

By: Davis of Dallas

H.B. No. 2860

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 372.003, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on one or more ~~[a]~~ definable areas ~~[part]~~ of the municipality, the ~~[or]~~ county, or the municipality's extraterritorial jurisdiction. If the areas are noncontiguous, the areas must share a common characteristic or use.

(a-1) A project may be undertaken in the municipality, the ~~[or]~~ county, or the municipality's extraterritorial jurisdiction.

SECTION 2. Section 372.005(a), Local Government Code, is amended to read as follows:

(a) A petition for the establishment of a public improvement district must state:

- (1) the general nature of the proposed improvement;
- (2) the estimated cost of the improvement;
- (3) the boundaries of the proposed assessment district;

1 (4) a description of territory to be included in the
2 proposed assessment district that is noncontiguous with other
3 territory in the district, including a description of the common
4 characteristic or use of the noncontiguous territory to be
5 included;

6 (5) the proposed method of assessment, which may
7 specify included or excluded classes of assessable property;

8 (6) the proposed assessment schedule;

9 (7) if the proposed assessment schedule includes a
10 deferred assessment, the appraised value of taxable real property
11 liable for assessment in the district, and an estimate of property
12 value appreciation for real property in the district for the period
13 after the district is created and before the deferred assessment
14 will be assessed;

15 (8) [~~(5)~~] the proposed apportionment of cost between
16 the public improvement district and the municipality or county as a
17 whole;

18 (9) [~~(6)~~] whether the management of the district is to
19 be by the municipality or county, the private sector, or a
20 partnership between the municipality or county and the private
21 sector;

22 (10) [~~(7)~~] that the persons signing the petition
23 request or concur with the establishment of the district; and

24 (11) [~~(8)~~] that an advisory body may be established to
25 develop and recommend an improvement plan to the governing body of
26 the municipality or county.

27 SECTION 3. Section 372.007, Local Government Code, is

amended by adding Subsection (c) to read as follows:

(c) If the proposed assessment schedule in a petition filed under Section 372.005 includes a deferred assessment, before holding the hearing required by Section 372.009, the governing body of the municipality shall use the services of municipal employees, the governing body of the county shall use the services of county employees, or the governing body of the municipality or county shall employ consultants to estimate:

(1) the appraised value of taxable real property liable for assessment in the district; and

(2) the cost of the improvement.

SECTION 4. Sections 372.009(b) and (c), Local Government Code, are amended to read as follows:

(b) The hearing may be adjourned from time to time until the governing body makes findings by resolution as to:

(1) the advisability of the improvement;

(2) the nature of the improvement;

(3) the estimated cost of the improvement;

(4) the boundaries of the public improvement district, including the common characteristic or use of noncontiguous areas in the district;

(5) the method of assessment; ~~and~~

(6) the proposed assessment schedule;

(7) if the proposed assessment schedule includes a deferred assessment, the appraised value of taxable real property liable for assessment in the district, and an estimate of property value appreciation for real property in the district for the period

1 after the district is created and before the deferred assessment
2 will be assessed; and

3 (8) the apportionment of costs between the district
4 and the municipality or county as a whole.

5 (c) Notice of the hearing must be given in a newspaper of
6 general circulation in the municipality or county. If any part of
7 the improvement district is to be located in the municipality's
8 extraterritorial jurisdiction or if any part of the improvements is
9 to be undertaken in the municipality's extraterritorial
10 jurisdiction, the notice must also be given in a newspaper of
11 general circulation in the part of the extraterritorial
12 jurisdiction in which the district is to be located or in which the
13 improvements are to be undertaken. The final publication of notice
14 must be made before the 15th day before the date of the hearing. The
15 notice must state:

16 (1) the time and place of the hearing;
17 (2) the general nature of the proposed improvement;
18 (3) the estimated cost of the improvement;
19 (4) the boundaries of the proposed assessment
20 district;

21 (5) the boundaries of the public improvement district,
22 including the common characteristic or use of noncontiguous areas
23 in the district;

24 (6) the proposed method of assessment; ~~and~~

25 (7) the proposed assessment schedule;

26 (8) if the proposed assessment schedule includes a
27 deferred assessment, the appraised value of taxable real property

1 liable for assessment in the district, and an estimate of property
2 value appreciation for real property in the district for the period
3 after the district is created and before the deferred assessment
4 will be assessed; and

5 (9) ~~[(6)]~~ the proposed apportionment of cost between
6 the improvement district and the municipality or county as a whole.

7 SECTION 5. Section 372.013, Local Government Code, is
8 amended by amending Subsection (b) and adding Subsection (c) to
9 read as follows:

10 (b) Except as provided by Subsection (c), the ~~[The]~~ plan
11 must cover a period of at least five years and must also define the
12 annual indebtedness and the projected costs for improvements. The
13 plan shall be reviewed and updated annually for the purpose of
14 determining the annual budget for improvements.

15 (c) If the governing body plans to defer an assessment, the
16 plan must include:

17 (1) estimates of:

18 (A) the cost of the improvement and any
19 associated debt; and

20 (B) property value appreciation that will result
21 from the improvement; and

22 (2) an estimated assessment collection schedule.

23 SECTION 6. Section 372.014(a), Local Government Code, is
24 amended to read as follows:

25 (a) An assessment plan must be included in the ~~[annual]~~
26 service plan.

27 SECTION 7. Sections 372.015(a), (b), and (c), Local

1 Government Code, are amended to read as follows:

2 (a) The governing body of the municipality or county shall
3 apportion the cost of an improvement to be assessed against
4 property in an improvement district. The apportionment shall be
5 made on the basis of increased value of, and special benefits
6 accruing to, the property because of the improvement.

7 (b) Cost of an improvement may be assessed:

8 (1) equally per front foot or square foot;

9 (2) according to the value of the property as
10 determined by the governing body, with or without regard to
11 improvements on the property; ~~or~~

12 (3) as a percentage of sales or receipts;

13 (4) as a percentage of increased property value
14 attributable to the improvement; or

15 (5) in any other manner that results in imposing equal
16 shares of the cost on property similarly benefitted.

17 (c) The governing body may establish by ordinance or order:

18 (1) reasonable classifications and formulas for the
19 apportionment of the cost between the municipality or county and
20 the area to be assessed; and

21 (2) the methods of and schedule for assessing the
22 special benefits for various classes of improvements.

23 SECTION 8. Section 372.016(b), Local Government Code, is
24 amended to read as follows:

25 (b) The governing body shall file the proposed assessment
26 roll with the municipal secretary or other officer performing the
27 functions of the municipal secretary or in a district formed by a

1 county, the county tax assessor-collector. The proposed assessment
 2 roll is subject to public inspection. The governing body shall
 3 require the municipal secretary or other officer or county tax
 4 assessor-collector to publish notice of the governing body's
 5 intention to consider the proposed assessments at a public hearing.
 6 The notice must be published in a newspaper of general circulation
 7 in the municipality or county before the 10th day before the date of
 8 the hearing. If any part of the improvement district is located in
 9 the municipality's extraterritorial jurisdiction or if any part of
 10 the improvements is to be undertaken in the municipality's
 11 extraterritorial jurisdiction, the notice must also be published,
 12 before the 10th day before the date of the hearing, in a newspaper
 13 of general circulation in the part of the extraterritorial
 14 jurisdiction in which the district is located or in which the
 15 improvements are to be undertaken. The notice must state:

- 16 (1) the date, time, and place of the hearing;
- 17 (2) the general nature of the improvement;
- 18 (3) the cost of the improvement;
- 19 (4) the boundaries of the assessment district,
 20 including the common characteristic or use of noncontiguous areas
 21 in the district; ~~and~~
- 22 (5) the method of assessment;
- 23 (6) the proposed assessment schedule;
- 24 (7) if the proposed assessment schedule includes a
 25 deferred assessment, the appraised value of taxable real property
 26 liable for assessment in the district, and an estimate of property
 27 value appreciation for real property in the district for the period

1 after the district is created and before the deferred assessment
2 will be assessed; and

3 (8) that written or oral objections will be considered
4 at the hearing.

5 SECTION 9. Section 372.017(b), Local Government Code, is
6 amended to read as follows:

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

20 (1) the period necessary to retire the indebtedness on
21 the improvements; or

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

24 SECTION 10. Sections 372.018(a), (b), (c), and (f), Local
25 Government Code, are amended to read as follows:

26 (a) An assessment, including a deferred assessment, bears
27 interest at the rate specified by the governing body of the

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

13 (b) An assessment, including a deferred assessment or a
14 reassessment, with interest, the expense of collection, and
15 reasonable attorney's fees, if incurred, is:

16 (1) a first and prior lien against the property
17 assessed;

18 (2) superior to all other liens and claims except
19 liens or claims for state, county, school district, or municipality
20 ad valorem taxes; and

21 (3) a personal liability of and charge against the
22 owners of the property regardless of whether the owners are named.

23 (c) The lien is effective from the date of the ordinance or
24 order levying the assessment, including a deferred assessment,
25 until the assessment is paid.

26 (f) Delinquent installments of the assessment, including a
27 deferred assessment, shall incur interest, penalties, and

1 attorney's fees in the same manner as delinquent ad valorem
2 taxes. The owner of assessed property may pay at any time all or
3 any part of the assessment, with interest that has accrued on the
4 assessment, on any lot or parcel.

5 SECTION 11. Section 372.041(a), Local Government Code, is
6 amended to read as follows:

7 (a) A home-rule municipality may create improvement
8 districts for the purposes of:

9 (1) levying, straightening, widening, enclosing, or
10 otherwise improving a river, creek, bayou, stream, other body of
11 water, street, or alley;

12 (2) draining, grading, filling, and otherwise
13 protecting and improving the territory within the municipality's
14 limits; ~~and~~

15 (3) issuing bonds to finance improvements listed in
16 this subsection; and

17 (4) financing an improvement described in Subchapter
18 A.

19 SECTION 12. This Act takes effect September 1, 2011.