

By: Keffer, Workman

H.B. No. 3187

A BILL TO BE ENTITLED

AN ACT

relating to assessments for water and energy improvements in municipalities and counties; changing a fee.

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

SECTION 1. Section 399.003, Local Government Code, is amended to read as follows:

Sec. 399.003. EXERCISE OF POWERS. (a) In addition to the authority provided by Chapter 376 for municipalities, the governing body of a local government that establishes a program in accordance with the requirements provided by Section 399.008 may exercise powers granted under this chapter.

(b) The establishment and operation of a program under this chapter by a local government is a governmental function for all purposes.

SECTION 2. Sections 399.006(b) and (c), Local Government Code, are amended to read as follows:

(b) An authorized representative ~~[official]~~ of the local government that establishes a program may enter into a written contract with a record owner of real property in a region designated under this chapter to impose an assessment to repay the owner's financing of a qualified project on the owner's property. The financing to be repaid through assessments may be provided by a third party or, if authorized by the program, by the local government.

1 (c) If the program provides for third-party financing, the  
2 authorized representative [~~official~~] of the local government that  
3 enters into a written contract with a property owner under  
4 Subsection (b) must also enter into a written contract with the  
5 party that provides financing for a qualified project under the  
6 program to service the debt through assessments.

7 SECTION 3. Section 399.007(a), Local Government Code, is  
8 amended to read as follows:

9 (a) The governing body of a local government may determine  
10 that it is convenient and advantageous to designate an area of the  
11 local government as a region within which the authorized  
12 representative of the local government [~~officials~~] and record  
13 owners of real property may enter into written contracts to impose  
14 assessments to repay the financing by owners of qualified projects  
15 on the owners' property and, if authorized by the local government  
16 program, finance the qualified project.

17 SECTION 4. Sections 399.008(a) and (e), Local Government  
18 Code, are amended to read as follows:

19 (a) To establish a program under this chapter, the governing  
20 body of a local government must take the following actions in the  
21 following order:

22 (1) adopt a resolution of intent that includes:

23 (A) a finding that, if appropriate, financing  
24 qualified projects through contractual assessments is a valid  
25 public purpose;

26 (B) a statement that the local government intends  
27 to make contractual assessments to repay financing for qualified

1 projects available to property owners;

2 (C) a description of the types of qualified  
3 projects that may be subject to contractual assessments;

4 (D) a description of the boundaries of the  
5 region;

6 (E) a description of any proposed arrangements  
7 for third-party financing to be available or any local government  
8 financing to be provided for qualified projects;

9 (F) a description of local government debt  
10 servicing procedures if third-party financing will be provided and  
11 assessments will be collected to service a third-party debt;

12 (G) a reference to the report on the proposed  
13 program prepared as provided by Section 399.009 and a statement  
14 identifying the location where the report is available for public  
15 inspection;

16 (H) a statement of the time and place for a public  
17 hearing on the proposed program; and

18 (I) a statement identifying the appropriate  
19 representative of the local government ~~[official]~~ and the  
20 appropriate assessor-collector for purposes of consulting  
21 regarding collecting the proposed contractual assessments ~~[with~~  
22 ~~property taxes]~~ imposed on the assessed property;

23 (2) hold a public hearing at which the public may  
24 comment on the proposed program, including the report required by  
25 Section 399.009; and

26 (3) adopt a resolution establishing the program and  
27 the terms of the program, including:

1 (A) each item included in the report under  
2 Section 399.009; and

3 (B) a description of each aspect of the program  
4 that may be amended only after another public hearing is held.

5 (e) A local government may impose fees to offset the costs  
6 of administering a program. The fees authorized by this subsection  
7 may be assessed as:

8 (1) a program application fee paid by the property  
9 owner requesting to participate in the program expressed as a set  
10 amount, a percentage of the amount of the assessment, or in any  
11 other manner;

12 (2) a component of the interest rate on the assessment  
13 in the written contract between the local government and the  
14 property owner; or

15 (3) a combination of Subdivisions (1) and (2).

16 SECTION 5. Sections 399.009(a) and (c), Local Government  
17 Code, are amended to read as follows:

18 (a) The report for a proposed program required by Section  
19 399.008 must include:

20 (1) a map showing the boundaries of the proposed  
21 region;

22 (2) a form contract between the local government and  
23 the property owner specifying the terms of:

24 (A) assessment under the program; and

25 (B) financing provided by a third party or the  
26 local government, as appropriate;

27 (3) if the proposed program provides for third-party

1 financing, a form contract between the local government and the  
2 third party regarding the servicing of the debt through  
3 assessments;

4 (4) a description of types of qualified projects that  
5 may be subject to contractual assessments;

6 (5) a statement identifying a local government  
7 representative [~~official~~] authorized to enter into written  
8 contracts on behalf of the local government;

9 (6) a plan for ensuring sufficient capital for  
10 third-party financing and, if appropriate, raising capital for  
11 local government financing for qualified projects;

12 (7) if bonds will be issued to provide capital to  
13 finance qualified projects as part of the program as provided by  
14 Section 399.016:

15 (A) a maximum aggregate annual dollar amount for  
16 financing through contractual assessments to be provided by the  
17 local government under the program;

18 (B) a method for ranking requests from property  
19 owners for financing through contractual assessments in priority  
20 order if requests appear likely to exceed the authorization amount;  
21 and

22 (C) a method for determining:

23 (i) the interest rate and period during  
24 which contracting owners would pay an assessment; and

25 (ii) the maximum amount of an assessment;

26 (8) a method for ensuring that the period of the  
27 contractual assessment does not exceed the useful life of the

1 qualified project that is the basis for the assessment;

2 (9) a description of the application process and  
3 eligibility requirements for financing qualified projects to be  
4 repaid through contractual assessments under the program;

5 (10) a method as prescribed by Subsection (b) for  
6 ensuring that property owners requesting to participate in the  
7 program demonstrate the financial ability to fulfill financial  
8 obligations to be repaid through contractual assessments;

9 (11) a statement explaining the manner in which  
10 property will be assessed and assessments will be collected;

11 (12) a statement explaining the lender notice  
12 requirement provided by Section 399.010;

13 (13) a statement explaining the review requirement  
14 provided by Section 399.011;

15 (14) a description of marketing and participant  
16 education services to be provided for the program;

17 (15) a description of quality assurance and antifraud  
18 measures to be instituted for the program; and

19 (16) the procedures for collecting the proposed  
20 contractual assessments.

21 (c) The local government shall make the report available for  
22 public inspection:

23 (1) on the local government's Internet website; and

24 (2) at the office of the representative [~~official~~]  
25 designated to enter into written contracts on behalf of the local  
26 government under the program.

27 SECTION 6. Section 399.011, Local Government Code, is

1 amended by amending Subsections (a) and (b) and adding Subsection  
2 (a-1) to read as follows:

3 (a) A program established under this chapter must require  
4 for each proposed qualified project:

5 (1) a review of water or energy baseline conditions  
6 and the projected water or energy savings to establish the  
7 projected water or energy savings; and

8 (2) a verification that a proposed qualified  
9 improvement meets the requirements of a qualified project.

10 (a-1) A verification provided as required under Subsection  
11 (a)(2) conclusively establishes that the improvement is a qualified  
12 improvement and the project is a qualified project.

13 (b) After a qualified project is completed, the local  
14 government shall require written ~~obtain~~ verification that the  
15 qualified project was properly completed and is operating as  
16 intended.

17 SECTION 7. Section 399.014, Local Government Code, is  
18 amended by adding Subsection (a-1) to read as follows:

19 (a-1) After the notice of a contractual assessment is  
20 recorded as provided under Section 399.013, the lien may not be  
21 contested on the basis that the improvement is not a qualified  
22 improvement or the project is not a qualified project.

23 SECTION 8. Sections 399.017(a) and (c), Local Government  
24 Code, are amended to read as follows:

25 (a) Any combination of local governments may agree to  
26 jointly implement or administer a program under this chapter,  
27 including entering into an interlocal contract under Chapter 791,

1 Government Code, to jointly implement or administer a program.

2 (c) One or more local governments may contract with a third  
3 party, including another local government, to administer a program.  
4 Local governments that are parties to an interlocal contract  
5 described by Subsection (a) may contract with an entity listed in  
6 Section 791.013, Government Code, for program administration.

7 SECTION 9. Chapter 399, Local Government Code, is amended  
8 by adding Section 399.019 to read as follows:

9 Sec. 399.019. NO PERSONAL LIABILITY. The members of the  
10 governing body of a local government, employees of a local  
11 government, and board members, executives, employees, and  
12 contractors of a third party who enter into a contract with a local  
13 government to provide administrative services for a program under  
14 this chapter are not personally liable as a result of exercising any  
15 rights or responsibilities granted under this chapter.

16 SECTION 10. This Act takes effect immediately if it  
17 receives a vote of two-thirds of all the members elected to each  
18 house, as provided by Section 39, Article III, Texas Constitution.  
19 If this Act does not receive the vote necessary for immediate  
20 effect, this Act takes effect September 1, 2015.