

BILL ANALYSIS

H.B. 621
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County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law authorizes public improvement districts to collect assessments on properties located in their boundaries by the payment of periodic installments and also to finance public improvements undertaken in their boundaries in several ways. However, the law is not clear that a district's public improvement financing can be accomplished by the direct payment for the improvements from the assessments collected by the district.

H.B. 621 provides that the financing of public improvements in a district may be made from installment payments of assessments without the issuance of bonds. This permits those districts to avoid the time and expense associated with the issuance of bonds to pay for their public improvements directly from their collected assessments.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 621 amends the Local Government Code to authorize an assessment on property under the Public Improvement District Assessment Act be paid at an interest rate and for a period approved by the governing body. The bill provides that such an assessment may, but is not required to, result in level annual installment payments. The bill adds the option for installments to continue for the period approved by the governing body for the payment of the installments.

H.B. 621 provides that an assessment bears interest beginning at the time or times or on the occurrence of one or more events specified by the governing body. The bill specifies that the interest rate may not exceed a rate that is one-half of one percent higher than the actual interest paid on the debt if general obligation bonds, revenue bonds, time warrants, or temporary notes are issued to finance the improvement for which the assessment is assessed. The bill provides that the assessment or reassessment lien runs with the land and that portion of an assessment payment that has not yet come due is not eliminated by foreclosure of an ad valorem tax lien. The bill specifies that the foreclosure of accrued installments does not eliminate the outstanding principal balance of the assessment and that any purchaser of the property in foreclosure takes the property subject to the assessment lien and any associated obligations. The bill authorizes the owner of assessed property to pay at any time all or any part of the assessment, instead of authorizing only the option to pay the entire assessment.

H.B. 621 authorizes, rather than requires, a separate public improvement district fund to be created in the municipal or county treasury for each district.

H.B. 621 provides for two additional options to pay the required costs payable from a certain special assessment and by the municipality or county as a whole but not payable from certain available funds. The bill specifies that such required costs may be paid not only by the issuance and sale of revenue or general obligation bonds, but under an installment sale contract or a reimbursement agreement with the person who contracts to install or construct the improvement for which the costs apply, or as provided by a temporary note or time warrant issued by the municipality or county to reimburse a person for money advanced or work performed in connection with an improvement. The bill prohibits the net effective interest rate as computed for a public security or money owed or paid from exceeding one-half of one percent above the highest average interest rate reported by a newspaper in a weekly bond index in the month before the date of the contract of agreement or the issuance of the bond, temporary note, or time warrant. The bill requires that the newspaper specialize in bonds and be acceptable as a reliable source for bond interest rates to the governing body of the municipality or county that enters into the contract or agreement or that issues the bond, temporary note, or time warrant. The bill authorizes the governing body of the municipality or county to issue temporary notes for money advanced or time warrants to pay for work performed in connection with the improvement. The bill authorizes that bond proceeds be used to repay the obligations. The bill adds the option to pay the cost of more than one improvement under an agreement with a person who contracts to install or construct the improvement and who sells the improvement to the municipality or county. The bill specifies that the costs of any improvement include interest payable on a temporary note or time warrant.

H.B. 621 authorizes the governing body to enter into an agreement with a corporation created by the municipality or county under the Texas Constitution or other law that provides for payment of amounts pledged under this section to the corporation to secure indebtedness issued by the corporation to finance an improvement project, including indebtedness to pay capitalized interest and a reserve fund permitted for revenue or general obligation bonds issued and indebtedness issued to pay the corporation's costs of issuance. The bill specifies that the agreement may provide that the corporation is responsible for managing the district or that title to one or more improvements will be held by the corporation.

H.B. 621 defines "obligation" to mean bonds, temporary notes, time warrants, or an obligation under an installment sale contract or reimbursement agreement and makes conforming changes.

H.B. 621 provides that all acts and proceedings related to the authorization of any taxes or bonds, including acts and proceedings related to an election, by a district created under the provisions relating to improvement projects in certain counties before the effective date of this bill are validated, ratified, and confirmed in all respects as if the acts and proceedings occurred as authorized by law. The bill excludes from the provisions of the bill any matter that on the effective date of the bill is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment or as been held invalid by a final court judgment.

H. B. 621 provides that an installment sales contract made or attempted to be made by a county or municipality with the party constructing an improvement relating to an improvement district is validated as of the date the contract was made or attempted to be made if the contract was made or attempted to be made before the effective date of the bill and complies with the provisions relating to authorized improvements. The bill excludes from its provisions any matter that on the effective date of the bill is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment or has been held invalid by a final court judgment.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.