

1-1 By: Elkins (Senate Sponsor - West) H.B. No. 621
1-2 (In the Senate - Received from the House March 30, 2009;
1-3 April 7, 2009, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 11, 2009, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 4,
1-6 Nays 0; May 11, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 621 By: West

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to public improvement districts designated by a county or
1-11 municipality.

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

1-13 SECTION 1. Section 372.017(b), Local Government Code, is
1-14 amended to read as follows:

1-15 (b) After all objections have been heard and the governing
1-16 body has passed on the objections, the governing body by ordinance
1-17 or order shall levy the assessment as a special assessment on the
1-18 property. The governing body by ordinance or order shall specify
1-19 the method of payment of the assessment. The governing body may
1-20 provide that assessments be paid in periodic installments, at an
1-21 interest rate and for a period approved by the governing body. The
1-22 provision that assessments be paid in periodic installments may,
1-23 but is not required to, result in level annual installment
1-24 payments. The installments must be in amounts necessary to meet
1-25 annual costs for improvements and must continue for:

1-26 (1) the [a] period necessary to retire the
1-27 indebtedness on the improvements; or

1-28 (2) the period approved by the governing body for the
1-29 payment of the installments.

1-30 SECTION 2. Section 372.018, Local Government Code, is
1-31 amended to read as follows:

1-32 Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) An
1-33 assessment bears interest at the rate specified by the governing
1-34 body of the municipality or county beginning at the time or times or
1-35 on the occurrence of one or more events specified by the governing
1-36 body. If general obligation bonds, revenue bonds, time warrants,
1-37 or temporary notes are issued to finance the improvement for which
1-38 the assessment is assessed, the interest rate for that assessment
1-39 [, but] may not exceed a rate that is one-half of one percent higher
1-40 than the actual interest rate paid on the [public] debt [used to
1-41 finance the improvement]. Interest on the assessment between the
1-42 effective date of the ordinance or order levying the assessment and
1-43 the date the first installment is payable shall be added to the
1-44 first installment. The interest on any delinquent installment
1-45 shall be added to each subsequent installment until all delinquent
1-46 installments are paid.

1-47 (b) An assessment or reassessment, with interest, the
1-48 expense of collection, and reasonable attorney's fees, if incurred,
1-49 is:

1-50 (1) a first and prior lien against the property
1-51 assessed;

1-52 (2) [] superior to all other liens and claims except
1-53 liens or claims for state, county, school district, or municipality
1-54 ad valorem taxes; [] and

1-55 (3) [is] a personal liability of and charge against the
1-56 owners of the property regardless of whether the owners are named.

1-57 (c) The lien is effective from the date of the ordinance or
1-58 order levying the assessment until the assessment is paid.

1-59 (d) The lien runs with the land and that portion of an
1-60 assessment payment that has not yet come due is not eliminated by
1-61 foreclosure of an ad valorem tax lien.

1-62 (e) The assessment lien [and] may be enforced by the
1-63 governing body in the same manner that an ad valorem tax lien

2-1 against real property may be enforced by the governing body.
 2-2 Foreclosure of accrued installments does not eliminate the
 2-3 outstanding principal balance of the assessment. Any purchaser of
 2-4 the property in foreclosure takes the property subject to the
 2-5 assessment lien and any associated obligations.

2-6 (f) Delinquent installments of the assessment shall incur
 2-7 interest, penalties, and attorney's fees in the same manner as
 2-8 delinquent ad valorem taxes. The owner of assessed property may pay
 2-9 at any time all or any part of the [entire] assessment, with
 2-10 interest that has accrued on the assessment, on any lot or parcel.

2-11 SECTION 3. Section 372.022, Local Government Code, is
 2-12 amended to read as follows:

2-13 Sec. 372.022. SEPARATE FUNDS. If bonds are issued, a [A]
 2-14 separate public improvement district fund shall be created in the
 2-15 municipal or county treasury for each district. Proceeds from the
 2-16 sale of bonds, temporary notes, and time warrants, and other sums
 2-17 appropriated to the fund by the governing body of the municipality
 2-18 or county shall be credited to the fund. The fund may be used solely
 2-19 to pay costs incurred in making an improvement. When an improvement
 2-20 is completed, the balance of the part of the assessment that is for
 2-21 improvements shall be transferred to the fund established for the
 2-22 retirement of bonds.

2-23 SECTION 4. Section 372.023, Local Government Code, is
 2-24 amended by amending Subsections (d), (e), (f), and (g) and adding
 2-25 Subsection (h) to read as follows:

2-26 (d) A cost payable from a special assessment that is to be
 2-27 paid in installments and a cost payable by the municipality or
 2-28 county as a whole but not payable from available general funds or
 2-29 other available general improvement funds shall be paid:

2-30 (1) under an installment sale contract or a
 2-31 reimbursement agreement with the person who contracts to install or
 2-32 construct the improvement for which the costs apply;

2-33 (2) as provided by a temporary note or time warrant
 2-34 issued by the municipality or county to reimburse a person for money
 2-35 advanced or work performed in connection with an improvement; or

2-36 (3) by the issuance and sale of revenue or general
 2-37 obligation bonds.

2-38 (e) The net effective interest rate, as computed for a
 2-39 public security under Section 1204.005, Government Code, on money
 2-40 owed or paid under Subsection (d) may not exceed one-half of one
 2-41 percent above the highest average interest rate reported by a
 2-42 newspaper in a weekly bond index in the month before the date of the
 2-43 contract or agreement or the issuance of the bond, temporary note,
 2-44 or time warrant. The newspaper must specialize in bonds and be
 2-45 acceptable as a reliable source for bond interest rates to the
 2-46 governing body of the municipality or county that enters into the
 2-47 contract or agreement or that issues the bond, temporary note, or
 2-48 time warrant.

2-49 (f) [~~(e)~~] While an improvement is in progress, the governing
 2-50 body of the municipality or county, to pay the costs of the
 2-51 improvement, may issue temporary notes for money advanced or time
 2-52 warrants to pay for work performed in connection with [the costs of]
 2-53 the improvement and, on completion of the improvement, issue
 2-54 revenue or general obligation bonds. The bond proceeds may be used
 2-55 to repay the obligations incurred under this subsection.

2-56 (g) [~~(f)~~] The cost of more than one improvement may be paid:

2-57 (1) from a single issue and sale of bonds without other
 2-58 consolidation proceedings before the bond issue; or

2-59 (2) under an agreement with a person who contracts to
 2-60 install or construct the improvement and who sells the improvement
 2-61 to the municipality or county.

2-62 (h) [~~(g)~~] The costs of any improvement include interest
 2-63 payable on a temporary note or time warrant and all costs incurred
 2-64 in connection with the issuance of bonds under Section 372.024 and
 2-65 may be included in the assessments against the property in the
 2-66 improvement district as provided by this subchapter.

2-67 SECTION 5. Section 372.026, Local Government Code, is
 2-68 amended to read as follows:

2-69 Sec. 372.026. PLEDGES. (a) In this section, "obligation"

3-1 means bonds, temporary notes, time warrants, or an obligation under
 3-2 an installment sale contract or reimbursement agreement.

3-3 (b) For the payment of obligations [bonds] issued or agreed
 3-4 to under this subchapter and the payment of principal, interest,
 3-5 and any other amounts required or permitted in connection with the
 3-6 obligations [bonds], the governing body of the municipality or
 3-7 county may pledge all or part of the income from improvements
 3-8 financed under this subchapter, including income received in
 3-9 installment payments under Section 372.023.

3-10 (c) [~~(b)~~] Pledged income must be fixed and collected in
 3-11 amounts sufficient, with other pledged resources, to pay principal,
 3-12 interest, and other expenses related to the obligations [bonds],
 3-13 and to the extent required by the ordinance, [~~or~~] order, or
 3-14 agreement authorizing the obligations [bonds], to pay for the
 3-15 operation, maintenance, and other expenses related to improvements
 3-16 authorized by this subchapter.

3-17 (d) [~~(c)~~] The obligations [bonds] may also be secured by
 3-18 mortgages or deeds of trust on any real property related to the
 3-19 facilities authorized under this subchapter that are owned or are
 3-20 to be acquired by the municipality or county and by chattel
 3-21 mortgages, liens, or security interests on any personal property
 3-22 appurtenant to that real property. The governing body may
 3-23 authorize the execution of trust indentures, mortgages, deeds of
 3-24 trust, or other forms of encumbrance [encumbrances] as evidence of
 3-25 the indebtedness.

3-26 (e) [~~(d)~~] The governing body may pledge to the payment of
 3-27 obligations [bonds] all or part of a grant, donation, revenue, or
 3-28 income received or to be received from the government of the United
 3-29 States or any other public or private source, whether or not it is
 3-30 received pursuant to an agreement or otherwise.

3-31 (f) The governing body may enter into an agreement with a
 3-32 corporation created by the municipality or county under the Texas
 3-33 Constitution or other law that provides for payment of amounts
 3-34 pledged under this section to the corporation to secure
 3-35 indebtedness issued by the corporation to finance an improvement
 3-36 project, including indebtedness to pay capitalized interest and a
 3-37 reserve fund permitted by this subchapter for revenue or general
 3-38 obligation bonds issued under this subchapter and indebtedness
 3-39 issued to pay the corporation's costs of issuance. In addition, the
 3-40 agreement may provide that:

3-41 (1) the corporation is responsible for managing the
 3-42 district; or

3-43 (2) title to one or more improvements will be held by
 3-44 the corporation.

3-45 SECTION 6. (a) All acts and proceedings related to the
 3-46 authorization of any taxes or bonds, including acts and proceedings
 3-47 related to an election, by a district created under Subchapter A,
 3-48 Chapter 372, Local Government Code, before the effective date of
 3-49 this Act are validated, ratified, and confirmed in all respects as
 3-50 if the acts and proceedings occurred as authorized by law.

3-51 (b) This section does not apply to any matter that on the
 3-52 effective date of this Act:

3-53 (1) is involved in litigation if the litigation
 3-54 ultimately results in the matter being held invalid by a final court
 3-55 judgment; or

3-56 (2) has been held invalid by a final court judgment.

3-57 SECTION 7. (a) An installment sales contract made or
 3-58 attempted to be made by a county or municipality with the party
 3-59 constructing an improvement relating to an improvement district is
 3-60 validated as of the date the contract was made or attempted to be
 3-61 made if the contract:

3-62 (1) was made or attempted to be made before the
 3-63 effective date of this Act; and

3-64 (2) complies with Section 372.023, Local Government
 3-65 Code, as amended by this Act.

3-66 (b) This section does not apply to any matter that on the
 3-67 effective date of this Act:

3-68 (1) is involved in litigation if the litigation
 3-69 ultimately results in the matter being held invalid by a final court

4-1 judgment; or
4-2 (2) has been held invalid by a final court judgment.
4-3 SECTION 8. This Act takes effect immediately if it receives
4-4 a vote of two-thirds of all the members elected to each house, as
4-5 provided by Section 39, Article III, Texas Constitution. If this
4-6 Act does not receive the vote necessary for immediate effect, this
4-7 Act takes effect September 1, 2009.

4-8 * * * * *