

SENATE AMENDMENTS

2nd Printing

By: Elkins

H.B. No. 1400

A BILL TO BE ENTITLED

AN ACT

relating to payment of costs of improvements of a public improvement district designated by a municipality or county.

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

SECTION 1. Section 372.023, Local Government Code, is amended by amending Subsections (a), (d), (e), and (g) and adding Subsections (a-1) and (d-1) to read as follows:

(a) Costs of improvements may be paid or reimbursed by any combination of the methods described by this section if the improvements are dedicated, conveyed, leased, or otherwise provided to or for the benefit of:

(1) a municipality or county;

(2) a political subdivision or other entity exercising the powers granted under this subchapter as authorized by other law; or

(3) an entity that:

(A) is approved by the governing body of an entity described by Subdivision (1) or (2); and

(B) is authorized by order, ordinance, resolution, or other official action to act for an entity described by Subdivision (1) or (2) [~~The cost of an improvement made under this subchapter must be paid in accordance with this section~~].

(a-1) The payment or reimbursement may be provided before or after a method of payment or reimbursement authorized by this

1 section is entered into or issued.

2 (d) Costs [~~A cost~~] payable from a special assessment that is
3 payable [~~to be paid~~] in installments may be paid by any combination
4 of the following methods [~~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 sales [~~sale~~] contract or a
8 reimbursement agreement between the municipality or county and
9 [with] the person who acquires, installs, or constructs the
10 improvements [~~contracts to install or construct the improvement for~~
11 ~~which the costs apply~~];

12 (2) as provided by a temporary note or time warrant
13 issued by the municipality or county and payable to the [~~reimburse~~
14 ~~a] person who acquires, installs, or constructs the improvements~~
15 [~~for money advanced or work performed in connection with an~~
16 ~~improvement~~]; or

17 (3) by the issuance and sale of [~~revenue or general~~
18 ~~obligation~~] bonds under Section 372.024.

19 (d-1) An installment sales contract, reimbursement
20 agreement, temporary note, or time warrant described by Subsection
21 (d) may be assigned by the payee without the consent of the
22 municipality or county.

23 (e) The [~~net effective~~] interest rate[~~, as computed for a~~
24 ~~public security under Section 1204.005, Government Code,~~] on unpaid
25 amounts due under an installment sales contract, reimbursement
26 agreement, temporary note, or time warrant described by [~~money owed~~
27 ~~or paid under~~] Subsection (d):

1 (1) may not exceed, for a period of not more than five
2 years, as determined by the governing body of the municipality or
3 county, five [one-half of one] percent above the highest average
4 index [interest] rate for tax-exempt bonds reported in a daily or
5 [by a newspaper in a] weekly bond index approved by the governing
6 body and reported in the month before the date the obligation was
7 incurred; and

8 (2) after the period described by Subdivision (1), may
9 not exceed two percent above the bond index rate described by
10 Subdivision (1) [of the contract or agreement or the issuance of the
11 bond, temporary note, or time warrant. The newspaper must
12 specialize in bonds and be acceptable as a reliable source for bond
13 interest rates to the governing body of the municipality or county
14 that enters into the contract or agreement or that issues the bond,
15 temporary note, or time warrant].

16 (g) The cost of more than one improvement may be paid:

17 (1) from a single issue and sale of bonds without other
18 consolidation proceedings before the bond issue; or

19 (2) under a single installment sales contract,
20 reimbursement agreement, temporary note, or time warrant [an
21 agreement with a person who contracts to install or construct the
22 improvement and who sells the improvement to the municipality or
23 county].

24 SECTION 2. Section 372.023(f), Local Government Code, is
25 repealed.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 1400

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2011.

ADOPTED

MAY 24 2011

Atty. Gen.
Secretary of the Senate

By:

Roger W. V.

No.

1400

Substitute the following for H.B. No. 1400:

By:

Roger W. V.

C.S. H.B. No.

1400

A BILL TO BE ENTITLED

1

AN ACT

2

relating to the boundaries and financing of public improvement
3 districts designated by a municipality or county.

4

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

5

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

7

(b-1) Payment of expenses under Subsection (b)(14) may
8 also include expenses related to the operation and maintenance
9 of mass transportation facilities.

10

SECTION 2. Subchapter A, Chapter 372, Local Government
11 Code, is amended by adding Section 372.0035 to read as follows:

12

Sec. 372.0035. COMMON CHARACTERISTIC OR USE FOR PROJECTS
13 IN CERTAIN MUNICIPALITIES. (a) This section applies only to:

14

(1) a municipality that has a population of more than
15 one million and a council-manager form of government and that is
16 located wholly or partly in a county with a population of more
17 than two million; and

18

(2) a public improvement district established under
19 this subchapter and solely composed of territory in which the
20 only businesses are hotels with 100 or more rooms ordinarily
21 used for sleeping.

22

(b) A municipality may undertake a project that confers a
23 special benefit on areas that share a common characteristic or
24 use. The areas may be noncontiguous.

1 (c) This section does not prohibit a municipality from or
2 limit a municipality to establishing a district that includes a
3 noncontiguous area authorized by this subchapter.

4 SECTION 3. Subchapter A, Chapter 372, Local Government
5 Code, is amended by adding Section 372.0055 to read as follows:

6 Sec. 372.0055. DEFERRED ASSESSMENT; ESTIMATE. If a
7 proposed improvement under Section 372.005 includes a deferred
8 assessment, before holding the hearing required by Section
9 372.009, the governing body of the municipality or county must
10 estimate:

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

13 (2) the cost of the improvement.

14 SECTION 4. Section 372.017(b), Local Government Code, is
15 amended to read as follows:

16 (b) After all objections have been heard and the governing
17 body has passed on the objections, the governing body by
18 ordinance or order shall levy the assessment as a special
19 assessment on the property. The governing body by ordinance or
20 order shall specify the method of payment of the assessment.
21 The governing body may defer an assessment until a date the
22 governing body specifies in the ordinance or order. The
23 governing body may provide that assessments be paid in periodic
24 installments, at an interest rate and for a period approved by
25 the governing body. The provision that assessments be paid in
26 periodic installments may, but is not required to, result in
27 level annual installment payments. The installments must be in

1 amounts necessary to meet annual costs for improvements and must
2 continue for:

3 (1) the period necessary to retire the indebtedness
4 on the improvements; or

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

7 SECTION 5. Subchapter A, Chapter 372, Local Government
8 Code, is amended by adding Section 372.031 to read as follows:

9 Sec. 372.031. FINDINGS PRIOR TO ISSUANCE OF CERTAIN BONDS
10 OR OBLIGATIONS. (a) Prior to the issuance under this chapter
11 of bonds or obligations wholly or partly payable from or secured
12 by assessments, the governing body of a municipality with a
13 population of 250,000 or less or the governing body of a county
14 with a population of 1 million or less issuing the bonds or
15 obligations must find and determine the following:

16 (1) construction of all underground water,
17 wastewater, and drainage facilities and roadways to serve the
18 real property liable for assessments necessary to support the
19 payment of the bonds or obligations is at least 95 percent
20 complete; and

21 (2) construction of at least 25 percent of the houses
22 or other buildings on the real property liable for assessments
23 and necessary to support the bonds or obligations has been
24 completed.

25 (b) Prior to the issuance under this chapter of bonds or
26 obligations wholly or partly payable from or secured by
27 assessments, a municipality with a population of more than

1 250,000 or a county with a population of more than 1 million
2 issuing the bonds or obligations must obtain an independent
3 market study from a firm recognized in the area of real estate
4 market analysis supporting the development projects for the real
5 property liable for assessments and necessary to support the
6 payment of the bonds or obligations.

7 (c) Subsections (a) and (b) do not apply to general
8 obligation bonds or certificates of obligations.

9 (d) The Attorney General shall adopt rules to enforce this
10 section and to ensure the integrity and economic feasibility of
11 bonds or obligations issued under this chapter.

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

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

16 (1) levying, straightening, widening, enclosing, or
17 otherwise improving a river, creek, bayou, stream, other body of
18 water, street, or alley;

19 (2) draining, grading, filling, and otherwise
20 protecting and improving the territory within the municipality's
21 limits; ~~and~~

22 (3) issuing bonds to finance improvements listed in
23 this subsection; and

24 (4) financing an improvement described in Subchapter
25 A.

26 SECTION 7. This Act takes effect September 1, 2011.

ADOPTED

MAY 24 2011

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Roger W. W.*

1 Amend C.S.H.B. No. 1400 (senate committee printing) in
2 SECTION 5 of the bill, in added Section 372.031, Local Government
3 Code, by striking Subsection (d) (page 2, lines 28-30) and
4 substituting the following:

5 (d) When a municipality or county subject to this section
6 submits bonds or obligations payable from assessments to the
7 attorney general for approval and examination, the municipality or
8 county must demonstrate compliance with this section. The attorney
9 general shall adopt rules in accordance with Chapter 1202,
10 Government Code, that require the municipality or county to
11 demonstrate the municipality's or county's:

12 (1) ability to repay the bonds or obligations; and

13 (2) compliance with the requirements of this
14 subchapter.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 25, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1400 by Elkins (Relating to the boundaries and financing of public improvement districts designated by a municipality or county.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 372 of the Local Government Code relating to the boundaries and financing of public improvement districts (PIDs).

The bill would authorize payment of expenses to include expenses related to the operation and maintenance of mass transportation facilities.

The bill would add Section 372.0035 to Subchapter A that would apply only to a municipality that has a population of more than one million and a council-manager form of government and that is located wholly or partly in a county with a population of more than two million; and a public improvement district established under this subchapter and solely composed of territory in which the only businesses are hotels.

The bill would require the governing body of a municipality or a county to estimate the appraised value of taxable real property liable for assessment in the district and the cost of the improvement before holding a hearing for a proposed improvement under Section 372.005 that includes a deferred assessment.

The bill would require the governing body of a municipality with a population of one million or less or a county with a population of one million or less, prior to issuing bonds or obligations payable wholly or partly from or secured by assessments, to find and determine all underground water, wastewater, and drainage facilities and roadways to serve real property liable for assessments necessary to support the bonds or obligations is at least 95 percent complete; and construction of at least 25 percent of the houses or other buildings have been completed. A municipality with a population of more than 250,000 or a county with a population of more than one million would be required to obtain an independent market study prior to issuing bonds under this chapter. A municipality or a county subject to this section that submits bonds or obligations payable from assessments to the Attorney General for approval and examination would be required to demonstrate compliance with this section. The Attorney General would be required to adopt rules to enforce this section and to ensure the integrity and economic feasibility of bonds or obligations.

This analysis assumes the Office of the Attorney General could reasonably absorb any costs associated with implementing the provisions of the bill.

Local Government Impact

According to the City of Grand Prairie, the city recently researched the use of deferred assessments for PIDS. The city found the costs of software too high and the revenue generated would not be sufficient to cover costs for providing services for developments.

In addition, there could be costs to a municipality or a county associated with the requirements to find

and determine that the facilities and roadways are at least 95 percent complete and at least 25 percent of the property assessed is developed as specified. The amounts would vary depending on the amount of applicable bonds or obligations that are issued and the percentage of completion as required.

Source Agencies:

LBB Staff: JOB, KKR, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 19, 2011

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: **HB1400** by Elkins (Relating to the boundaries and financing of public improvement districts designated by a municipality or county.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 372 of the Local Government Code relating to the boundaries and financing of public improvement districts (PIDs).

The bill would authorize payment of expenses to include expenses related to the operation and maintenance of mass transportation facilities.

The bill would add Section 372.0035 to Subchapter A that would apply only to a municipality that has a population of more than one million and a council-manager form of government and that is located wholly or partly in a county with a population of more than two million; and a public improvement district established under this subchapter and solely composed of territory in which the only businesses are hotels.

The bill would require the governing body of a municipality or a county to estimate the appraised value of taxable real property liable for assessment in the district and the cost of the improvement before holding a hearing for a proposed improvement under Section 372.005 that includes a deferred assessment.

The bill would require the governing body of a municipality with a population of one million or less or a county with a population of one million or less, prior to issuing bonds or obligations payable wholly or partly from or secured by assessments, to find and determine all underground water, wastewater, and drainage facilities and roadways to serve real property liable for assessments necessary to support the bonds or obligations is at least 95 percent complete; and construction of at least 25 percent of the houses or other buildings have been completed. A municipality with a population of more than 250,000 or a county with a population of more than one million would be required to obtain an independent market study prior to issuing bonds under this chapter. The Attorney General would be required to adopt rules to enforce this section and to ensure the integrity and economic feasibility of bonds or obligations.

Local Government Impact

According to the City of Grand Prairie, the city recently researched the use of deferred assessments for PIDS. The city found the costs of software too high and the revenue generated would not be sufficient to cover costs for providing services for developments.

In addition, there could be costs to a municipality or a county associated with the requirements to find and determine that the facilities and roadways are at least 95 percent complete and at least 25 percent of the property assessed is developed as specified. The amounts would vary depending on the amount of applicable bonds or obligations that are issued and the percentage of completion as required.

Source Agencies:

LBB Staff: JOB, KKR, TP

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 17, 2011

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1400 by Elkins (Relating to payment of costs of improvements of a public improvement district designated by a municipality or county.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to provide public improvement districts designated by a municipality or a county, greater discretion in the payment of costs. A payee designated by the district could assign certain payment methods without the consent of a municipality or a county. The bill also would amend the payment processes for improvement districts and would raise the interest rate cap on money owed in relation to improvement projects.

The bill would repeal Section 372.023(f) of the Local Government Code.

Local Government Impact

According to the Texas Association of Counties (TAC), there is currently only one county-designated public improvement district; therefore, no significant cost to counties statewide is anticipated.

No significant fiscal implication to public improvement districts is anticipated.

Source Agencies:

LBB Staff: JOB, KKR, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 29, 2011

TO: Honorable Garnet Coleman, Chair, House Committee on County Affairs

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1400 by Elkins (Relating to payment of costs of improvements of a public improvement district designated by a municipality or county.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to provide public improvement districts designated by a municipality or a county, greater discretion in the payment of costs. A payee designated by the district could assign certain payment methods without the consent of a municipality or a county. The bill also would amend the payment processes for improvement districts and would raise the interest rate cap on money owed in relation to improvement projects.

The bill would repeal Section 372.023(f) of the Local Government Code.

Local Government Impact

According to the Texas Association of Counties (TAC), there is currently only one county-designated public improvement district; therefore, no significant cost to counties statewide is anticipated.

No significant fiscal implication to public improvement districts is anticipated.

Source Agencies:

LBB Staff: JOB, KKR, TP