

By: West

S.B. No. 968

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 372.0015, Local Government Code, is amended to read as follows:

Sec. 372.0015. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

(1) "Costs" means 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 this subchapter.

(2) "Extraterritorial" [~~extraterritorial~~] jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.

SECTION 2. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0025 to read as follows:

Sec. 372.0025. PUBLIC IMPROVEMENT DISTRICT. A public improvement district is an area, the boundaries of which are designated by the governing body of a municipality or county under this subchapter, that may include two or more noncontiguous areas separated by:

(1) a right-of-way or other land dedicated to or

1 owned, leased, licensed, or used by a political subdivision or
2 other governmental entity, tax-exempt entity, charitable
3 organization, public or private utility, or railroad; or

4 (2) not more than 2,500 feet, as measured in a straight
5 line, between the nearest points on the property lines of the
6 closest situated noncontiguous areas.

7 SECTION 3. Section 372.003, Local Government Code, is
8 amended by amending Subsections (a), (b), (b-1), and (c) and adding
9 Subsections (b-2) and (e) to read as follows:

10 (a) If the governing body of a municipality or county finds
11 that it promotes the interests of the municipality or county, the
12 governing body may undertake an improvement project that confers a
13 special benefit on a definable part of the municipality or county or
14 the municipality's extraterritorial jurisdiction. A project may be
15 undertaken in the municipality or county or the municipality's
16 extraterritorial jurisdiction. A project may be undertaken inside
17 or outside a public improvement district if the project confers a
18 special benefit on property in the district.

19 (b) A public improvement project may include:

20 (1) landscaping;

21 (2) erection of fountains, distinctive lighting, and
22 signs;

23 (3) acquiring, constructing, improving, widening,
24 narrowing, closing, or rerouting of sidewalks or of streets, any
25 other roadways, or their rights-of-way;

26 (4) construction or improvement of pedestrian malls;

27 (5) acquisition and installation of pieces of art;

1 (6) acquisition, construction, or improvement of
2 libraries;

3 (7) acquisition, construction, or improvement of
4 off-street parking facilities;

5 (8) acquisition, construction, improvement, or
6 rerouting of mass transportation or rail facilities;

7 (9) acquisition, construction, or improvement of
8 water, wastewater, or drainage facilities or improvements;

9 (10) the right to receive water, wastewater, or
10 drainage services, the right to acquire a certificate of
11 convenience and necessity to provide those services, and the
12 obligation to pay service-related costs and expenses, including tap
13 fees, connection fees, and impact fees authorized by law, including
14 impact fees authorized by Chapter 395;

15 (11) the establishment or improvement of parks, open
16 spaces, and recreation facilities;

17 (12) facilities or equipment for firefighters,
18 police, sheriffs, and emergency service providers;

19 (13) [~~(11)~~] projects similar to those listed in
20 Subdivisions (1)-(11) [~~(1)-(10)~~];

21 (14) [~~(12)~~] acquisition, by purchase or otherwise, of
22 real property in connection with an authorized improvement;

23 (15) [~~(13)~~] special supplemental services for
24 improvement and promotion of the district, including services
25 relating to:

26 (A) advertising;

27 (B) [~~7~~] promotion;

1 (C) health and sanitation;
2 (D) water and wastewater;
3 (E) firefighters, police, sheriffs, emergency
4 service providers, and other public safety and security
5 personnel;

6 (F) business recruitment;

7 (G) development;

8 (H) recreation; and

9 (I) cultural enhancement;

10 (16) [~~(14)~~] payment of expenses incurred in the
11 establishment, administration, and operation of the district; and

12 (17) [~~(15)~~] the development, rehabilitation, or
13 expansion of affordable housing.

14 (b-1) Payment of expenses under Subsection (b)(16)
15 [~~(b)(14)~~] may also include expenses related to the operation and
16 maintenance of mass transportation or rail facilities.

17 **(b-2) A special supplemental service under Subsection**
18 **(b)(15) includes services provided by another entity under contract**
19 **with that entity.**

20 (c) A public improvement project may be limited to the
21 provision of the services described by Subsection (b)(15)
22 [~~(b)(13)~~].

23 **(e) A public improvement project may be dedicated,**
24 **conveyed, leased, or otherwise provided to or for the benefit of:**

25 **(1) a municipality or county;**

26 **(2) a political subdivision or other entity exercising**
27 **the powers granted under this subchapter as authorized by other**

1 law; or

2 (3) an entity that:

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

5 (B) is authorized by order, ordinance,
6 resolution, or other official action to act for an entity described
7 by Subdivision (1) or (2).

8 SECTION 4. Subchapter A, Chapter 372, Local Government
9 Code, is amended by adding Section 372.0031 to read as follows:

10 Sec. 372.0031. AUTHORIZED HIGHER EDUCATION FACILITIES;
11 LEASE TO INSTITUTION OF HIGHER EDUCATION. (a) In this section,
12 "institution of higher education" has the meaning assigned by
13 Section 61.003, Education Code.

14 (b) A public improvement project under Section 372.003 may
15 include the acquisition, construction, maintenance, or improvement
16 of buildings and other facilities commonly used for:

17 (1) teaching, research, or the preservation of
18 knowledge by an institution of higher education; or

19 (2) an auxiliary purpose of an institution of higher
20 education, including the provision of administrative services,
21 student services, student housing, athletics, performing arts, and
22 alumni support.

23 (c) The governing body of a municipality or county that
24 establishes a public improvement district to finance a public
25 improvement project described by Subsection (b) may enter into a
26 memorandum of understanding with an institution of higher education
27 that provides educational services in the municipality or county

1 under which the municipality or county leases the public
2 improvement project to the institution, at a nominal rate, for use
3 by the institution in providing teaching, research, public service,
4 or auxiliary enterprise activities to students of the institution.

5 SECTION 5. Section 372.009, Local Government Code, is
6 amended by amending Subsections (b) and (d) and adding Subsection
7 (c-1) to read as follows:

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

- 10 (1) the advisability of the improvement;
11 (2) the nature of the improvement;
12 (3) the estimated cost of the improvement;
13 (4) the boundaries of the public improvement district;
14 (5) the method of assessment; and
15 (6) the apportionment of costs between the district
16 and the municipality or county as a whole.

17 (c-1) For purposes of Subsection (c)(4), the boundaries of
18 the proposed assessment district may be described in the notice by
19 reference to existing streets, roads, and other landmarks with a
20 statement providing the location where the metes and bounds
21 description of the boundaries of the proposed district are on file
22 and available for public inspection.

23 (d) Written notice containing the information required by
24 Subsection (c) must be mailed before the 15th day before the date of
25 the hearing. The notice may [~~must~~] be addressed to "Property Owner"
26 and sent by regular mail [~~mailed~~] to the current address of the
27 owner, as reflected on tax rolls, of property subject to assessment

1 under the proposed public improvement district. The failure of the
2 property owner to receive the notice does not invalidate the
3 proceedings under this subchapter.

4 SECTION 6. Section 372.010, Local Government Code, is
5 amended by amending Subsections (b) and (c) and adding Subsections
6 (d) and (e) to read as follows:

7 (b) An authorization takes effect when a substantial copy of
8 the resolution or a caption of the resolution [~~it~~] has been
9 published one time in a newspaper of general circulation in the
10 municipality or county. If any part of the improvement district is
11 located in the municipality's extraterritorial jurisdiction or if
12 any part of the improvements is to be undertaken in the
13 municipality's extraterritorial jurisdiction, the authorization
14 does not take effect until the notice is also given one time in a
15 newspaper of general circulation in the part of the
16 extraterritorial jurisdiction in which the district is located or
17 in which the improvements are to be undertaken.

18 (c) Actual construction of an improvement may not begin, or
19 the acquisition of an existing improvement may not occur, until
20 after the 20th day after the date the authorization takes effect.
21 [~~and~~] Construction may not begin, or the acquisition may not occur,
22 if during that 20-day period written protests signed by at least
23 two-thirds of the owners of record of property within the
24 improvement district or by the owners of record of property
25 comprising at least two-thirds of the total area of the district are
26 filed with the municipal secretary or county clerk [~~secretary~~] or
27 other officer performing the duties of the municipal secretary or

1 county clerk [~~secretary~~]. A person whose name appears on a protest
2 may withdraw the name from the protest at any time before the
3 governing body of the municipality or county convenes to determine
4 the sufficiency of the protest.

5 (d) If construction of an improvement begins before the
6 expiration of the 20-day period provided by Subsection (c) or
7 before the district is authorized, the improvement is considered an
8 existing improvement and must be acquired as an existing
9 improvement after construction is completed unless the 20-day
10 period is waived as provided by Subsection (e).

11 (e) The 20-day waiting period provided by Subsection (c) may
12 be waived at any time if a written waiver is filed with the
13 municipal secretary or county clerk signed by at least two-thirds
14 of the owners of record of property within the improvement district
15 or by the owners of record of property comprising at least
16 two-thirds of the total area of the district.

17 SECTION 7. Section 372.011, Local Government Code, is
18 amended to read as follows:

19 Sec. 372.011. DISSOLUTION. (a) A public hearing may be
20 called and held in the same manner as a hearing under Section
21 372.009 for the purpose of dissolving a district if a petition
22 requesting dissolution is filed and the petition contains the
23 signatures of at least enough property owners in the district to
24 make a petition sufficient under Section 372.005(b). If the
25 district is dissolved, the district nonetheless shall remain in
26 effect for the purpose of meeting obligations of indebtedness for
27 improvements.

1 (b) A district may be dissolved by resolution or order
2 approved by two-thirds of all the members of the governing body of
3 the municipality or county that established the district without a
4 petition requesting dissolution under Subsection (a) if:

5 (1) assessments have not been levied before the fifth
6 anniversary of the date the district was established; or

7 (2) levied assessments are paid in full and the
8 district has no other outstanding obligations.

9 (c) Before a district may be dissolved as provided by
10 Subsection (b):

11 (1) a public hearing must be called and held in the
12 same manner as a hearing under Section 372.009; and

13 (2) notice of dissolution must be mailed to each owner
14 of property within the district.

15 SECTION 8. Section 372.012, Local Government Code, is
16 amended to read as follows:

17 Sec. 372.012. AREA OF DISTRICT. (a) The area of a public
18 improvement district to be assessed according to the findings of
19 the governing body of the municipality or county may be less than
20 the area described in the proposed boundaries stated by the notice
21 under Section 372.009. Except as provided by this section, the
22 ~~[The]~~ area to be assessed may not include property not described by
23 the notice as being within the proposed boundaries of the district
24 unless a hearing is held to include the property and notice for the
25 hearing is given in the same manner as notice under Section 372.009.

26 (b) After the district is authorized and before the levy of
27 assessments, the governing body of a municipality or county may

1 exclude all or any portion of an owner's property from the district
2 if the governing body:

3 (1) receives a petition from the owner of property in
4 the district;

5 (2) publishes notice and holds a public hearing in the
6 manner provided by Section 372.009; and

7 (3) finds by resolution or order that no public
8 improvement project to be undertaken confers a special benefit on
9 the property.

10 (c) After the district is authorized and before the levy of
11 assessments, an owner of property outside the district may petition
12 the governing body of the municipality or county to include the
13 owner's property in the district. The governing body may:

14 (1) include the owner's property in the district if the
15 governing body:

16 (A) publishes notice and holds a public hearing
17 in the manner provided by Section 372.009; and

18 (B) finds by resolution or order that a public
19 improvement project to be undertaken will confer a special benefit
20 on the property; and

21 (2) by ordinance or order, levy assessments against
22 the owner's property when assessments in the district are levied
23 after the governing body publishes notice and holds a public
24 hearing in the manner provided by Sections 372.016 and 372.017.

25 (d) After the district is authorized and after the levy of
26 assessments, an owner of property outside the district may petition
27 the governing body of the municipality or county to include the

1 owner's property in the district and to levy assessments against
2 the owner's property. The governing body may:

3 (1) include the owner's property in the district if the
4 governing body:

5 (A) publishes notice and holds a public hearing
6 as provided by Section 372.009; and

7 (B) finds by resolution or order that a public
8 improvement project to be undertaken will confer a special benefit
9 on the property;

10 (2) by ordinance or order, levy assessments against
11 the owner's property after the governing body publishes notice and
12 holds a public hearing in the manner provided by Sections 372.016
13 and 372.017; and

14 (3) by ordinance or order, reduce assessments against
15 the other property in the district to reflect a reallocation of
16 costs by the addition of property to the district after the
17 governing body publishes notice and holds a public hearing in the
18 manner provided by Sections 372.016 and 372.017.

19 (e) For purposes of a hearing to exclude or include property
20 in a district under Subsection (b), (c), or (d), the governing body
21 of a municipality or county shall mail notice to each owner of
22 property in the district that is liable for assessment.

23 (f) For purposes of Subsections (c) and (d), a commissioners
24 court of a county may include in a district an owner's property that
25 is located in a home-rule municipality's corporate limits or
26 extraterritorial jurisdiction unless within 30 days of the
27 commissioners court's action to include the owner's property the

1 home-rule municipality objects to the inclusion of the owner's
2 property in the district.

3 SECTION 9. Section 372.014, Local Government Code, is
4 amended by amending Subsection (b) and adding Subsection (c) to
5 read as follows:

6 (b) The municipality or county is responsible for payment of
7 assessments against exempt municipal or county property in the
8 district only if payment is expressly authorized by the governing
9 body of the municipality or county. Payment of assessments by other
10 exempt jurisdictions must be established by contract. An
11 assessment paid by the municipality or county under this subsection
12 is considered to have been paid by special assessment for the
13 purposes of Subsection (a).

14 (c) The assessment plan is intended to be flexible to
15 provide for various development scenarios, including:

16 (1) assessments against all property in the district
17 to pay the costs of improvements that benefit all the property in
18 the district and additional assessments levied against portions of
19 the property in the district to pay the costs of additional
20 improvements that benefit those portions of the property; or

21 (2) assessments levied to pay the costs for all
22 improvements contemplated for one or more phases of development of
23 the property with different dates for accrual of interest and for
24 payment and collection for the different phases as determined by
25 events established by the plan, including events related to the
26 future phased development of the property.

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

1 amended by adding Subsections (e) through (h) to read as follows:

2 (e) The periodic installment of an assessment payable in
3 installments, including principal, interest, administrative costs,
4 collection costs, and delinquency charges and penalties, may be
5 increased or decreased by the governing body of the municipality or
6 county following an annual review of the service plan.

7 (f) If a parcel is subdivided, the assessment against the
8 parcel before the parcel was subdivided may be reallocated among
9 the subdivided parcels by the governing body of the municipality or
10 county as reflected in the updated annual service plan and the
11 corresponding updated assessment roll.

12 (g) If two or more parcels are consolidated, the assessments
13 against each parcel may be reallocated to the consolidated parcel
14 by the governing body of the municipality or county as reflected in
15 the updated annual service plan and the corresponding updated
16 assessment roll.

17 (h) If a proposed use of an undeveloped parcel changes after
18 an assessment is levied against a parcel:

19 (1) the change in use does not affect the amount or
20 validity of the assessment against the parcel; and

21 (2) the aggregate amount of assessments levied against
22 multiple undeveloped parcels for which the proposed use has changed
23 may be reallocated among the undeveloped parcels by the governing
24 body of the municipality or county following an annual review of the
25 service plan.

26 SECTION 11. Section 372.016, Local Government Code, is
27 amended by adding Subsections (b-1) and (d) and amending Subsection

1 (c) to read as follows:

2 (b-1) For purposes of Subsection (b)(4), the boundaries of
3 the assessment district may be described in the notice by reference
4 to existing streets, roads, and other landmarks with a statement
5 providing the location where the metes and bounds description of
6 the boundaries of the district are on file and available for public
7 inspection.

8 (c) When the assessment roll is filed under Subsection (b),
9 the municipal secretary or other officer shall mail to the owners of
10 property liable for assessment a notice of the hearing. The notice
11 must contain the information required by Subsection (b). The
12 notice may be addressed to "Property Owner" and mailed by regular
13 mail. The notice must be mailed before the 10th day before the date
14 of the hearing to the current ~~[and the secretary or other officer~~
15 ~~shall mail the notice to the last known]~~ address of the ~~[property]~~
16 owner, as reflected on the tax rolls. The failure of a property
17 owner to receive notice does not invalidate the proceeding.

18 (d) The public hearing required by this section may be
19 adjourned and reconvened from time to time.

20 SECTION 12. Section 372.017, Local Government Code, is
21 amended by adding Subsection (c) to read as follows:

22 (c) An assessment levied under this section may vary from
23 the proposed service plan, proposed assessment plan, or proposed
24 assessment roll filed and made available for public inspection in
25 accordance with Section 372.016. The total cost of an assessment
26 levied under this section may not exceed the cost of improvements
27 provided in the notice as required under Section 372.016(b)(3) and

1 mailed to the owners as provided by Section 372.016(c).

2 SECTION 13. Section 372.018, Local Government Code, is
3 amended by amending Subsections (a) and (f) and adding Subsection
4 (g) to read as follows:

5 (a) An assessment bears interest at the rate specified by
6 the governing body of the municipality or county beginning at the
7 time or times or on the occurrence of one or more events specified
8 by the governing body. If general obligation bonds, revenue bonds,
9 installment sales contracts, reimbursement agreements, time
10 warrants, or temporary notes are issued or entered into to finance
11 or pay for the improvement for which the assessment is assessed, the
12 interest rate for that assessment may not exceed a rate that is
13 one-half of one percent higher than the actual interest rate paid on
14 the debt. [~~Interest on the assessment between the effective date of~~
15 ~~the ordinance or order levying the assessment and the date the first~~
16 ~~installment is payable shall be added to the first installment.]~~
17 The interest on any delinquent installment shall be added to each
18 subsequent installment until all delinquent installments are paid.
19 The added interest may be used to pay administrative costs, costs of
20 improvements, and costs of financing, including reserves for debt
21 service and prepayment of assessments.

22 (f) Delinquent installments of the assessment shall incur
23 interest, penalties, and attorney's fees in the same manner as
24 delinquent ad valorem taxes.

25 (g) The owner of assessed property may pay at any time all or
26 any part of the assessment, with interest that:

27 (1) has accrued on the assessment; and

1 (2) will accrue on the assessment until the next
2 scheduled prepayment or redemption date on the bonds, installment
3 sales contract, reimbursement agreement, time warrant, or
4 temporary note issued or entered into to finance or pay for the
5 improvements [on any lot or parcel].

6 SECTION 14. Section 372.024, Local Government Code, is
7 amended to read as follows:

8 Sec. 372.024. GENERAL OBLIGATION AND REVENUE BONDS;
9 CERTIFICATES OF OBLIGATION. (a) The governing body of a
10 municipality or county may issue:

11 (1) general [General] obligation bonds [issued to pay
12 costs under Section 372.023(d) must be issued] under [the
13 provisions of] Subtitles A and C, Title 9, Government Code;

14 (2) certificates of obligation under Subchapter C,
15 Chapter 271; and

16 (3) revenue [Revenue] bonds, issued [to pay costs
17 under that subsection may be issued from time to time] in one or
18 more series [and are to be payable from and secured by liens on all
19 or part of the revenue derived from improvements authorized under
20 this subchapter, including revenue derived from installment
21 payments of special assessments].

22 (b) The bond or obligation may:

23 (1) be issued to pay costs;

24 (2) be issued to refund any obligations entered into
25 or issued under this subchapter, including installment sales
26 contracts, reimbursement agreements, time warrants, or temporary
27 notes; and

1 (3) be payable from and secured by special
2 assessments.

3 (c) If the bond or obligation is issued for the purpose
4 described by Subsection (b)(2) and is secured wholly or partly by a
5 special assessment, the lien created by the originally levied
6 special assessment continues uninterrupted for the term of the bond
7 or obligation to secure payment of the bond or obligation.

8 (d) The bond or obligation must be issued or entered into
9 under the terms determined by the governing body of the
10 municipality or county.

11 SECTION 15. Section 372.026, Local Government Code, is
12 amended by adding Subsection (g) to read as follows:

13 (g) The governing body of a municipality or county may
14 pledge all or any part of the revenue collected from assessments as
15 security for and to pay all or any part of one or more obligations on
16 the terms determined by the governing body, including the priority
17 of payment and allocation of assessment revenue among the
18 obligations. If an assessment is collected and applied to pay an
19 amount due under an installment sales contract, reimbursement
20 agreement, time warrant, or temporary note, the governing body of a
21 municipality or county may pledge all or any part of the revenue
22 collected as security for and to pay general obligation bonds,
23 certificates of obligation, or revenue bonds issued to refund those
24 obligations. The pledge authorized by this subsection does not:

25 (1) affect the lien of that assessment; or

26 (2) constitute a reassessment or a new assessment.

27 SECTION 16. Subchapter A, Chapter 372, Local Government

1 Code, is amended by adding Section 372.031 to read as follows:

2 Sec. 372.031. LIABILITY FOR PAYMENT. An assessment levied
3 by the governing body of a municipality or county under this
4 chapter, or an obligation issued or agreement or contract entered
5 into by the governing body of a municipality or county under this
6 chapter and payable from and secured, wholly or partly, by that
7 assessment, does not constitute a debt or pledge of the full faith
8 and credit of the municipality or county, this state, or any other
9 political corporation, subdivision, or agency of this state.

10 SECTION 17. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2013.