

House Bill 1400
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 section is entered into or issued.

(d) Costs [A cost] payable from a special assessment that is payable [to be paid] in installments may be paid by any combination of the following methods [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 shall be paid]:

(1) under an installment sales [sale] contract or a reimbursement agreement between the municipality or county and [with] the person who acquires, installs, or constructs the improvements [contracts to install or construct the improvement for which the costs apply];

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

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

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

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

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

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

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(g) The cost of more than one improvement may be paid:
(1) from a single issue and sale of bonds without other consolidation proceedings before the bond issue; or
(2) under a single installment sales contract, reimbursement agreement, temporary note, or time warrant ~~[an agreement with a person who contracts to install or construct the improvement and who sells the improvement to the municipality or county].~~

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

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 1. Section 372.003, Local Government Code, is amended by adding Subsection (b-1) to read as follows:
(b-1) Payment of expenses under Subsection (b)(14) may also include expenses related to the operation and maintenance of mass transportation facilities.

SECTION 2. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0035 to read as follows:
Sec. 372.0035. COMMON CHARACTERISTIC OR USE FOR PROJECTS IN CERTAIN MUNICIPALITIES. (a) This section applies only to:
(1) 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
(2) a public improvement district established under this

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subchapter and solely composed of territory in which the only businesses are hotels with 100 or more rooms ordinarily used for sleeping.

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

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

No equivalent provision.

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

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

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

(2) the cost of the improvement.

No equivalent provision.

SECTION 4. 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 defer an assessment

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until a date the governing body specifies in the ordinance or order. 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 period necessary to retire the indebtedness on the improvements; or
- (2) the period approved by the governing body for the payment of the installments.

No equivalent provision.

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

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

- (1) construction of all underground water, wastewater, and drainage facilities and roadways to serve the real property liable for assessments necessary to support the payment of the bonds or obligations is at least 95 percent complete; and
- (2) construction of at least 25 percent of the houses or other buildings on the real property liable for assessments and necessary to support the bonds or obligations has been

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completed.

(b) Prior to the issuance under this chapter of bonds or obligations wholly or partly payable from or secured by assessments, a municipality with a population of more than 250,000 or a county with a population of more than 1 million issuing the bonds or obligations must obtain an independent market study from a firm recognized in the area of real estate market analysis supporting the development projects for the real property liable for assessments and necessary to support the payment of the bonds or obligations.

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

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

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

(2) compliance with the requirements of this subchapter.

[FA1]

No equivalent provision.

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

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

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

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- (2) draining, grading, filling, and otherwise protecting and improving the territory within the municipality's limits; ~~and~~
- (3) issuing bonds to finance improvements listed in this subsection; and
- (4) financing an improvement described in Subchapter A.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

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