

By: Wentworth

S.B. No. 1879

A BILL TO BE ENTITLED

AN ACT

relating to the creation of special districts for improvements in certain counties, including authority to acquire, construct, and improve water, wastewater, and drainage improvements; providing authority to impose a tax and issue bonds.

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

SECTION 1. Chapter 372, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. IMPROVEMENT DISTRICTS 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 in which a district is located.

(3) "County" means the county in which the district is located.

(4) "District" means an improvement district created under this subchapter.

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

(6) "Municipality" means the municipality in which the

1 district is located.

2 Sec. 372.102. PURPOSE. By enacting this subchapter, the
3 legislature has created a program for economic development as
4 provided in Section 52-a, Article III, Texas Constitution. A
5 district created under this subchapter is created to serve a public
6 use and benefit.

7 Sec. 372.103. NATURE OF DISTRICT. A district created under
8 this subchapter is a political subdivision of this state.

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

12 Sec. 372.105. CREATION OF DISTRICT. (a) After a county
13 with a population of one million or more receives a petition
14 satisfying the requirements of Section 372.005, the commissioners
15 court of that county may by order create a district located in the
16 extraterritorial jurisdiction of a municipality in that county.

17 (b) The order must:

18 (1) describe the district's territory;

19 (2) specifically authorize the district to exercise
20 the powers of this subchapter; and

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

24 Sec. 372.106. GOVERNING BODY; TERMS. A district is
25 governed by a board of five directors who serve staggered terms of
26 two years, with two or three directors' terms expiring June 1 of
27 each year.

1 Sec. 372.107. ELIGIBILITY. (a) A director must be at
2 least 18 years old.

3 (b) If the population of the district is more than 1,000, a
4 director must be 18 years old and:

5 (1) a resident of the district;

6 (2) an owner of property in the district;

7 (3) an owner of stock, whether beneficial or
8 otherwise, of a corporate owner of property in the district;

9 (4) an owner of a beneficial interest in a trust that
10 owns property in the district; or

11 (5) an agent, employee, or tenant of a person
12 described by Subdivision (2), (3), or (4).

13 Sec. 372.108. APPOINTMENT OF DIRECTORS. Directors are
14 appointed by position as follows:

15 (1) the county judge shall appoint three directors;
16 and

17 (2) the commissioners court shall appoint two
18 directors.

19 Sec. 372.109. VACANCIES; QUORUM. (a) A board vacancy is
20 filled in the same manner as the original appointment.

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

23 Sec. 372.110. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

24 (a) Except as provided by this section:

25 (1) a director may participate in all board votes and
26 decisions; and

27 (2) Chapter 171 governs conflicts of interest for

1 directors.

2 (b) Section 171.004 does not apply to the district. A
3 director who has a substantial interest in a business or charitable
4 entity that will receive a pecuniary benefit from a board action
5 shall file a one-time affidavit declaring the interest. An
6 additional affidavit is not required if the director's interest
7 changes. After the affidavit is filed with the board secretary, the
8 director may participate in a discussion or vote on that action if:

9 (1) a majority of the directors have a similar
10 interest in the same entity;

11 (2) all other similar business or charitable entities
12 in the district will receive a similar pecuniary benefit; or

13 (3) the director owns property in the district.

14 (c) For purposes of this section, a director has a
15 substantial interest in a charitable entity in the same manner that
16 a person would have a substantial interest in a business entity
17 under Section 171.002.

18 Sec. 372.111. COMPENSATION. (a) In this section,
19 "performs the duties of a director" means substantial performance
20 of the management of the district's business, including
21 participation in board and committee meetings and other activities
22 involving the substantive deliberation of district business and in
23 pertinent educational programs, but does not include routine or
24 ministerial activities such as the execution of documents or
25 self-preparation for meetings.

26 (b) A director is entitled to compensation of \$50 a day for
27 each day that the director actually performs the duties of a

1 director.

2 Sec. 372.112. OATH AND BOND; BUSINESS. As soon as
3 practicable, a board member shall give the bond and take the oath of
4 office prescribed by Section 375.067, and the board shall elect
5 officers and conduct business in accordance with Subchapter D,
6 Chapter 375.

7 Sec. 372.113. POWERS AND DUTIES. (a) A district has the
8 powers and duties of:

- 9 (1) a county development district under Chapter 383;
10 (2) a road district under Section 52, Article III,
11 Texas Constitution, and Chapter 257, Transportation Code; and
12 (3) a municipality or county under this subchapter or
13 Chapters 380 and 381, including the acquisition, construction, or
14 improvement of water, wastewater, or drainage facilities or
15 improvements under Section 372.003(b)(9).

16 (b) A district may not exercise the powers and duties of a
17 road district under this section unless the municipality consents
18 by resolution.

19 Sec. 372.114. DEVELOPMENT AGREEMENTS. A district may enter
20 into a development agreement with owners of land in the district.
21 The agreement may be amended by the parties.

22 Sec. 372.115. ECONOMIC DEVELOPMENT AGREEMENT; ELECTION;
23 TAXES. (a) A district may enter into an agreement, on terms and
24 conditions the board considers advisable, to make a grant or loan of
25 public money to promote state or local economic development and to
26 stimulate business and commercial activity in the district,
27 including a grant or loan to induce the construction of a tourist

1 destination or attraction in accordance with Chapter 380 or 381.

2 (b) If the grant or loan agreement has been approved by the
3 voters of the district at an election held in the district for that
4 purpose, the grant or loan may be payable over a term of years and be
5 binding and enforceable on the district in accordance with the
6 terms of the agreement and the conditions of the election, which may
7 include the irrevocable obligation to impose an ad valorem tax,
8 sales and use tax, or hotel occupancy tax over a term of years not to
9 exceed 30 years, and if authorized at the election, the district may
10 contract and covenant to pay the taxes to the recipient of the grant
11 or loan in accordance with the agreement.

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

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

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

1 (b) A state agency, municipality, county, other political
2 subdivision, corporation, or other person may contract with the
3 district to carry out the purposes of this subchapter without
4 further authorization.

5 Sec. 372.117. PROCUREMENT CONTRACTS. A district may
6 contract for materials, supplies, and construction:

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

9 (2) in the same manner that a county local government
10 corporation created pursuant to Chapter 431, Transportation Code,
11 is authorized to contract.

12 Sec. 372.118. RULES; ENFORCEMENT. The board may adopt
13 rules:

14 (1) to administer and operate the district;

15 (2) for the use, enjoyment, availability, protection,
16 security, and maintenance of the district's property and
17 facilities; or

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

20 Sec. 372.119. FEES. A district may establish, revise,
21 repeal, enforce, collect, and apply the proceeds from user fees or
22 charges for the enjoyment, sale, rental, or other use of the
23 district's facilities or other property, or for services or
24 improvement projects.

25 Sec. 372.120. ELECTIONS. A district may hold an election on
26 any date.

27 Sec. 372.121. RULES; REGULATION OF ROADS AND OTHER PUBLIC

1 AREAS. (a) A board may adopt rules to regulate the private use of
2 public roadways, open spaces, parks, sidewalks, and similar public
3 areas in the area of the district.

4 (b) To the extent rules adopted under this section conflict
5 with a rule, order, ordinance, or regulation of the county or
6 municipality, the county or municipality rule, order, ordinance, or
7 regulation controls.

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

11 Sec. 372.122. SERVICE PLAN REQUIRED. A district must
12 annually prepare and present to the commissioners court a service
13 plan, as provided for by Section 372.013, for the commissioners
14 court's review and approval.

15 Sec. 372.123. NO EMINENT DOMAIN. A district does not have
16 the power of eminent domain.

17 Sec. 372.124. BONDS; NOTES. (a) A district may issue
18 bonds.

19 (b) A district may issue a negotiable promissory note or
20 notes.

21 (c) Bonds, notes, and other district obligations may be
22 secured by district revenue or any type of district taxes or
23 assessments.

24 Sec. 372.125. AUTHORITY TO IMPOSE ASSESSMENTS AND AD
25 VALOREM, SALES AND USE, AND HOTEL OCCUPANCY TAXES; ELECTION.

26 (a) A district may accomplish its purposes and pay the cost of
27 services and improvements by:

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

5 (b) If approved at an election called by the board, a
6 district may impose an ad valorem tax, hotel occupancy tax, and
7 sales and use tax to accomplish the economic development purposes
8 prescribed by Section 52-a, Article III, Texas Constitution.

9 (c) The rate at which the district imposes a hotel occupancy
10 tax, sales and use tax, or ad valorem tax must be approved by the
11 commissioners court. A tax rate approved by the commissioners
12 court and pledged to secure bonds, notes, grant agreements, or
13 development agreements may not be reduced until the obligations of
14 those instruments have been satisfied.

15 Sec. 372.126. USE OF REVENUE FROM TAXES. A tax imposed
16 under this subchapter may be used to accomplish any improvement
17 project or provide any service authorized by:

- 18 (1) this chapter;
- 19 (2) Chapter 381;
- 20 (3) Chapter 383; or
- 21 (4) Chapter 257, Transportation Code.

22 Sec. 372.127. HOTEL OCCUPANCY TAX. (a) A district may
23 impose a hotel occupancy tax on a person who pays for the use or
24 possession of or for the right to the use or possession of a room
25 that is ordinarily used for sleeping in a hotel in the district.

26 (b) The district shall impose a hotel occupancy tax as
27 provided by Chapter 383, Local Government Code, and Section

1 352.107, Tax Code, except that a hotel occupancy tax:

2 (1) may be used for any district purpose; and

3 (2) is imposed by the district.

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

6 Sec. 372.128. SALES AND USE TAX. (a) A district may impose
7 a sales and use tax in increments of one-eighth of one percent up to
8 a rate of two percent.

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

12 Sec. 372.129. AD VALOREM TAX. (a) A district may impose an
13 ad valorem tax on property in the district in accordance with
14 Chapter 257, Transportation Code.

15 (b) Before imposing an ad valorem tax for district
16 operations or to pay bonds, notes, or other obligations, the
17 district must obtain the approval of the commissioners court.

18 Sec. 372.130. BORROWING. A district may borrow money for
19 any district purpose, including for a development agreement that
20 authorizes the district to borrow money.

21 Sec. 372.131. REPAYMENT OF COSTS. A district may, by a
22 lease, lease-purchase agreement, installment purchase contract, or
23 other agreement, or by the imposition or assessment of a tax, user
24 fee, concession, rental, or other revenue or resource of the
25 district, provide for or secure the payment or repayment of:

26 (1) the costs and expenses of the establishment,
27 administration, and operation of the district;

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

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

5 Sec. 372.132. LIABILITIES; ASSUMPTION OF ASSETS AFTER
6 COMPLETE ANNEXATION. (a) If the municipality annexes the entire
7 district territory, the municipality shall succeed to the
8 district's assets but is not liable for the district's debt or other
9 obligations.

10 (b) If the district has debt or other obligations, the
11 district remains in existence after the territory is annexed by the
12 municipality solely for the purpose of satisfying any preexisting
13 district debt or other obligations. After the debt or other
14 obligations have been discharged or two years have expired since
15 the date of the annexation, the district is dissolved.

16 Sec. 372.133. AUTHORITY TO IMPOSE TAXES OR ASSESSMENTS
17 AFTER PARTIAL OR COMPLETE ANNEXATION. (a) After a district has
18 been annexed by a municipality wholly or partly for general
19 purposes, the district may not impose an ad valorem tax, hotel
20 occupancy tax, or sales and use tax, or collect an assessment in the
21 area that the municipality overlaps the district, except as
22 provided by Section 372.132(b).

23 (b) A district may continue to impose a tax in an area that
24 the municipality annexes for limited purposes and in which the
25 municipality does not impose taxes, including a tax that the
26 municipality does not impose if the municipality imposes other
27 taxes in the area.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2005.