

BILL ANALYSIS

H.B. 3246
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Urban Affairs
Committee Report (Amended)

BACKGROUND AND PURPOSE

Interested parties have recently identified certain modifications and corrections to provisions of law relating to the creation of public improvement districts and the financing of public improvement projects believed to be necessary for those laws to adequately meet the needs of cities and counties. H.B. 3246 seeks to address this issue by amending provisions of the Public Improvement District Assessment Act.

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. 3246 amends the Local Government Code to authorize a public improvement district to include two or more noncontiguous areas separated by right-of-way or other land dedicated to or owned, leased, or used by a political subdivision or other governmental entity, tax-exempt entity, public or private utility, or railroad or separated by not more than 1,000 feet, as measured in a straight line, between the nearest points on the property lines of the closest situated noncontiguous areas.

H.B. 3246 includes among the authorized improvements of a public improvement district the following: acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements, including the right to receive or provide utility service; the establishment or improvement of recreation facilities; facilities and equipment for firefighters, police, sheriffs, and emergency service providers; special supplemental services for improvement and promotion of the district, including certain public safety and security personnel; and acquisition, construction, maintenance, or improvement of buildings and other facilities commonly used for teaching, research, or the preservation of knowledge by an institution of higher education or for auxiliary purposes of the institution, including administration, student services and housing, athletics, performing arts, and alumni support.

H.B. 3246 authorizes the governing body of a municipality or county that establishes a public improvement district to finance an authorized public improvement project in connection with an institution of higher education to enter into a memorandum of understanding with an institution of higher education that provides educational services in the municipality or county under which the municipality or county leases the public improvement project to the institution, at a nominal rate, for use by the institution in providing teaching, research, public service, or auxiliary enterprise activities to students of the institution.

H.B. 3246 specifies that the assessment plan of a public improvement district is intended to be flexible to accommodate a variety of development scenarios, including assessments against all property to pay the costs of improvements that benefit all the property and additional assessments levied against portions of the property to pay the costs of improvements that benefit

those portions of the property and including assessments to pay the costs for all improvements contemplated for all phases of development of the property with different payment and collection dates for the different phases determined by events established by the plan, including events related to the future phased development of the property.

H.B. 3246 authorizes the annual installment of an assessment payable in installments to be increased or decreased by the governing body of the municipality or county as reflected in the updated annual service plan and corresponding updated assessment roll. The bill authorizes, if a parcel is subdivided, the assessment against the parcel before the subdivision to be reallocated among the subdivided parcels and authorizes the assessments to be reallocated to the consolidated parcel if two or more parcels are consolidated. The bill specifies that if a proposed use of an undeveloped parcel changes after the assessment is levied against the parcel, the change in use does not affect the validity of the assessment and authorizes the aggregate amount of the assessments levied against the undeveloped parcels to be reallocated among those parcels.

H.B. 3246 authorizes the governing body of a municipality or county to contract with the governing body of another taxing unit, as that term is defined in general provisions of the Tax Code relating to property taxes, or the board of directors of an appraisal district to perform the duties of the municipality or county relating to collection of special assessments levied under statutory provisions relating to public improvement districts.

H.B. 3246 prohibits the interest rate for an assessment, if reimbursement agreements or installment sales contracts are issued to finance the improvement for which the assessment is levied, from exceeding a rate that is one-half of one percent higher than the actual interest rate paid on the debt. The bill removes a provision requiring interest on the assessment between the effective date of the ordinance or order levying the assessment and the date the first installment is payable to be added to the first installment.

H.B. 3246 authorizes the added interest on any delinquent installment to be used to pay administrative costs, costs of improvements, and costs of financing, including reserves for debt service and prepayments of assessments. The bill authorizes the owner of assessed property to pay at any time all or any part of an assessment with interest that has accrued on the assessment and will accrue on the assessment until the next scheduled prepayment or redemption date on the bonds, installment sales contracts, reimbursement agreements, temporary notes, or time warrants issued or entered into to finance or pay for the improvements.

H.B. 3246 authorizes the costs of improvements to be paid or reimbursed by any combination of the described methods if the improvements are dedicated, conveyed, leased, or otherwise provided to or for the benefit of the specified entities. The bill authorizes the payment or reimbursement to be provided before or after a method of authorized payment or reimbursement is entered into or issued. The bill authorizes costs from a special assessment payable in installments to be paid by any combination of specified methods. The bill authorizes the installment sales contract, reimbursement agreement, temporary note, or time warrant to be assigned by the payee without the consent of the municipality or county. The bill removes language relating to the method of payment of 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.

H.B. 3246 prohibits the interest rate on unpaid amounts due under an installment sales contract, reimbursement agreement, temporary note, or time warrant from exceeding, for a period of not more than five years, as determined by the governing body of the municipality or county, five percent above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index approved by the governing body and reported in the month before the date the obligation was incurred. The bill prohibits the interest rate, after the five-year period, from exceeding two percent above the daily or weekly approved and reported bond index rate. The bill removes language relating to the net effective interest rate on money owed or paid under a

bond, temporary note, or time warrant. The bill authorizes the cost of more than one improvement to be paid under a single installment sales contract, reimbursement agreement, temporary note, or time warrant, rather than under an agreement with a person who contracts to install or construct the improvement and who sells the improvement to the municipality or county.

H.B. 3246 authorizes the governing body of a municipality or county to issue general obligation bonds under public securities law, certificates of obligation under the Certificate of Obligation Act of 1971, and revenue bonds issued in one or more series. The bill requires the authorized bonds or obligations to be issued upon such terms as the governing body of the municipality or county shall determine and authorizes the bonds or obligations to be issued to pay costs and refund any bonds or obligations entered into or issued under statutory provisions relating to public improvement districts, including, but not limited to, installment sales contracts, reimbursement agreements, temporary notes, and time warrants, and to be payable from and secured by special assessments. The bill removes language relating to the issuance of general obligation and revenue bonds.

H.B. 3246 requires the lien created by the originally levied special assessments, if bonds or obligations are issued to refund any bonds or obligations entered into or issued under statutory provisions relating to public improvement districts and are secured wholly or partly by special assessments, to continue uninterrupted as security for the bonds or obligations. The bill authorizes the governing body of a municipality or county, if assessment revenue is being collected to pay an installment sales contract, reimbursement agreement, temporary note, or time warrant, to pledge all or any part of the assessment revenue being collected as security for and to pay general obligation bonds, certificates of obligation, or revenue bonds issued to refund the installment sales contract, reimbursement agreement, temporary note, or time warrant. The bill prohibits such a pledge from constituting a reassessment or new assessment and from affecting the original lien of the pledged assessment that shall continue uninterrupted.

H.B. 3246 defines "costs" and provides for the meaning of "institution of higher education" by reference to the Education Code. The bill makes conforming changes.

H.B. 3246 repeals Section 372.023(f), Local Government Code, relating to the issuance of temporary notes while an improvement is in progress.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1

Committee Amendment No. 1 requires a municipality or county issuing bonds or obligations payable wholly or partly from assessments, prior to the issuance of such bonds or obligations, to find and determine the following: all underground water, wastewater, and drainage facilities and all road and street construction to serve assessed property necessary to support the bonds shall be 95 percent complete and at least 25 percent of the property assessed necessary to support the bonds must be developed with completed houses, buildings, or other vertical improvements. The amendment makes this requirement inapplicable to general obligation bonds or certificates of obligations.