

1-1 By: Wentworth S.B. No. 1879  
1-2 (In the Senate - Filed April 21, 2005; April 25, 2005, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; April 29, 2005, reported favorably by the following  
1-5 vote: Yeas 5, Nays 0; April 29, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the creation of special districts for improvements in  
1-9 certain counties, including authority to acquire, construct, and  
1-10 improve water, wastewater, and drainage improvements; providing  
1-11 authority to impose a tax and issue bonds.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 372, Local Government Code, is amended  
1-14 by adding Subchapter C to read as follows:

1-15 SUBCHAPTER C. IMPROVEMENT DISTRICTS IN CERTAIN COUNTIES

1-16 Sec. 372.101. DEFINITIONS. In this subchapter:

1-17 (1) "Board" means the board of directors of a  
1-18 district.

1-19 (2) "Commissioners court" means the governing body of  
1-20 the county in which a district is located.

1-21 (3) "County" means the county in which the district is  
1-22 located.

1-23 (4) "District" means an improvement district created  
1-24 under this subchapter.

1-25 (5) "Hotel" has the meaning assigned by Section  
1-26 156.001, Tax Code, and includes a timeshare, casita, or condominium  
1-27 during the time the timeshare, casita, or condominium is rented by a  
1-28 person who is not the owner of the timeshare, casita, or  
1-29 condominium.

1-30 (6) "Municipality" means the municipality in which the  
1-31 district is located.

1-32 Sec. 372.102. PURPOSE. By enacting this subchapter, the  
1-33 legislature has created a program for economic development as  
1-34 provided in Section 52-a, Article III, Texas Constitution. A  
1-35 district created under this subchapter is created to serve a public  
1-36 use and benefit.

1-37 Sec. 372.103. NATURE OF DISTRICT. A district created under  
1-38 this subchapter is a political subdivision of this state.

1-39 Sec. 372.104. APPLICABILITY; CONFLICT OF LAWS. In the  
1-40 event of a conflict between this subchapter and Subchapter A, this  
1-41 subchapter controls.

1-42 Sec. 372.105. CREATION OF DISTRICT. (a) After a county  
1-43 with a population of one million or more receives a petition  
1-44 satisfying the requirements of Section 372.005, the commissioners  
1-45 court of that county may by order create a district located in the  
1-46 extraterritorial jurisdiction of a municipality in that county.

1-47 (b) The order must:

1-48 (1) describe the district's territory;  
1-49 (2) specifically authorize the district to exercise  
1-50 the powers of this subchapter; and

1-51 (3) state whether the petition provides for  
1-52 improvements to be financed and paid for with taxes authorized by  
1-53 this subchapter instead of or in addition to assessments.

1-54 Sec. 372.106. GOVERNING BODY; TERMS. A district is  
1-55 governed by a board of five directors who serve staggered terms of  
1-56 two years, with two or three directors' terms expiring June 1 of  
1-57 each year.

1-58 Sec. 372.107. ELIGIBILITY. (a) A director must be at  
1-59 least 18 years old.

1-60 (b) If the population of the district is more than 1,000, a  
1-61 director must be 18 years old and:

1-62 (1) a resident of the district;  
1-63 (2) an owner of property in the district;  
1-64 (3) an owner of stock, whether beneficial or

2-1 otherwise, of a corporate owner of property in the district;  
2-2 (4) an owner of a beneficial interest in a trust that  
2-3 owns property in the district; or

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

2-6 Sec. 372.108. APPOINTMENT OF DIRECTORS. Directors are  
2-7 appointed by position as follows:

2-8 (1) the county judge shall appoint three directors;  
2-9 and

2-10 (2) the commissioners court shall appoint two  
2-11 directors.

2-12 Sec. 372.109. VACANCIES; QUORUM. (a) A board vacancy is  
2-13 filled in the same manner as the original appointment.

2-14 (b) A vacant board position is not counted for the purposes  
2-15 of establishing a quorum of the board.

2-16 Sec. 372.110. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.  
2-17 (a) Except as provided by this section:

2-18 (1) a director may participate in all board votes and  
2-19 decisions; and

2-20 (2) Chapter 171 governs conflicts of interest for  
2-21 directors.

2-22 (b) Section 171.004 does not apply to the district. A  
2-23 director who has a substantial interest in a business or charitable  
2-24 entity that will receive a pecuniary benefit from a board action  
2-25 shall file a one-time affidavit declaring the interest. An  
2-26 additional affidavit is not required if the director's interest  
2-27 changes. After the affidavit is filed with the board secretary, the  
2-28 director may participate in a discussion or vote on that action if:

2-29 (1) a majority of the directors have a similar  
2-30 interest in the same entity;

2-31 (2) all other similar business or charitable entities  
2-32 in the district will receive a similar pecuniary benefit; or

2-33 (3) the director owns property in the district.

2-34 (c) For purposes of this section, a director has a  
2-35 substantial interest in a charitable entity in the same manner that  
2-36 a person would have a substantial interest in a business entity  
2-37 under Section 171.002.

2-38 Sec. 372.111. COMPENSATION. (a) In this section,  
2-39 "performs the duties of a director" means substantial performance  
2-40 of the management of the district's business, including  
2-41 participation in board and committee meetings and other activities  
2-42 involving the substantive deliberation of district business and in  
2-43 pertinent educational programs, but does not include routine or  
2-44 ministerial activities such as the execution of documents or  
2-45 self-preparation for meetings.

2-46 (b) A director is entitled to compensation of \$50 a day for  
2-47 each day that the director actually performs the duties of a  
2-48 director.

2-49 Sec. 372.112. OATH AND BOND; BUSINESS. As soon as  
2-50 practicable, a board member shall give the bond and take the oath of  
2-51 office prescribed by Section 375.067, and the board shall elect  
2-52 officers and conduct business in accordance with Subchapter D,  
2-53 Chapter 375.

2-54 Sec. 372.113. POWERS AND DUTIES. (a) A district has the  
2-55 powers and duties of:

2-56 (1) a county development district under Chapter 383;

2-57 (2) a road district under Section 52, Article III,  
2-58 Texas Constitution, and Chapter 257, Transportation Code; and

2-59 (3) a municipality or county under this subchapter or  
2-60 Chapters 380 and 381, including the acquisition, construction, or  
2-61 improvement of water, wastewater, or drainage facilities or  
2-62 improvements under Section 372.003(b)(9).

2-63 (b) A district may not exercise the powers and duties of a  
2-64 road district under this section unless the municipality consents  
2-65 by resolution.

2-66 Sec. 372.114. DEVELOPMENT AGREEMENTS. A district may enter  
2-67 into a development agreement with owners of land in the district.  
2-68 The agreement may be amended by the parties.

2-69 Sec. 372.115. ECONOMIC DEVELOPMENT AGREEMENT; ELECTION;

3-1 TAXES. (a) A district may enter into an agreement, on terms and  
3-2 conditions the board considers advisable, to make a grant or loan of  
3-3 public money to promote state or local economic development and to  
3-4 stimulate business and commercial activity in the district,  
3-5 including a grant or loan to induce the construction of a tourist  
3-6 destination or attraction in accordance with Chapter 380 or 381.

3-7 (b) If the grant or loan agreement has been approved by the  
3-8 voters of the district at an election held in the district for that  
3-9 purpose, the grant or loan may be payable over a term of years and be  
3-10 binding and enforceable on the district in accordance with the  
3-11 terms of the agreement and the conditions of the election, which may  
3-12 include the irrevocable obligation to impose an ad valorem tax,  
3-13 sales and use tax, or hotel occupancy tax over a term of years not to  
3-14 exceed 30 years, and if authorized at the election, the district may  
3-15 contract and covenant to pay the taxes to the recipient of the grant  
3-16 or loan in accordance with the agreement.

3-17 Sec. 372.116. CONTRACTS; GENERAL. (a) A district may  
3-18 contract with any person, including the municipality or county, on  
3-19 the terms and conditions and for a period of time the board  
3-20 determines, to:

3-21 (1) accomplish any district purpose, including a  
3-22 contract to pay, repay, or reimburse from tax proceeds or another  
3-23 specified source of money any costs, including reasonable carrying  
3-24 costs, incurred by a person on the district's behalf, including all  
3-25 or part of the costs of an improvement project; and

3-26 (2) receive, administer, and perform the district's  
3-27 duties and obligations under a gift, grant, loan, conveyance, or  
3-28 other financial assistance arrangement relating to the  
3-29 investigation, planning, analysis, study, design, acquisition,  
3-30 construction, improvement, completion, implementation, or  
3-31 operation by the district or another person of an improvement  
3-32 project or proposed improvement project.

3-33 (b) A state agency, municipality, county, other political  
3-34 subdivision, corporation, or other person may contract with the  
3-35 district to carry out the purposes of this subchapter without  
3-36 further authorization.

3-37 Sec. 372.117. PROCUREMENT CONTRACTS. A district may  
3-38 contract for materials, supplies, and construction:

3-39 (1) in accordance with the laws applicable to  
3-40 counties; or

3-41 (2) in the same manner that a county local government  
3-42 corporation created pursuant to Chapter 431, Transportation Code,  
3-43 is authorized to contract.

3-44 Sec. 372.118. RULES; ENFORCEMENT. The board may adopt  
3-45 rules:

3-46 (1) to administer and operate the district;

3-47 (2) for the use, enjoyment, availability, protection,  
3-48 security, and maintenance of the district's property and  
3-49 facilities; or

3-50 (3) to provide for public safety and security in the  
3-51 district.

3-52 Sec. 372.119. FEES. A district may establish, revise,  
3-53 repeal, enforce, collect, and apply the proceeds from user fees or  
3-54 charges for the enjoyment, sale, rental, or other use of the  
3-55 district's facilities or other property, or for services or  
3-56 improvement projects.

3-57 Sec. 372.120. ELECTIONS. A district may hold an election on  
3-58 any date.

3-59 Sec. 372.121. RULES; REGULATION OF ROADS AND OTHER PUBLIC  
3-60 AREAS. (a) A board may adopt rules to regulate the private use of  
3-61 public roadways, open spaces, parks, sidewalks, and similar public  
3-62 areas in the area of the district.

3-63 (b) To the extent rules adopted under this section conflict  
3-64 with a rule, order, ordinance, or regulation of the county or  
3-65 municipality, the county or municipality rule, order, ordinance, or  
3-66 regulation controls.

3-67 (c) A rule adopted under this section may provide for the  
3-68 safe and orderly use of public roadways, open spaces, parks,  
3-69 sidewalks, and similar public areas in the area of the district.

4-1 Sec. 372.122. SERVICE PLAN REQUIRED. A district must  
 4-2 annually prepare and present to the commissioners court a service  
 4-3 plan, as provided for by Section 372.013, for the commissioners  
 4-4 court's review and approval.

4-5 Sec. 372.123. NO EMINENT DOMAIN. A district does not have  
 4-6 the power of eminent domain.

4-7 Sec. 372.124. BONDS; NOTES. (a) A district may issue  
 4-8 bonds.

4-9 (b) A district may issue a negotiable promissory note or  
 4-10 notes.

4-11 (c) Bonds, notes, and other district obligations may be  
 4-12 secured by district revenue or any type of district taxes or  
 4-13 assessments.

4-14 Sec. 372.125. AUTHORITY TO IMPOSE ASSESSMENTS AND AD  
 4-15 VALOREM, SALES AND USE, AND HOTEL OCCUPANCY TAXES; ELECTION.

4-16 (a) A district may accomplish its purposes and pay the cost of  
 4-17 services and improvements by:

- 4-18 (1) imposing an assessment;
- 4-19 (2) levying an ad valorem tax;
- 4-20 (3) imposing a sales and use tax; or
- 4-21 (4) imposing a hotel occupancy tax.

4-22 (b) If approved at an election called by the board, a  
 4-23 district may impose an ad valorem tax, hotel occupancy tax, and  
 4-24 sales and use tax to accomplish the economic development purposes  
 4-25 prescribed by Section 52-a, Article III, Texas Constitution.

4-26 (c) The rate at which the district imposes a hotel occupancy  
 4-27 tax, sales and use tax, or ad valorem tax must be approved by the  
 4-28 commissioners court. A tax rate approved by the commissioners  
 4-29 court and pledged to secure bonds, notes, grant agreements, or  
 4-30 development agreements may not be reduced until the obligations of  
 4-31 those instruments have been satisfied.

4-32 Sec. 372.126. USE OF REVENUE FROM TAXES. A tax imposed  
 4-33 under this subchapter may be used to accomplish any improvement  
 4-34 project or provide any service authorized by:

- 4-35 (1) this chapter;
- 4-36 (2) Chapter 381;
- 4-37 (3) Chapter 383; or
- 4-38 (4) Chapter 257, Transportation Code.

4-39 Sec. 372.127. HOTEL OCCUPANCY TAX. (a) A district may  
 4-40 impose a hotel occupancy tax on a person who pays for the use or  
 4-41 possession of or for the right to the use or possession of a room  
 4-42 that is ordinarily used for sleeping in a hotel in the district.

4-43 (b) The district shall impose a hotel occupancy tax as  
 4-44 provided by Chapter 383, Local Government Code, and Section  
 4-45 352.107, Tax Code, except that a hotel occupancy tax:

- 4-46 (1) may be used for any district purpose; and
- 4-47 (2) is imposed by the district.

4-48 (c) The hotel occupancy tax rate is the greater of nine  
 4-49 percent or the rate imposed by the municipality.

4-50 Sec. 372.128. SALES AND USE TAX. (a) A district may impose  
 4-51 a sales and use tax in increments of one-eighth of one percent up to  
 4-52 a rate of two percent.

4-53 (b) Except as otherwise provided in this subchapter, a sales  
 4-54 and use tax must be imposed in accordance with Chapter 383, Local  
 4-55 Government Code, and Chapter 323, Tax Code.

4-56 Sec. 372.129. AD VALOREM TAX. (a) A district may impose an  
 4-57 ad valorem tax on property in the district in accordance with  
 4-58 Chapter 257, Transportation Code.

4-59 (b) Before imposing an ad valorem tax for district  
 4-60 operations or to pay bonds, notes, or other obligations, the  
 4-61 district must obtain the approval of the commissioners court.

4-62 Sec. 372.130. BORROWING. A district may borrow money for  
 4-63 any district purpose, including for a development agreement that  
 4-64 authorizes the district to borrow money.

4-65 Sec. 372.131. REPAYMENT OF COSTS. A district may, by a  
 4-66 lease, lease-purchase agreement, installment purchase contract, or  
 4-67 other agreement, or by the imposition or assessment of a tax, user  
 4-68 fee, concession, rental, or other revenue or resource of the  
 4-69 district, provide for or secure the payment or repayment of:

5-1 (1) the costs and expenses of the establishment,  
5-2 administration, and operation of the district;

5-3 (2) the district's costs or share of costs of an  
5-4 improvement project; or

5-5 (3) the district's contractual obligations or  
5-6 indebtedness.

5-7 Sec. 372.132. LIABILITIES; ASSUMPTION OF ASSETS AFTER  
5-8 COMPLETE ANNEXATION. (a) If the municipality annexes the entire  
5-9 district territory, the municipality shall succeed to the  
5-10 district's assets but is not liable for the district's debt or other  
5-11 obligations.

5-12 (b) If the district has debt or other obligations, the  
5-13 district remains in existence after the territory is annexed by the  
5-14 municipality solely for the purpose of satisfying any preexisting  
5-15 district debt or other obligations. After the debt or other  
5-16 obligations have been discharged or two years have expired since  
5-17 the date of the annexation, the district is dissolved.

5-18 Sec. 372.133. AUTHORITY TO IMPOSE TAXES OR ASSESSMENTS  
5-19 AFTER PARTIAL OR COMPLETE ANNEXATION. (a) After a district has  
5-20 been annexed by a municipality wholly or partly for general  
5-21 purposes, the district may not impose an ad valorem tax, hotel  
5-22 occupancy tax, or sales and use tax, or collect an assessment in the  
5-23 area that the municipality overlaps the district, except as  
5-24 provided by Section 372.132(b).

5-25 (b) A district may continue to impose a tax in an area that  
5-26 the municipality annexes for limited purposes and in which the  
5-27 municipality does not impose taxes, including a tax that the  
5-28 municipality does not impose if the municipality imposes other  
5-29 taxes in the area.

5-30 SECTION 2. This Act takes effect immediately if it receives  
5-31 a vote of two-thirds of all the members elected to each house, as  
5-32 provided by Section 39, Article III, Texas Constitution. If this  
5-33 Act does not receive the vote necessary for immediate effect, this  
5-34 Act takes effect September 1, 2005.

5-35 \* \* \* \* \*