

1-1 By: Villarreal, et al. (Senate Sponsor - Seliger) H.B. No. 1937
1-2 (In the Senate - Received from the House May 18, 2009;
1-3 May 19, 2009, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 23, 2009, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 23, 2009, sent to
1-6 printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the voluntary assessment of property owners by a
1-10 municipality to finance certain energy conservation improvements.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle A, Title 12, Local Government Code, is
1-13 amended by adding Chapter 376 to read as follows:

1-14 CHAPTER 376. CONTRACTUAL ASSESSMENTS FOR ENERGY EFFICIENCY
1-15 IMPROVEMENTS

1-16 Sec. 376.001. AUTHORIZED FINANCING. An assessment under
1-17 this chapter may finance:

1-18 (1) energy efficiency public improvements to
1-19 developed lots for which the costs and time delays of creating an
1-20 entity under law to assess the lot would be prohibitively large
1-21 relative to the cost of the energy efficiency public improvement to
1-22 be financed; and

1-23 (2) the installation of distributed generation
1-24 renewable energy sources or energy efficiency improvements that are
1-25 permanently fixed to residential, commercial, industrial, or other
1-26 real property.

1-27 Sec. 376.002. CERTAIN FINANCING PROHIBITED. An assessment
1-28 under this chapter may not be used to finance:

1-29 (1) facilities for undeveloped lots or lots undergoing
1-30 development at the time of the assessment; or

1-31 (2) the purchase or installation of appliances not
1-32 permanently fixed to real property.

1-33 Sec. 376.003. CONSENT FOR ASSESSMENT REQUIRED. A
1-34 municipality may impose an assessment under this chapter only with
1-35 the consent of the owner of the assessed property at the time of the
1-36 assessment.

1-37 Sec. 376.004. DESIGNATION OF AREA FOR ASSESSMENT. (a) The
1-38 governing body of a municipality may determine that it is
1-39 convenient and advantageous to designate an area of the
1-40 municipality within which authorized municipal officials and
1-41 property owners may enter into contracts to assess properties for
1-42 energy efficiency public improvements described by Section
1-43 376.001(1) and make financing arrangements under this chapter.

1-44 (b) The governing body of a municipality may determine that
1-45 it is convenient, advantageous, and in the public interest to
1-46 designate an area of the municipality within which authorized
1-47 municipal officials and property owners may enter into contracts to
1-48 assess properties to finance the installation of distributed
1-49 generation renewable energy sources or energy efficiency
1-50 improvements that are permanently fixed to real property.

1-51 (c) An area designated by the governing body of a
1-52 municipality under this section may include the entire
1-53 municipality.

1-54 Sec. 376.005. RESOLUTION OF INTENTION TO CONTRACT FOR
1-55 ASSESSMENT. (a) To make a determination under Section 376.004, the
1-56 governing body of a municipality must adopt a resolution indicating
1-57 the governing body's intention to designate an area for assessment.

1-58 (b) The resolution of intention must:

1-59 (1) include a statement that the municipality proposes
1-60 to make contractual assessment financing available to property
1-61 owners;

1-62 (2) identify the types of energy efficiency public
1-63 improvements, distributed generation renewable energy resources,
1-64 or energy efficiency improvements that may be financed;

2-1 (3) describe the boundaries of the area in which
2-2 contracts for assessments may be entered into;

2-3 (4) thoroughly describe the proposed arrangements for
2-4 financing the program; and

2-5 (5) state the time and place for a public hearing and
2-6 that interested persons may object to or inquire about the proposed
2-7 program at the hearing.

2-8 (c) If contractual assessments are to be used to finance the
2-9 installation of distributed generation renewable energy sources or
2-10 energy efficiency improvements that are permanently fixed to real
2-11 property, the resolution of intention must state that it is in the
2-12 public interest to do so.

2-13 (d) The resolution shall direct an appropriate municipal
2-14 official to:

2-15 (1) prepare a report under Section 376.006; and

2-16 (2) consult with the appropriate appraisal district or
2-17 districts regarding collecting the proposed contractual
2-18 assessments with property taxes imposed on the assessed property.

2-19 Sec. 376.006. REPORT REGARDING ASSESSMENT. An appropriate
2-20 municipal official designated in the resolution shall prepare a
2-21 report containing:

2-22 (1) a map showing the boundaries of the area within
2-23 which contractual assessments are proposed to be offered;

2-24 (2) a draft contract specifying the terms that would
2-25 be agreed to by the municipality and a property owner within the
2-26 contractual assessment area;

2-27 (3) a statement of municipal policies concerning
2-28 contractual assessments including:

2-29 (A) identification of types of energy efficiency
2-30 public improvements, distributed generation renewable energy
2-31 sources, or energy efficiency improvements that may be financed
2-32 through the use of contractual assessments;

2-33 (B) identification of a municipal official
2-34 authorized to enter into contractual assessments on behalf of the
2-35 municipality;

2-36 (C) a maximum aggregate dollar amount of
2-37 contractual assessments;

2-38 (D) a method for ranking requests from property
2-39 owners for financing through contractual assessments in priority
2-40 order if requests appear likely to exceed the authorization amount;
2-41 and

2-42 (E) a method for ensuring that property owners
2-43 requesting financing demonstrate the financial ability to fulfill
2-44 financial obligations under the contractual assessments;

2-45 (4) a plan for raising a capital amount required to pay
2-46 for work performed in accordance with contractual assessments that:

2-47 (A) may include:

2-48 (i) amounts to be advanced by the
2-49 municipality through funds available to it from any source; and

2-50 (ii) the sale of bonds or other financing;

2-51 (B) shall include a statement of or method for
2-52 determining the interest rate and period during which contracting
2-53 property owners would pay any assessment; and

2-54 (C) shall provide for:

2-55 (i) any reserve fund or funds; and

2-56 (ii) the apportionment of all or any
2-57 portion of the costs incidental to financing, administration, and
2-58 collection of the contractual assessment program among the
2-59 consenting property owners and the municipality; and

2-60 (5) the results of the consultations with the
2-61 appropriate appraisal districts concerning incorporating the
2-62 proposed contractual assessments into the assessments of property
2-63 taxes.

2-64 Sec. 376.007. DIRECT PURCHASE BY OWNER. On the written
2-65 consent of an authorized municipal official, the proposed
2-66 arrangements for financing the program pertaining to the
2-67 installation of distributed generation renewable energy sources or
2-68 energy efficiency improvements that are permanently fixed to real
2-69 property may authorize the property owner to:

3-1 (1) purchase directly the related equipment and
3-2 materials for the installation of the distributed generation
3-3 renewable energy sources or energy efficiency improvements; and

3-4 (2) contract directly for the installation of the
3-5 distributed generation renewable energy sources or energy
3-6 efficiency improvements.

3-7 Sec. 376.008. LIEN. An assessment imposed under this
3-8 chapter and any interest or penalties on the assessment constitutes
3-9 a lien against the lot on which the assessment is imposed until the
3-10 assessment, interest, or penalty is paid.

3-11 SECTION 2. This Act takes effect immediately if it receives
3-12 a vote of two-thirds of all the members elected to each house, as
3-13 provided by Section 39, Article III, Texas Constitution. If this
3-14 Act does not receive the vote necessary for immediate effect, this
3-15 Act takes effect September 1, 2009.

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