

By: West

S.B. No. 2124

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

(2) the period approved by the governing body for the payment of the installments.

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

Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) An

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

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

18 (1) a first and prior lien against the property  
19 assessed;

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

23 (3) ~~[is]~~ a personal liability of and charge against the  
24 owners of the property regardless of whether the owners are named.

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

27 (d) The lien runs with the land and that portion of an

1 assessment payment that has not yet come due is not eliminated by  
2 foreclosure of an ad valorem tax lien.

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

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

15 SECTION 3. Section 372.022, Local Government Code, is  
16 amended to read as follows:

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

27 SECTION 4. Section 372.023, Local Government Code, is

1 amended by amending Subsections (d), (e), (f), and (g) and adding  
2 Subsection (h) to read as follows:

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

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

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

13 (3) by the issuance and sale of revenue or general  
14 obligation bonds.

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

26 (f) [~~e~~] While an improvement is in progress, the governing  
27 body of the municipality or county, to pay the costs of the

1 improvement, may issue temporary notes for money advanced or time  
2 warrants to pay for work performed in connection with [~~the costs of~~]  
3 the improvement and, on completion of the improvement, issue  
4 revenue or general obligation bonds. The bond proceeds may be used  
5 to repay the obligations incurred under this subsection.

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

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

17 SECTION 5. Section 372.026, Local Government Code, is  
18 amended to read as follows:

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

22 (b) For the payment of obligations [~~bonds~~] issued or agreed  
23 to under this subchapter and the payment of principal, interest,  
24 and any other amounts required or permitted in connection with the  
25 obligations [~~bonds~~], the governing body of the municipality or  
26 county may pledge all or part of the income from improvements  
27 financed under this subchapter, including income received in

1 installment payments under Section 372.023.

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

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

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

23       (f) The governing body may enter into an agreement with a  
24 corporation created by the municipality or county under the Texas  
25 Constitution or other law that provides for payment of amounts  
26 pledged under this section to the corporation to secure  
27 indebtedness issued by the corporation to finance an improvement

1 project, including indebtedness to pay capitalized interest and a  
2 reserve fund permitted by this subchapter for revenue or general  
3 obligation bonds issued under this subchapter and indebtedness  
4 issued to pay the corporation's costs of issuance. In addition, the  
5 agreement may provide that:

6 (1) the corporation is responsible for managing the  
7 district; or

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

10 SECTION 6. (a) All acts and proceedings related to the  
11 authorization of any taxes or bonds, including acts and proceedings  
12 related to an election, by a district created under Subchapter C,  
13 Chapter 372, Local Government Code, before the effective date of  
14 this Act are validated, ratified, and confirmed in all respects as  
15 if the acts and proceedings occurred as authorized by law.

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

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

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

22 SECTION 7. (a) An installment sales contract made or  
23 attempted to be made by a county or municipality with the party  
24 constructing an improvement relating to an improvement district is  
25 validated as of the date the contract was made or attempted to be  
26 made if the contract:

27 (1) was made or attempted to be made before the

1 effective date of this Act; and

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

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

6 (1) is involved in litigation if the litigation  
7 ultimately results in the matter being held invalid by a final court  
8 judgment; or

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

10 SECTION 8. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2009.