

BILL ANALYSIS

Senate Research Center
81R2690 NC-F

S.B. 2124
By: West
Intergovernmental Relations
4/7/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

As proposed, S.B. 2124 authorizes the governing body of the municipality or county to provide that assessments be paid in periodic installments at an interest rate and for a period approved by the governing body.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 372.017(b) (relating to the governing body by ordinance or order levying the assessment as a special assessment on the property), Local Government Code, to authorize the governing body of the municipality or county (governing body) to provide that assessments be paid in periodic installments, at an interest rate and for a period approved by the governing body. Authorizes, but does not require, that the provision that assessments be paid in periodic installments result in level annual installment payments. Requires that the installments be in amounts necessary to meet annual costs for improvement and is required to continue for the period, rather than a period, necessary to retire the indebtedness on the improvements, or the period approved by the governing body for the payment of installments.

SECTION 2. Amends Section 372.018, Local Government Code, as follows:

Sec. 371.018. INTEREST ON ASSESSMENT; LIEN. (a) Provides that an assessment bears interest at the rate specified by the governing body of the municipality or county beginning at the time or times or on the occurrence of one or more events specified by the governing body. Provides that if general obligation bonds, revenue bonds, time warrants, or temporary notes are issued to finance the improvement for which the assessment is assessed, the interest rate for that assessment may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the debt, rather than but may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the public debt used to finance the improvement.

(b) Makes nonsubstantive changes.

(c) Creates this subsection from existing text. Makes a nonsubstantive change.

(d) Provides that the 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.

(e) Creates this subsection from existing text. Authorizes the assessment lien to be enforced by the governing body in the same manner that an ad valorem tax lien

against real property it authorized to be enforced by the governing body. Provides that foreclosure of accrued installments does not eliminate the outstanding principal balance of the assessment. Provides that any purchases of the property in foreclosure takes the property subject to the assessment lien and any associated obligations. Makes a nonsubstantive change.

(f) Creates this subsection from existing text. Authorizes the owner of assessed property to pay at any time all or any part of the assessment, rather than the entire assessment, with interest that has accrued on the assessment, on any lot or parcel.

SECTION 3. Amends Section 372.022, Local Government Code, to authorize, rather than requires that, that a separate public improvement district fund is authorized, rather than required, to be created in the municipal or county treasury for each district.

SECTION 4. Amends Section 372.023, Local Government Code, by amending Subsections (d), (e), (f), and (g) and adding Subsection (h), as follows:

(d) Requires that a cost payable from a special assessment that is to be paid in installments and a cost payable by the municipality or county as a whole but not payable from available general funds or other available general improvement funds be paid 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.

(e) Prohibits the net effective interest rate, as computed for a public security under Section 1204.005 (Computation of Net Effective Interest Rate), Government Code, on money owed or paid under Subsection (d) 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 or agreement or the issuance of the bond, temporary note, or time warrant. Requires the newspaper to 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.

(f) Redesignates Subsection (e) as Subsection (f). Authorizes the governing body of the municipality or county, to pay the costs of the improvement, while an improvement is in progress, to issue temporary notes for money advanced or time warrants to pay for work performed in connection with, rather than the costs of, the improvement, and on completion of the improvement, issue revenue or general obligations bonds. Authorizes the bond proceeds be used to repay the obligations incurred under this subsection.

(g) Redesignates Subsection (f) as Subsection (g). Authorizes the cost of more than one improvement to be paid under an agreement with a person who contracts to install or construct the improvement and who sells the improvement to the municipality or county. Makes nonsubstantive changes.

(h) Redesignates Subsection (g) as Subsection (h). Provides that the costs of any improvement include interest payable on a temporary note or time warrant and all costs incurred in connection with the issuance of bonds under Section 372.024 (General Obligation and Revenue Bonds) and authorizes them to be included in the assessments against the property in the improvement district as provided by this subchapter.

SECTION 5. Amends Section 372.026, Local Government Code, as follows:

Sec. 372.026. PLEDGES. (a) Defines "obligation."

(b) Creates this subsection from existing text. Authorizes the governing body of the municipality or county, for the payment of obligations, rather than bonds, issued or agreed to under this subchapter and the payment of principal, interest, and any other amounts required or permitted in connection with obligations,

rather than bonds, to pledge all or part of the income from improvements financed under this subchapter, including income received in installment payments under Section 372.023 (Payment of Costs).

(c) Redesignates Subsection (b) as Subsection (c). Requires that pledged income be fixed and collected in amounts sufficient, with other pledged resources, to pay principal, interest, and other expenses related to the obligations, and to the extent required by the ordinance, order, or agreement authorizing the obligations, to pay for the operation, maintenance, and other expenses related to improvements authorized by this subchapter. Makes conforming changes.

(d) Redesignates Subsection (e) as Subsection (d). Authorizes the governing body to authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance, rather than encumbrances, as evidence of the indebtedness. Makes a conforming change.

(e) Redesignates Subsection (d) as Subsection (e). Makes a conforming change.

(f) 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 by this subchapter for revenue or general obligation bonds issued under this subchapter and indebtedness issued to pay the corporation's costs of issuance. Authorizes the agreement, in addition, to provide that the corporation is responsible for managing the district, or title to or more improvements will be held by the corporation.

SECTION 6. (a) 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 Subchapter C (Improvement Projects in Certain Counties), Chapter 372 (Improvement Districts in Municipalities and Counties), Local Government Code, before the effective date of this Act are validated, ratified, and confirmed in all respects as if the acts and proceedings occurred as authorized by law.

(b) Provides that this section does not apply to any matter that on the effective date of this Act 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.

SECTION 7. (a) 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 this Act, and complies with Section 372.023, Local Government Code, as amended by this Act.

(b) Provides that this section does not apply to any matter that on the effective date of this Act, 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.

SECTION 8. Effective date: upon passage or September 1, 2009.