

By: Elkins

H.B. No. 3223

Substitute the following for H.B. No. 3223:

By: Smith of Harris

C.S.H.B. No. 3223

A BILL TO BE ENTITLED

AN ACT

1
2 relating to public improvement districts designated by a county or
3 municipality.

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

5 SECTION 1. Sections 372.003(a), (b), and (d), Local
6 Government Code, are amended to read as follows:

7 (a) If the governing body of a municipality or county finds
8 that it promotes the interests of the municipality or county, the
9 governing body may undertake an improvement project that confers a
10 special benefit on a definable part of the municipality or county or
11 the municipality's extraterritorial jurisdiction. A project may be
12 undertaken:

13 (1) in the municipality or county or the
14 municipality's extraterritorial jurisdiction; or

15 (2) inside or outside the district.

16 (b) A public improvement project may include:

17 (1) landscaping;

18 (2) erection of fountains, distinctive lighting, and
19 signs;

20 (3) acquiring, constructing, improving, widening,
21 narrowing, closing, or rerouting of sidewalks or of streets, any
22 other roadways, or their rights-of-way;

23 (4) construction or improvement of pedestrian malls;

24 (5) acquisition and installation of pieces of art;

1 (6) acquisition, construction, or improvement of
2 libraries;

3 (7) acquisition, construction, or improvement of
4 off-street parking facilities;

5 (8) acquisition, construction, improvement, or
6 rerouting of mass transportation facilities;

7 (9) acquisition, construction, or improvement of
8 water, wastewater, or drainage facilities or improvements;

9 (10) the establishment or improvement of parks;

10 (11) projects similar to those listed in Subdivisions
11 (1)-(10);

12 (12) acquisition, by purchase or otherwise, of real
13 property in connection with an authorized improvement;

14 (13) special supplemental services, enhancements, and
15 public facilities for improvement and promotion of the district,
16 including:

17 (A) services relating to advertising and[7]
18 promotion of the district; and

19 (B) public facilities that the governing body
20 finds will:

21 (i) provide[7] health and sanitation;

22 (ii) provide or improve[7] water and
23 wastewater;

24 (iii) provide or improve[7] public safety
25 and[7] security, including facilities for police or fire services;

26 (iv) provide governmental services in one
27 or more municipal buildings;

1 (v) enhance business recruitment and[7]
2 development;

3 (vi) provide[7] recreation[7] and cultural
4 enhancement; or

5 (vii) improve the quality of life in the
6 district; and

7 (14) payment of expenses incurred in the
8 establishment, administration, and operation of the district.

9 (d) A county may establish a public improvement district
10 except that if the proposed district includes territory in the
11 corporate limits or extraterritorial jurisdiction of a home rule
12 municipality, the district may not be established unless:

13 (1) within 30 days after the date of a county's action
14 to approve such a district, the county sends notice by certified
15 mail of the proposed action to each home rule municipality in whose
16 corporate limits or extraterritorial jurisdiction all or any part
17 of the district is proposed to be established; and

18 (2) within 30 days after the date of receipt of the
19 notice, a home rule municipality objects to its establishment
20 within the municipality's corporate limits or extraterritorial
21 jurisdiction.

22 SECTION 2. Section 372.007(a), Local Government Code, is
23 amended to read as follows:

24 (a) Before holding the hearing required by Section 372.009,
25 the governing body of the municipality may use the services of
26 municipal employees, the governing body of the county may use the
27 services of county employees, or the governing body of the

1 municipality or county may employ consultants to prepare a report
2 to determine whether an improvement or combination of improvements
3 should be made as proposed by petition [~~or otherwise or whether the~~
4 ~~improvement should be made in combination with other improvements~~
5 ~~authorized under this subchapter~~]. The governing body may also
6 require that a preliminary estimate of the cost of the improvement
7 or combination of improvements be made.

8 SECTION 3. Subchapter A, Chapter 372, Local Government
9 Code, is amended by adding Section 372.0095 to read as follows:

10 Sec. 372.0095. PETITION; AMENDMENTS TO RESOLUTION CREATING
11 DISTRICT. (a) Before assessments have been levied to pay the
12 costs of the improvements, the real property owners in a district
13 may file a petition requesting the governing body of the
14 municipality or county to amend the resolution creating the
15 district to:

16 (1) increase or decrease the estimated cost of the
17 improvements;

18 (2) add or delete one or more improvements; or

19 (3) revise the method of assessment.

20 (b) The petition must satisfy the requirements of Section
21 372.005.

22 (c) Before the resolution may be amended, the governing body
23 must hold a hearing in the same manner as a hearing under Section
24 372.009. If the governing body finds that an amendment is
25 advisable, the governing body may by majority vote of all members of
26 the governing body amend the resolution creating the district
27 accordingly.

1 (d) Within 30 days after the date of a hearing under
2 Subsection (c), the county shall send notice by certified mail of
3 the amendment to each home rule municipality in whose corporate
4 limits or extraterritorial jurisdiction the district is wholly or
5 partly located.

6 (e) The amendment takes effect only if:

7 (1) it has been published in the manner provided by
8 Subsection (f); and

9 (2) a home rule municipality to which notice has been
10 sent under Subsection (d) does not object to the amendment within 30
11 days after the date of receipt of the notice.

12 (f) The amendment must be published one time in a newspaper
13 of general circulation in the municipality or county. If any part
14 of a district created by a county is located in a municipality or a
15 municipality's extraterritorial jurisdiction or if any part of the
16 improvements are to be undertaken in a municipality or a
17 municipality's extraterritorial jurisdiction, the amendment must
18 also be published one time in a newspaper of general circulation in
19 the part of the municipality or the municipality's extraterritorial
20 jurisdiction in which the district is located or in which the
21 improvements are to be undertaken.

22 SECTION 4. Sections 372.010(a) and (c), Local Government
23 Code, are amended to read as follows:

24 (a) During the six-month period after the date of the final
25 adjournment of the hearing under Section 372.009, the governing
26 body of the municipality or county may authorize an improvement
27 district if, by majority vote of all members of the governing body,

1 the members adopt a resolution authorizing the district in
2 accordance with its finding as to the advisability of any [~~the~~
3 improvement or combination of improvements.

4 (c) Actual construction of a new [~~an~~] improvement may not
5 begin, or acquisition of an existing improvement may not occur,
6 until after the 20th day after the date the authorization takes
7 effect and may not begin or occur if during that 20-day period
8 written protests signed by at least two-thirds of the owners of
9 record of property within the improvement district or by the owners
10 of record of property comprising at least two-thirds of the total
11 area of the district are filed with the municipal or county
12 secretary or other officer performing the duties of the municipal
13 or county secretary. A person whose name appears on a protest may
14 withdraw the name from the protest at any time before the governing
15 body of the municipality or county convenes to determine the
16 sufficiency of the protest.

17 SECTION 5. Section 372.012, Local Government Code, is
18 amended to read as follows:

19 Sec. 372.012. AREA OF DISTRICT; ADDING OR EXCLUDING AREA.

20 (a) The area of a public improvement district to be assessed
21 according to the findings of the governing body of the municipality
22 or county may be less than the area described in the proposed
23 boundaries stated by the notice under Section 372.009. The area to
24 be assessed may not include property not described by the notice as
25 being within the proposed boundaries of the district unless a
26 hearing is held to include the property and notice for the hearing
27 is given in the same manner as notice under Section 372.009.

1 (b) A district is not required to be composed of contiguous
2 territory.

3 (c) Unless the public improvement district has issued
4 general obligation or revenue bonds that are secured by assessments
5 or an obligation exists in the district to pay in installments the
6 cost of improvements, the majority of the owners of an area may file
7 a petition to add or exclude an area. The petition must satisfy the
8 requirements of Section 372.005. Before the area may be added or
9 excluded, the governing body of the municipality or county must
10 hold a hearing in the same manner as a hearing under Section
11 372.009. Except as provided by Subsection (d), if the governing
12 body finds that the addition or exclusion is advisable, the area is
13 added or excluded.

14 (d) If the added or excluded area is wholly or partly
15 located in a home rule municipality's corporate limits or
16 extraterritorial jurisdiction, within 30 days after the date of a
17 county's hearing, the county shall send notice by certified mail of
18 the petition to each home rule municipality in whose corporate
19 limits or extraterritorial jurisdiction the district is wholly or
20 partly located. If a home rule municipality objects to the petition
21 within 30 days after the date of receipt of the notice, the area may
22 not be added or excluded.

23 SECTION 6. Section 372.013(b), Local Government Code, is
24 amended to read as follows:

25 (b) The plan must cover a period of at least five years and
26 must also define the annual indebtedness and the projected costs
27 for the improvement or combination of improvements found advisable

1 in a resolution authorizing the district under Section 372.006.
2 The plan shall be reviewed and updated annually for the purpose of
3 determining the annual budget for improvements.

4 SECTION 7. Section 372.015, Local Government Code, is
5 amended by adding Subsection (b-1) and amending Subsection (c) to
6 read as follows:

7 (b-1) The amount of an assessment under Subsection (b) or
8 the amount of an installment payment may be reduced or eliminated to
9 the extent other revenue is available to pay for the improvements
10 under Section 372.026(d).

11 (c) The governing body may establish by ordinance or order:

12 (1) reasonable classifications and formulas for the
13 apportionment of the cost between the municipality or county and
14 the area to be assessed; ~~and~~

15 (2) the methods of assessing the special benefits for
16 various classes of improvements; and

17 (3) a method of allocating assessments that is used if
18 an assessed parcel is subdivided and that does not increase the
19 total assessment on any assessed parcel.

20 SECTION 8. Section 372.016, Local Government Code, is
21 amended by amending Subsection (a) and adding Subsection (d) to
22 read as follows:

23 (a) After the total cost of an improvement, or combination
24 of improvements, to be paid from assessments is determined, the
25 governing body of the municipality or county shall prepare a
26 proposed assessment roll. The roll must state the assessment
27 against each parcel of land in the district, as determined by the

1 method of assessment chosen by the municipality or county under
2 this subchapter.

3 (d) A revised assessment roll must be included as part of
4 the service plan under Section 372.013 to reflect the subdivision
5 of assessed parcels and the resulting allocation of the assessments
6 against each parcel on subdivision. The allocation:

7 (1) must be consistent with the methodology
8 established in the service plan, including the assessment plan
9 under Section 372.014; and

10 (2) may not increase the total assessment on the
11 parcel.

12 SECTION 9. Section 372.017(b), Local Government Code, is
13 amended to read as follows:

14 (b) After all objections have been heard and the governing
15 body has passed on the objections, the governing body by ordinance
16 or order shall levy the assessment as a special assessment on the
17 property. The governing body by ordinance or order shall specify
18 the method of payment of the assessment. The governing body may
19 provide that assessments be paid in periodic installments, at an
20 interest rate and for a period approved by the governing body. The
21 provision that assessments be paid in periodic installments may,
22 but is not required to, result in level annual installment
23 payments. The installments must be in amounts necessary to meet
24 annual costs for improvements and must continue for:

25 (1) the [a] period necessary to retire the
26 indebtedness on the improvements; or

27 (2) the period approved by the governing body for the

1 payment of the installments.

2 SECTION 10. Section 372.018, Local Government Code, is
3 amended to read as follows:

4 Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) An
5 assessment bears interest at the rate specified by the governing
6 body of the municipality or county beginning at the time or times or
7 on the occurrence of one or more events specified by the governing
8 body. If general obligation bonds, revenue bonds, time warrants,
9 or temporary notes are issued to finance the improvement for which
10 the assessment is assessed, the interest rate for that assessment
11 ~~[, but]~~ may not exceed a rate that is one-half of one percent higher
12 than the actual interest rate paid on the ~~[public]~~ debt ~~[used to~~
13 ~~finance the improvement]~~. Interest on the assessment between the
14 effective date of the ordinance or order levying the assessment and
15 the date the first installment is payable shall be added to the
16 first installment. The interest on any delinquent installment
17 shall be added to each subsequent installment until all delinquent
18 installments are paid.

19 (b) An assessment or reassessment, with interest, the
20 expense of collection, and reasonable attorney's fees, if incurred,
21 is:

22 (1) a first and prior lien against the property
23 assessed;

24 (2) ~~[,]~~ superior to all other liens and claims except
25 liens or claims for state, county, school district, or municipality
26 ad valorem taxes; ~~[,]~~ and

27 (3) ~~[is]~~ a personal liability of and charge against the

1 owners of the property regardless of whether the owners are named.

2 (c) The lien is effective from the date of the ordinance or
3 order levying the assessment until the assessment is paid.

4 (d) The lien runs with the land and that portion of an
5 assessment payment that has not yet come due is not eliminated by
6 foreclosure of an ad valorem tax lien.

7 (e) The assessment lien [and] may be enforced by the
8 governing body in the same manner that an ad valorem tax lien
9 against real property may be enforced by the governing body.
10 Foreclosure of accrued installments does not eliminate the
11 outstanding principal balance of the assessment. Any purchaser of
12 the property in foreclosure takes the property subject to the
13 assessment lien and any associated obligations.

14 (f) Delinquent installments of the assessment shall incur
15 interest, penalties, and attorney's fees in the same manner as
16 delinquent ad valorem taxes. The owner of assessed property may pay
17 at any time the entire assessment, with interest that has accrued on
18 the assessment, on any lot or parcel.

19 SECTION 11. Section 372.022, Local Government Code, is
20 amended to read as follows:

21 Sec. 372.022. SEPARATE FUNDS. A separate public
22 improvement district fund may ~~shall~~ be created in the municipal
23 or county treasury for each district. Proceeds from the sale of
24 bonds, temporary notes, and time warrants, and other sums
25 appropriated to the fund by the governing body of the municipality
26 or county shall be credited to the fund. The fund may be used solely
27 to pay costs incurred in making an improvement. When an improvement

1 is completed, the balance of the part of the assessment that is for
2 improvements shall be transferred to the fund established for the
3 retirement of bonds.

4 SECTION 12. Section 372.023, Local Government Code, is
5 amended by amending Subsections (d), (e), (f), and (g) and adding
6 Subsection (h) to read as follows:

7 (d) A cost payable from a special assessment that is to be
8 paid in installments and a cost payable by the municipality or
9 county as a whole but not payable from available general funds or
10 other available general improvement funds shall be paid:

11 (1) under an installment sale contract or a
12 reimbursement agreement with the person who contracts to install or
13 construct the improvement for which the costs apply;

14 (2) as provided by a temporary note or time warrant
15 issued by the municipality or county to reimburse a person for money
16 advanced or work performed in connection with an improvement; or

17 (3) by the issuance and sale of revenue or general
18 obligation bonds.

19 (e) The net effective interest rate, as computed for a
20 public security under Section 1204.005, Government Code, on money
21 owed or paid under Subsection (d) may not exceed one-half of one
22 percent above the highest average interest rate reported by a
23 newspaper in a weekly bond index in the month before the date of the
24 contract or agreement or the issuance of the bond, temporary note,
25 or time warrant. The newspaper must specialize in bonds and be
26 acceptable as a reliable source for bond interest rates to the
27 governing body of the municipality or county that enters into the

1 contract or agreement or that issues the bond, temporary note, or
2 time warrant.

3 (f) [~~(e)~~] While an improvement is in progress, the governing
4 body of the municipality or county, to pay the costs of the
5 improvement, may issue temporary notes for money advanced or time
6 warrants to pay for work performed in connection with [~~the costs of~~]
7 the improvement and, on completion of the improvement, issue
8 revenue or general obligation bonds. The bond proceeds may be used
9 to repay the obligations incurred under this subsection.

10 (g) [~~(f)~~] The cost of more than one improvement may be paid:
11 (1) from a single issue and sale of bonds without other
12 consolidation proceedings before the bond issue; or
13 (2) under an agreement with a person who contracts to
14 install or construct the improvement and who sells the improvement
15 to the municipality or county.

16 (h) [~~(g)~~] The costs of any improvement include interest
17 payable on a temporary note or time warrant and all costs incurred
18 in connection with the issuance of bonds under Section 372.024 and
19 may be included in the assessments against the property in the
20 improvement district as provided by this subchapter.

21 SECTION 13. Section 372.026, Local Government Code, is
22 amended to read as follows:

23 Sec. 372.026. PLEDGES. (a) In this section, "obligation"
24 means bonds, temporary notes, time warrants, or an obligation under
25 an installment sale contract or reimbursement agreement.

26 (b) For the payment of obligations [~~bonds~~] issued or agreed
27 to under this subchapter and the payment of principal, interest,

1 and any other amounts required or permitted in connection with the
2 obligations [~~bonds~~], the governing body of the municipality or
3 county may pledge all or part of the income from improvements
4 financed under this subchapter, including income received in
5 installment payments under Section 372.023.

6 (c) [~~(b)~~] Pledged income must be fixed and collected in
7 amounts sufficient, with other pledged resources, to pay principal,
8 interest, and other expenses related to the obligations [~~bonds~~],
9 and to the extent required by the ordinance, ~~[or]~~ order, or
10 agreement authorizing the obligations [~~bonds~~], to pay for the
11 operation, maintenance, and other expenses related to improvements
12 authorized by this subchapter.

13 (d) [~~(c)~~] The obligations [~~bonds~~] may also be secured by
14 mortgages or deeds of trust on any real property related to the
15 facilities authorized under this subchapter that are owned or are
16 to be acquired by the municipality or county and by chattel
17 mortgages, liens, or security interests on any personal property
18 appurtenant to that real property. The governing body may
19 authorize the execution of trust indentures, mortgages, deeds of
20 trust, or other forms of encumbrance [~~encumbrances~~] as evidence of
21 the indebtedness.

22 (e) [~~(d)~~] The governing body may pledge to the payment of
23 obligations [~~bonds~~] all or part of a grant, donation, revenue, or
24 income received or to be received from the government of the United
25 States or any other public or private source, whether or not it is
26 received pursuant to an agreement or otherwise.

27 (f) The governing body may enter into an agreement with a

1 corporation created by the municipality or county under the Texas
2 Constitution or other law that provides for payment of amounts
3 pledged under this section to the corporation to secure
4 indebtedness issued by the corporation to finance an improvement
5 project, including indebtedness to pay capitalized interest and a
6 reserve fund permitted by this subchapter for revenue or general
7 obligation bonds issued under this subchapter and indebtedness
8 issued to pay the corporation's costs of issuance. In addition, the
9 agreement may provide that:

10 (1) the corporation is responsible for managing the
11 district; or

12 (2) title to one or more improvements will be held by
13 the corporation.

14 SECTION 14. (a) An installment sales contract made or
15 attempted to be made by a county or municipality with the party
16 constructing an improvement relating to an improvement district is
17 validated as of the date the contract was made or attempted to be
18 made if the contract:

19 (1) was made or attempted to be made before the
20 effective date of this Act; and

21 (2) complies with Section 372.023, Local Government
22 Code, as amended by this Act.

23 (b) This section does not apply to any matter that on the
24 effective date of this Act:

25 (1) is involved in litigation if the litigation
26 ultimately results in the matter being held invalid by a final court
27 judgment; or

1 (2) has been held invalid by a final court judgment.

2 SECTION 15. (a) The creation by a municipality of a public
3 improvement district under Subchapter A, Chapter 372, Local
4 Government Code, that contains multiple tracts of noncontiguous
5 land is validated as of the date of the adoption of the resolution
6 by the governing body of the municipality required by Section
7 372.010, Local Government Code. The resolution, any improvements
8 authorized by the resolution, any ordinance levying assessments by
9 the municipality in the district, and any related service and
10 assessment plan, including any temporary notes referred to in the
11 plan and any security for the notes, are validated as of the date of
12 the municipality's adoption of the ordinance, if the resolution and
13 the ordinance were:

14 (1) adopted before the effective date of this Act; and

15 (2) approved and accepted in writing by the owners of
16 100 percent of the taxable property in the district before the
17 effective date of this Act.

18 (b) This section does not apply to any matter that on the
19 effective date of this Act:

20 (1) is involved in litigation if the litigation
21 ultimately results in the matter being held invalid by a final court
22 judgment; or

23 (2) has been held invalid by a final court judgment.

24 SECTION 16. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

1 effect, this Act takes effect September 1, 2007.