

## **BILL ANALYSIS**

C.S.H.B. 1912  
By: Elkins  
Special Purpose Districts  
Committee Report (Substituted)

### **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. C.S.H.B. 1912 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**

C.S.H.B. 1912 amends the Local Government Code to define "costs" for purposes of the Public Improvement District Assessment Act as costs and expenses paid or incurred before, during, or after the establishment of a public improvement district and in connection with or related to the undertaking and funding of a public improvement project authorized under the act. The bill specifies that a public improvement district is an area, the boundaries of which are designated by the governing body of a municipality or county, that may include two or more noncontiguous areas separated by certain means.

C.S.H.B. 1912 authorizes an improvement project to be undertaken inside or outside a public improvement district if the project confers a special benefit on property in the district. The bill authorizes a public improvement project to include, among other things, the following:

- acquisition, construction, improvement, or rerouting of rail facilities;
- the right to receive water, wastewater, or drainage services, the right to acquire a certificate of convenience and necessity to provide those services, and the obligation to pay certain service-related costs and expenses;
- the establishment or improvement of open spaces and recreation facilities; and
- facilities or equipment for firefighters, police, sheriffs, and emergency service providers.

The bill specifies that a district's special supplemental services relating to public safety and security included in a public improvement project are special supplemental services relating to firefighters, police, sheriffs, emergency service providers, and other public safety and security personnel. The bill specifies that a district's special supplemental service includes services provided by another entity under contract. The bill specifies the entities a public improvement project may be dedicated, conveyed, leased, or otherwise provided to or for the benefit of.

C.S.H.B. 1912 authorizes a public hearing on the advisability of an improvement provided by a public improvement district to be reconvened, in addition to adjourned, from time to time until the governing body of a municipality or county makes certain findings. The bill provides for the description of the boundaries of a proposed assessment district in a notice of a public hearing,

revises notice mailing provisions, and establishes that the failure of a property owner to receive the notice does not invalidate the proceedings under the act.

C.S.H.B. 1912 specifies that an authorization of an improvement district takes effect when a substantial copy of the resolution authorizing the district or a caption of the resolution, rather than the authorization itself, has been published one time in a newspaper of general circulation in the applicable municipality or county. The bill restricts the acquisition of an existing improvement from occurring until after the 20th day after the date the authorization takes effect and provides for a written protest to be filed with the county clerk, rather than the county secretary. The bill considers an improvement the construction of which begins before the expiration of the 20-day period or before the district is authorized to be an existing improvement and requires the improvement to be acquired as an existing improvement after construction is completed unless the 20-day period is waived. The bill authorizes the 20-day waiting period to be waived at any time if a certain written waiver is filed with the municipal secretary or county clerk.

C.S.H.B. 1912 authorizes a public improvement district to be dissolved by resolution or order approved by two-thirds of all the members of the governing body of the municipality or county that established the district without a petition requesting dissolution if assessments have not been levied before the fifth anniversary of the date the district was established or if levied assessments are paid in full and the district has no other outstanding obligations. The bill requires a certain public hearing to be called and held and notice of dissolution to be mailed to each owner of property within the district before a district is authorized to be dissolved by such resolution or order.

C.S.H.B. 1912 authorizes the governing body of a municipality or county after a public improvement district is authorized and before the levy of assessments to exclude all or any portion of an owner's property from the district under certain conditions, authorizes an owner of property outside the district after the district is authorized and before the levy of assessments to petition the governing body of the municipality or county to include the owner's property in the district, authorizes an owner of property outside the district after the district is authorized and after the levy of assessments to petition the governing body of the municipality or county to include the owner's property in the district and to levy assessments against the owner's property, provides certain authorization for a governing body to include an owner's property in a district and levy assessments, and sets out related provisions. The bill authorizes a commissioners court of a county for purposes of including property in an authorized district to include in a district an owner's property that is located in a home-rule municipality's corporate limits or extraterritorial jurisdiction unless within 30 days of the commissioners court's action to include the owner's property the home-rule municipality objects to the inclusion.

C.S.H.B. 1912 conditions the responsibility of a municipality or county for payment of assessments against exempt municipal or county property in a public improvement district on the payment being expressly authorized by the governing body of the municipality or county. The bill specifies that a district's assessment plan is intended to be flexible to provide for various development scenarios.

C.S.H.B. 1912 authorizes the periodic installment of a district assessment payable in installments, including principal, interest, administrative costs, collection costs, and delinquency charges and penalties, to be increased or decreased by the governing body of the municipality or county following an annual review of the service plan. The bill sets out assessment provisions relating to a subdivided parcel, a consolidation of multiple parcels, and a change of a proposed use of an undeveloped parcel after an assessment is levied against a parcel.

C.S.H.B. 1912 provides for the description of the boundaries of an assessment district in a notice of a public hearing to consider proposed assessments, revises notice mailing provisions, and authorizes the public hearing to be adjourned and reconvened from time to time.

C.S.H.B. 1912 authorizes a levied assessment to vary from the proposed service plan, proposed assessment plan, or proposed assessment roll filed and made available for public inspection. The bill prohibits the total cost of a levied assessment from exceeding the cost of improvements provided in the notice of the public hearing to consider proposed assessments and mailed to the owners.

C.S.H.B. 1912 prohibits the interest rate for an assessment from exceeding a rate that is one-half of one percent higher than the actual interest rate paid on the debt of installment sales contracts or reimbursement agreements entered into to pay for the improvement for which the assessment is assessed. The bill removes the requirement that interest on an assessment between the effective date of the ordinance or order levying the assessment and the date the first installment is payable be added to the first installment. The bill authorizes interest on a delinquent installment added to a subsequent installment to be used to pay administrative costs, costs of improvements, and costs of financing, including reserves for debt service and prepayment of assessments. The bill authorizes the owner of assessed property to pay at any time all or any part of the assessment with interest that will accrue on the assessment until the next scheduled prepayment or redemption date on the bonds, installment sales contract, reimbursement agreement, time warrant, or temporary note issued or entered into to finance or pay for the improvements.

C.S.H.B. 1912 clarifies and revises provisions relating to general obligation and revenue bonds to authorize the governing body of a municipality or county to issue general obligation bonds under certain Government Code public securities provisions, certificates of obligation under the Certificate of Obligation Act of 1971, and revenue bonds issued in one or more series. The bill authorizes the bond or obligation to be issued to pay costs; be issued to refund any public improvement district obligations, including installment sales contracts, reimbursement agreements, time warrants, or temporary notes; and be payable from and secured by special assessments. The bill specifies that, if the bond or obligation is issued to refund a district obligation and is secured wholly or partly by a special assessment, the lien created by the originally levied special assessment continues uninterrupted for the term of the bond or obligation to secure payment of the bond or obligation. The bill requires a bond or obligation to be issued or entered into under the terms determined by the governing body of the municipality or county.

C.S.H.B. 1912 authorizes the governing body of a municipality or county to pledge all or any part of the revenue collected from assessments as security for and to pay all or any part of one or more obligations on the terms determined by the governing body, including the priority of payment and allocation of assessment revenue among the obligations. The bill authorizes the governing body of a municipality or county, if an assessment is collected and applied to pay an amount due under an installment sales contract, reimbursement agreement, time warrant, or temporary note, to pledge all or any part of the revenue collected as security for and to pay general obligation bonds, certificates of obligation, or revenue bonds issued to refund those obligations. The bill specifies that a pledge authorized under these provisions does not affect the lien of that assessment or constitute a reassessment or a new assessment.

C.S.H.B. 1912 establishes that an assessment levied by the governing body of a municipality or county under provisions relating to improvement districts in municipalities and counties, or an obligation issued or agreement or contract entered into by such a governing body under such provisions and payable from and secured, wholly or partly, by that assessment, does not constitute a debt or pledge of the full faith and credit of the municipality or county, the state, or any other political corporation, subdivision, or agency of the state.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1912 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 372.0015, Local Government Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Subchapter A, Chapter 372, Local Government Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 372.003, Local Government Code, is amended.	SECTION 3. Same as introduced version.

SECTION 4. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0031 to read as follows: <u>Sec. 372.0031. AUTHORIZED HIGHER EDUCATION FACILITIES; LEASE TO INSTITUTION OF HIGHER EDUCATION. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.</u> <u>(b) A public improvement project under Section 372.003 may include the acquisition, construction, maintenance, or improvement of buildings and other facilities commonly used for:</u> <u>(1) teaching, research, or the preservation of knowledge by an institution of higher education; or</u> <u>(2) an auxiliary purpose of an institution of higher education, including the provision of administrative services, student services, student housing, athletics, performing arts, and alumni support.</u> <u>(c) The governing body of a municipality or county that establishes a public improvement district to finance a public improvement project described by Subsection (b) may 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</u>	No equivalent provision.
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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.

SECTION 5. Section 372.009, Local Government Code, is amended.

SECTION 4. Same as introduced version.

SECTION 6. Section 372.010, Local Government Code, is amended.

SECTION 5. Substantially the same as introduced version.

SECTION 7. Section 372.011, Local Government Code, is amended.

SECTION 6. Same as introduced version.

SECTION 8. Section 372.012, Local Government Code, is amended.

SECTION 7. Same as introduced version.

SECTION 9. Section 372.014, Local Government Code, is amended.

SECTION 8. Same as introduced version.

SECTION 10. Section 372.015, Local Government Code, is amended.

SECTION 9. Same as introduced version.

SECTION 11. Section 372.016, Local Government Code, is amended.

SECTION 10. Same as introduced version.

SECTION 12. Section 372.017, Local Government Code, is amended.

SECTION 11. Same as introduced version.

SECTION 13. Section 372.018, Local Government Code, is amended.

SECTION 12. Same as introduced version.

SECTION 14. Section 372.024, Local Government Code, is amended.

SECTION 13. Same as introduced version.

SECTION 15. Section 372.026, Local Government Code, is amended.

SECTION 14. Same as introduced version.

SECTION 16. Subchapter A, Chapter 372, Local Government Code, is amended.

SECTION 15. Same as introduced version.

SECTION 17. 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, 2013.

SECTION 16. Same as introduced version.