

1-1 By: West S.B. No. 1234  
1-2 (In the Senate - Filed March 7, 2011; March 16, 2011, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; May 2, 2011, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 May 2, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1234 By: West

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

1-10 relating to municipal management districts.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Subdivisions (3) and (4), Section 375.003, Local  
1-13 Government Code, are amended to read as follows:

1-14 (3) "Commission" means the Texas Commission on  
1-15 Environmental Quality [~~Natural Resource Conservation Commission~~].

1-16 (4) "Disadvantaged business" means:

1-17 (A) a corporation formed for the purpose of  
1-18 making a profit and at least 51 percent of all classes of the shares  
1-19 of stock or other equitable securities of which are owned by one or  
1-20 more persons who are socially disadvantaged because of their  
1-21 identification as members of certain groups that have suffered the  
1-22 effects of discriminatory practices or similar insidious  
1-23 circumstances over which they have no control, including black  
1-24 Americans, Hispanic Americans, women, Asian Pacific Americans, and  
1-25 American Indians;

1-26 (B) a sole proprietorship formed for the purpose  
1-27 of making a profit that is owned, operated, and controlled  
1-28 exclusively by one or more persons described by Paragraph (A);

1-29 (C) a partnership that is formed for the purpose  
1-30 of making a profit, in which 51 percent of the assets and interest  
1-31 in the partnership is owned by one or more persons described by  
1-32 Paragraph (A), and in which minority or women partners have a  
1-33 proportionate interest in the control, operation, and management of  
1-34 the partnership affairs;

1-35 (D) a joint venture between minority and women's  
1-36 group members formed for the purpose of making a profit and the  
1-37 minority participation in which is based on the sharing of real  
1-38 economic interest, including equally proportionate control over  
1-39 management, interest in capital, and interest earnings, other than  
1-40 a joint venture in which majority group members own or control debt  
1-41 securities, leasehold interest, management contracts, or other  
1-42 interests; ~~or~~

1-43 (E) a supplier contract between persons  
1-44 described in Paragraph (A) and a prime contractor in which the  
1-45 disadvantaged business is directly involved for the manufacture or  
1-46 distribution of the supplies or materials or otherwise for  
1-47 warehousing and shipping the supplies; or

1-48 (F) a person certified as a disadvantaged  
1-49 business by:

1-50 (i) this state;

1-51 (ii) a political subdivision of this state;

1-52 or

1-53 (iii) a regional planning commission,  
1-54 council of governments, or similar regional planning agency created  
1-55 under Chapter 391.

1-56 SECTION 2. Subsection (c), Section 375.022, Local  
1-57 Government Code, is amended to read as follows:

1-58 (c) The petition must:

1-59 (1) describe the boundaries of the proposed district:

1-60 (A) by metes and bounds;

1-61 (B) by verifiable landmarks, including a road,  
1-62 creek, or railroad line; or

1-63 (C) [ ] if there is a recorded map or plat and

2-1 survey of the area, by lot and block number;

2-2 (2) state the specific purposes for which the district

2-3 will be created;

2-4 (3) state the general nature of the work, projects, or

2-5 services proposed to be provided, the necessity for those services,

2-6 and the costs as estimated by the persons filing the petition;

2-7 (4) include a name of the district, which must be

2-8 generally descriptive of the location of the district, followed by

2-9 "Management District" or "Improvement District";

2-10 (5) include a proposed list of initial directors that

2-11 includes the directors' experience and initial term of service; and

2-12 (6) include a resolution of the governing body of the

2-13 municipality in support of the creation of the district.

2-14 SECTION 3. Section 375.043, Local Government Code, is

2-15 amended to read as follows:

2-16 Sec. 375.043. ANNEXATION. A district may annex land as

2-17 provided by Section 49.301 and Chapter 54, Water Code, subject to

2-18 the approval of the governing body of the municipality.

2-19 SECTION 4. Subsection (b), Section 375.044, Local

2-20 Government Code, is amended to read as follows:

2-21 (b) The board shall call a hearing on the exclusion of land

2-22 or other property from the district if a signed petition evidencing

2-23 the consent of the owners of a majority of the acreage in the

2-24 district, according to the most recent certified tax roll of the

2-25 county, is filed [~~landowner or property owner in the district~~

2-26 ~~files~~] with the secretary of the board [~~a written petition~~]

2-27 requesting the hearing before the issuance of bonds.

2-28 SECTION 5. Section 375.061, Local Government Code, is

2-29 amended to read as follows:

2-30 Sec. 375.061. NUMBER OF DIRECTORS; TERMS. A district is

2-31 governed by a board of at least five [~~nine~~] but not more than 30

2-32 directors who serve staggered four-year terms.

2-33 SECTION 6. Section 375.071, Local Government Code, is

2-34 amended to read as follows:

2-35 Sec. 375.071. QUORUM. One-half of the serving directors

2-36 constitutes a quorum, and a concurrence of a majority of a quorum of

2-37 directors is required for any official action of the district. The

2-38 written consent of at least two-thirds of the directors is required

2-39 to authorize the levy of assessments, the levy of taxes, the

2-40 imposition of impact fees, or the issuance of bonds.

2-41 SECTION 7. Section 375.091, Local Government Code, is

2-42 amended to read as follows:

2-43 Sec. 375.091. GENERAL POWERS OF DISTRICT. [~~(a)~~] A

2-44 district has the rights, powers, privileges, authority, and

2-45 functions conferred by the general law of this state applicable to

2-46 conservation and reclamation districts created under Article XVI,

2-47 Section 59, of the Texas Constitution, including those conferred by

2-48 Chapter 54, Water Code.

2-49 [~~(b) The district may contract and manage its affairs and~~

2-50 ~~funds for any corporate purpose in accordance with Chapter 54,~~

2-51 ~~Water Code.~~

2-52 [~~(c) The district has all the rights, powers, privileges,~~

2-53 ~~authority, and functions of road districts and road utility~~

2-54 ~~districts created pursuant to Article III, Section 52, of the Texas~~

2-55 ~~Constitution, including the power to levy ad valorem taxes for the~~

2-56 ~~construction, maintenance, and operation of macadamized, graveled,~~

2-57 ~~or paved roads and turnpikes, or in aid thereof. This power~~

2-58 ~~includes the power to levy ad valorem taxes to provide for mass~~

2-59 ~~transit systems in the manner and subject to the limitations~~

2-60 ~~provided in Article III, Section 52, and Article III, Section~~

2-61 ~~52(a), of the Texas Constitution.~~

2-62 [~~(d) A district has those powers conferred by Chapters 365~~

2-63 ~~and 441, Transportation Code, and the additional rights,~~

2-64 ~~privileges, authority, and functions contained in those chapters.]~~

2-65 SECTION 8. Subchapter E, Chapter 375, Local Government

2-66 Code, is amended by adding Sections 375.0921 and 375.0922 to read as

2-67 follows:

2-68 Sec. 375.0921. AUTHORITY FOR ROAD PROJECTS. (a) Under

2-69 Section 52, Article III, Texas Constitution, a district may design,

3-1 acquire, construct, finance, issue bonds for, improve, operate,  
3-2 maintain, and convey to this state, a county, or a municipality for  
3-3 operation and maintenance macadamized, graveled, or paved roads, or  
3-4 improvements, including storm drainage, in aid of those roads.

3-5 (b) The district may impose ad valorem taxes to provide for  
3-6 mass transit systems in the manner and subject to the limitations  
3-7 provided by Section 52, Article III, and Section 52-a, Article III,  
3-8 Texas Constitution.

3-9 Sec. 375.0922. ROAD STANDARDS AND REQUIREMENTS. (a) A  
3-10 road project must meet all applicable construction standards,  
3-11 zoning and subdivision requirements, and regulations of each  
3-12 municipality in whose corporate limits or extraterritorial  
3-13 jurisdiction the road project is located.

3-14 (b) If a road project is not located in the corporate limits  
3-15 or extraterritorial jurisdiction of a municipality, the road  
3-16 project must meet all applicable construction standards,  
3-17 subdivision requirements, and regulations of each county in which  
3-18 the road project is located.

3-19 (c) If the state will maintain and operate the road, the  
3-20 Texas Transportation Commission must approve the plans and  
3-21 specifications of the road project.

3-22 SECTION 9. Subsection (a), Section 375.097, Local  
3-23 Government Code, is amended to read as follows:

3-24 (a) The board may appoint a hearings examiner to conduct any  
3-25 hearing called by the board, including a hearing required by  
3-26 Chapter 395. The hearings examiner may be an employee or contractor  
3-27 of the district, or a member of the district's board.

3-28 SECTION 10. Subchapter E, Chapter 375, Local Government  
3-29 Code, is amended by adding Section 375.098 to read as follows:

3-30 Sec. 375.098. DISTRICT ACT OR PROCEEDING PRESUMED VALID.

3-31 (a) A governmental act or proceeding of a district is conclusively  
3-32 presumed, as of the date it occurred, valid and to have occurred in  
3-33 accordance with all applicable statutes and rules if:

3-34 (1) the third anniversary of the effective date of the  
3-35 act or proceeding has expired; and

3-36 (2) a lawsuit to annul or invalidate the act or  
3-37 proceeding has not been filed on or before that third anniversary.

3-38 (b) This section does not apply to:

3-39 (1) an act or proceeding that was void at the time it  
3-40 occurred;

3-41 (2) an act or proceeding that, under a statute of this  
3-42 state or the United States, was a misdemeanor or felony at the time  
3-43 the act or proceeding occurred;

3-44 (3) a rule that, at the time it was passed, was  
3-45 preempted by a statute of this state or the United States, including  
3-46 Section 1.06 or 109.57, Alcoholic Beverage Code; or

3-47 (4) a matter that on the effective date of this  
3-48 section:

3-49 (A) is involved in litigation if the litigation  
3-50 ultimately results in the matter being held invalid by a final  
3-51 judgment of a court; or

3-52 (B) has been held invalid by a final judgment of a  
3-53 court.

3-54 SECTION 11. Section 375.114, Local Government Code, is  
3-55 amended to read as follows:

3-56 Sec. 375.114. PETITION REQUIRED. The board may not finance  
3-57 services and improvement projects under this chapter unless a  
3-58 written petition has been filed with the board requesting those  
3-59 improvements or services signed by:

3-60 (1) the owners of 50 percent or more of the assessed  
3-61 value of the property in the district subject to assessment,  
3-62 according to ~~[as determined from]~~ the most recent certified county  
3-63 property tax rolls; or

3-64 (2) the owners of 50 percent or more of the surface  
3-65 area of the district, excluding roads, streets, highways, and  
3-66 utility rights-of-way, other public areas, and any other property  
3-67 exempt from assessment under Section 375.162 or 375.163, according  
3-68 to ~~[as determined from]~~ the most recent certified county property  
3-69 tax rolls.

4-1 SECTION 12. Subsection (e), Section 375.202, Local  
4-2 Government Code, is amended to read as follows:

4-3 (e) If provided by the bond order or resolution, the  
4-4 proceeds from the sale of bonds may be used to pay interest on the  
4-5 bonds during and after the period of the acquisition or  
4-6 construction of any improvement project to be provided through the  
4-7 issuance of the bonds, to pay administrative and operation expenses  
4-8 to create a reserve fund for the payment of the principal of and  
4-9 interest on the bonds, to pay costs associated with the issuance of  
4-10 the bonds, and to create any other funds. The proceeds of the bonds  
4-11 may be placed on time deposit or invested, until needed, in  
4-12 securities in the manner provided by the bond order or resolution.

4-13 SECTION 13. Subsection (a), Section 375.205, Local  
4-14 Government Code, is amended to read as follows:

4-15 (a) The district shall submit bonds and the appropriate  
4-16 proceedings authorizing their issuance to the attorney general for  
4-17 examination. This subsection applies only to bonds that are public  
4-18 securities, as that term is defined by Section 1202.001, Government  
4-19 Code.

4-20 SECTION 14. Subchapter J, Chapter 375, Local Government  
4-21 Code, is amended by adding Section 375.209 to read as follows:

4-22 Sec. 375.209. TAXES FOR BONDS. At the time the district  
4-23 issues bonds payable wholly or partly from ad valorem taxes, the  
4-24 board shall provide for the annual imposition of a continuing  
4-25 direct annual ad valorem tax, without limit as to rate or amount,  
4-26 while all or part of the bonds are outstanding as required and in  
4-27 the manner provided by Sections 54.601 and 54.602, Water Code.

4-28 SECTION 15. Section 375.221, Local Government Code, is  
4-29 amended to read as follows:

4-30 Sec. 375.221. APPLICABILITY OF WATER DISTRICTS LAW TO  
4-31 COMPETITIVE BIDDING ON CERTAIN [PUBLIC WORKS] CONTRACTS.

4-32 (a) Except as provided by Subsection (b) of this section,  
4-33 Subchapter I, Chapter 49, Water Code, applies to a district  
4-34 contract for construction work, equipment, materials, or  
4-35 machinery.

4-36 (b) ~~[A contract, other than a contract for services, for~~  
4-37 ~~more than \$50,000 for the construction of improvements or the~~  
4-38 ~~purchase of material, machinery, equipment, supplies, and other~~  
4-39 ~~property, except real property, may be entered into only after~~  
4-40 ~~competitive bids. Notice of the contract for the purpose of~~  
4-41 ~~soliciting bids shall be published once a week for two consecutive~~  
4-42 ~~weeks in a newspaper with general circulation in the area in which~~  
4-43 ~~the district is located. The first publication of notice must be~~  
4-44 ~~not later than the 14th day before the date set for receiving bids.]~~

4-45 The board may adopt rules governing receipt of bids and the award of  
4-46 the contract and providing for the waiver of the competitive bid  
4-47 requirement if:

4-48 (1) there is an emergency;  
4-49 (2) the needed materials are available from only one  
4-50 source;

4-51 (3) in a procurement requiring design by the supplier  
4-52 competitive bidding would not be appropriate and competitive  
4-53 negotiation, with proposals solicited from an adequate number of  
4-54 qualified sources, would permit reasonable competition consistent  
4-55 with the nature and requirements of the procurement; or

4-56 (4) after solicitation, it is ascertained that there  
4-57 will be only one bidder.

4-58 ~~[(b) If a proposed contract for works, plant improvements,~~  
4-59 ~~facilities other than land, or the purchase of equipment,~~  
4-60 ~~appliances, materials, or supplies is for an estimated amount of~~  
4-61 ~~more than \$50,000 or for a duration of more than two years,~~  
4-62 ~~competitive sealed proposals shall be asked from at least three~~  
4-63 ~~persons.]~~

4-64 SECTION 16. Subsection (a), Section 375.263, Local  
4-65 Government Code, is amended to read as follows:

4-66 (a) The ~~[Except as limited by Section 375.264, the]~~  
4-67 governing body of a municipality in which a district is wholly  
4-68 located, by a vote of not less than two-thirds of its membership,  
4-69 may adopt an ordinance dissolving the district.

5-1 SECTION 17. Section 375.264, Local Government Code, is  
5-2 amended to read as follows:  
5-3 Sec. 375.264. LIMITATION ON DISSOLUTION BY BOARD. A  
5-4 district may not be dissolved by its board [~~or by a municipality~~] if  
5-5 the district has any outstanding bonded indebtedness until that  
5-6 bonded indebtedness has been repaid or defeased in accordance with  
5-7 the order or resolution authorizing the issuance of the bonds.  
5-8 SECTION 18. Subchapter N, Chapter 375, Local Government  
5-9 Code, is amended by adding Section 375.282 to read as follows:  
5-10 Sec. 375.282. STRATEGIC PARTNERSHIP AGREEMENT. A district  
5-11 with territory in the extraterritorial jurisdiction of a  
5-12 municipality may negotiate and enter into a written strategic  
5-13 partnership with the municipality under Section 43.0751.  
5-14 SECTION 19. Sections 375.021 and 375.027 and Subsection  
5-15 (f), Section 375.064, Local Government Code, are repealed.  
5-16 SECTION 20. The change in law made by this Act to Section  
5-17 375.221, Local Government Code, applies only to a contract awarded  
5-18 on or after January 1, 2012. A contract awarded before January 1,  
5-19 2012, is governed by the law in effect on the date the contract was  
5-20 awarded, and that law is continued in effect for that purpose.  
5-21 SECTION 21. This Act takes effect September 1, 2011.

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