court may authorize a district to borrow money for any district purpose, including for a development agreement that authorizes the district to borrow money.

Sec. 372.133. REPAYMENT OF COSTS. The commissioner's court may authorize a district, by a lease, lease-purchase agreement, installment purchase contract, or other agreement, or by the imposition or assessment of a tax, user fee, concession, rental, or other revenue or resource of the district, to provide for or secure the payment or repayment of:

(1) the costs and expenses of the establishment,

administration, and operation of the district;

(2) the district's costs or share of costs of an improvement project; or

(3) the district's contractual obligations or indebtedness.

Sec. 372.134. LIABILITIES; ASSUMPTION OF ASSETS AFTER COMPLETE ANNEXATION BY MUNICIPALITY. (a) In the event a county has created a district under this subchapter, and if the municipality annexes the entire district territory, the municipality shall succeed to such district's assets, but is not liable for the district's debt or other obligations.

(b) If the county has authorized the district created under this subchapter to have debt or other obligations, the district shall remain in existence after the territory is annexed by the municipality, for the purpose of collecting any taxes or assessments authorized by the county and imposed by the district prior to the annexation, which shall be used by the district solely for the purpose of satisfying any preexisting county authorized district debt or other obligations. After the debt or other obligations have been discharged, or two years have expired since the date of the annexation, the district is dissolved and any outstanding debt or obligations are extinguished.

Sec. 372.135. AUTHORITY TO IMPOSE TAXES OR ASSESSMENTS AFTER PARTIAL OR COMPLETE ANNEXATION. (a) After a district created by a county under this subchapter has been annexed by a municipality wholly or partly for general purposes, the county shall not authorize the district to impose an ad valorem tax, hotel occupancy tax, or sales and use tax, or collect an assessment in the area that the municipality overlaps the district, except as provided by Subsection (b) or Section 372.134(b).

(b) A district may continue to impose a tax in an area that the municipality annexes for limited purposes and in which the municipality does not impose taxes. If the municipality annexes an area for limited purposes and imposes some of the taxes which the district is imposing but not all of them, the district may continue to impose taxes only to the extent that the level of taxation of the municipality and the district combined, calculating the hotel tax,

the sales tax, and the ad valorem tax independently, is equal to or less than the tax level of the municipality as to fully annexed areas.

(c) The legislature intends that the level of taxation of areas where the district and the municipality overlap do not exceed the level of taxation of fully annexed areas.

(2) Strike SECTION 49 of the bill (page 18, lines 60-65) and substitute the following:

SECTION _____. (a) Except as provided by Subsections (b) of this section, this Act takes effect September 1, 2005.

(b) The provisions of this Act amending Chapter 372, Local Government Code, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, those provisions take effect September 1, 2005.