

By: Wray

H.B. No. 2435

Substitute the following for H.B. No. 2435:

By: Alvarado

C.S.H.B. No. 2435

A BILL TO BE ENTITLED

AN ACT

relating to public improvement projects financed by or through assessments levied on property by municipalities and counties.

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

SECTION 1. Subchapter C, Chapter 262, Local Government Code, is amended by adding Section 262.0242 to read as follows:

Sec. 262.0242. MANDATORY EXEMPTIONS: PUBLIC IMPROVEMENTS PARTIALLY FUNDED BY SPECIAL ASSESSMENTS. The competitive bidding and competitive proposal procedures prescribed by this subchapter do not apply to contracts relating to a public improvement, including paving, drainage, or street widening, and matters related to the public improvement if at least one-third of the cost of the public improvement is to be paid by or through special assessments levied on property that will benefit from the improvement.

SECTION 2. Sections 372.003(b), (b-1), and (c), Local Government Code, are amended to read as follows:

(b) A public improvement project may include:

- (1) landscaping;
- (2) erection of fountains, distinctive lighting, and signs;
- (3) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;
- (4) construction or improvement of pedestrian malls;

- 1           (5) acquisition and installation of pieces of art;
- 2           (6) acquisition, construction, or improvement of
- 3 libraries;
- 4           (7) acquisition, construction, or improvement of
- 5 off-street parking facilities;
- 6           (8) acquisition, construction, improvement, or
- 7 rerouting of mass transportation facilities;
- 8           (9) acquisition, construction, or improvement of
- 9 water, wastewater, or drainage facilities or improvements;
- 10           (10) the establishment or improvement of parks and
- 11 recreational facilities;
- 12           (11) acquisition, construction, or improvement of a
- 13 facility related to a water feature, including a recreational
- 14 lagoon or artificial body of water used for:
- 15                   (A) aesthetic purposes; or
- 16                   (B) swimming, boating, or other aquatic
- 17 recreational sports or activities;
- 18           (12) projects similar to those listed in Subdivisions
- 19 (1)-(11) [~~(1)-(10)~~];
- 20           (13) [~~(12)~~] acquisition, by purchase or otherwise, of
- 21 real property, including a right-of-way, in connection with an
- 22 authorized improvement;
- 23           (14) [~~(13)~~] special supplemental services for
- 24 improvement and promotion of the district, including services
- 25 relating to advertising, promotion, health and sanitation, water
- 26 and wastewater, public safety, security, business recruitment,
- 27 development, recreation, and cultural enhancement;

1           (15) [~~(14)~~] payment of expenses incurred in the  
2 establishment, administration, and operation of the district; and

3           (16) [~~(15)~~] the development, rehabilitation, or  
4 expansion of affordable housing.

5           (b-1) Payment of expenses under Subsection (b)(15)  
6 [~~(b)(14)~~] may also include expenses related to the operation and  
7 maintenance of a public improvement project [~~mass transportation~~  
8 ~~facilities~~].

9           (c) A public improvement project may be limited to the  
10 provision of the services described by Subsection (b)(14)  
11 [~~(b)(13)~~].

12           SECTION 3. Section 372.010(c), Local Government Code, is  
13 amended to read as follows:

14           (c) Actual construction of an improvement other than an  
15 improvement financed under Section 372.152 may not begin until  
16 after the 20th day after the date the authorization takes effect and  
17 may not begin if during that 20-day period written protests signed  
18 by at least two-thirds of the owners of record of property within  
19 the improvement district or by the owners of record of property  
20 comprising at least two-thirds of the total area of the district are  
21 filed with the municipal or county secretary or other officer  
22 performing the duties of the municipal or county secretary. A  
23 person whose name appears on a protest may withdraw the name from  
24 the protest at any time before the governing body of the  
25 municipality or county convenes to determine the sufficiency of the  
26 protest.

27           SECTION 4. Sections 372.012, 372.019, and 372.020, Local

Government Code, are amended to read as follows:

Sec. 372.012. AREA OF DISTRICT; INCREASE OF AREA. (a) The area of a public improvement district to be assessed according to the findings of the governing body of the municipality or county may be less than the area described in the proposed boundaries stated by the notice under Section 372.009. The area to be assessed may not include property not described by the notice as being within the proposed boundaries of the district unless a hearing is held to include the property and notice for the hearing is given in the same manner as notice under Section 372.009.

(b) The governing body of the municipality or county may call and hold a public hearing in the same manner as a hearing under Section 372.009 for the purpose of increasing the area of a public improvement district if a petition requesting the increase is filed by the owners of property to be added to the district in the manner provided by Section 372.005, considering only the area to be added for the purposes of Sections 372.005(b) and (b-1). After the hearing, the governing body may by ordinance or order increase the area of the district in accordance with the increase proposed in the hearing.

(c) If the governing body of the municipality or county increases the area of a public improvement district under Subsection (b) and the governing body has levied an assessment on property in the district before the increase, the governing body may:

(1) make a supplemental assessment under Section 372.019; or

1           (2) reapportion the existing assessment in a manner  
2 consistent with Section 372.015 after notice is given and a hearing  
3 is held in the same manner as required by Sections 372.016 and  
4 372.017.

5           Sec. 372.019. SUPPLEMENTAL ASSESSMENTS. (a) After notice  
6 and a hearing in accordance with Subsection (b), the governing body  
7 of the municipality or county may make supplemental assessments to:

8           (1) correct omissions or mistakes in the assessment  
9 relating to the total cost of the improvement; or

10           (2) levy an assessment on property added to the public  
11 improvement district under Section 372.012.

12           (b) Notice must be given and the hearing held under this  
13 section in the same manner as required by Sections 372.016 and  
14 372.017.

15           Sec. 372.020. REASSESSMENT. The governing body of the  
16 municipality or county may make a reassessment or new assessment of  
17 a parcel of land if:

18           (1) a court of competent jurisdiction sets aside an  
19 assessment against the parcel;

20           (2) the governing body determines that the original  
21 assessment is excessive; ~~or~~

22           (3) on the written advice of counsel, the governing  
23 body determines that the original assessment is invalid; or

24           (4) the governing body increases the area of the  
25 public improvement district under Section 372.012.

26           SECTION 5. Section 372.021(c), Local Government Code, is  
27 amended to read as follows:

(c) The fund may be used to:

(1) pay the costs of planning, administration, and an improvement authorized by this subchapter;

(2) prepare preliminary plans, studies, and engineering reports to determine the feasibility of an improvement; and

(3) if ordered by the governing body of the municipality or county, pay the initial cost of the improvement until temporary notes, time warrants, or general obligation bonds or revenue [improvement] bonds have been issued and sold.

SECTION 6. Section 372.022, Local Government Code, is amended to read as follows:

Sec. 372.022. SEPARATE FUNDS. If bonds are issued under this chapter, a separate public improvement district fund shall be created in the municipal or county treasury for each district. Proceeds from the sale of bonds, temporary notes, and time warrants, and other sums appropriated to the fund by the governing body of the municipality or county shall be credited to the fund. The fund may be used solely to pay costs incurred in making an improvement. When an improvement is completed, the balance of the part of the assessment that is for the improvement ~~[improvements]~~ shall be transferred to the fund established for the retirement of bonds.

SECTION 7. Sections 372.023(a) and (e), Local Government Code, are amended 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

1 improvements are dedicated, conveyed, leased, or otherwise  
2 provided to or for the benefit of:

3 (1) a municipality or county;

4 (2) this state, a political subdivision of this state,  
5 or other entity exercising the powers granted under this subchapter  
6 as authorized by other law; ~~[or]~~

7 (3) an entity created or operating under Section  
8 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas  
9 Constitution;

10 (4) a district created and operating under Chapter 65,  
11 Water Code;

12 (5) an entity otherwise authorized under the laws of  
13 this state to own the improvements, operate the improvements, and,  
14 as applicable, provide services using the improvements; or

15 (6) an entity that:

16 (A) is approved by the governing body of an  
17 entity described by Subdivision (1), ~~[or]~~ (2), (3), (4), or (5); and

18 (B) is authorized by order, ordinance,  
19 resolution, or other official action to act for an entity described  
20 by Subdivision (1), ~~[or]~~ (2), (3), (4), or (5).

21 (e) The interest rate on unpaid amounts due under an  
22 installment sales contract, reimbursement agreement, temporary  
23 note, or time warrant described by Subsection (d):

24 (1) may not exceed, for a period of not more than seven  
25 ~~[five]~~ years, as determined by the governing body of the  
26 municipality or county, five percent above the highest average  
27 index rate for tax-exempt revenue bonds reported in a daily or

1 weekly bond index approved by the governing body and reported in the  
2 month before the date the obligation was incurred; and

3 (2) after the period described by Subdivision (1), may  
4 not exceed two percent above the bond index rate described by  
5 Subdivision (1).

6 SECTION 8. Section 372.026, Local Government Code, is  
7 amended by amending Subsections (a), (b), and (f) and adding  
8 Subsection (g) to read as follows:

9 (a) In this section, "obligation" means bonds, temporary  
10 notes, time warrants, or an obligation under:

11 (1) an installment sale contract or reimbursement  
12 agreement; or

13 (2) an agreement entered into under Subsection (f).

14 (b) For the payment of obligations issued or agreed to under  
15 this subchapter and the payment of principal, interest, and any  
16 other amounts required or permitted in connection with the  
17 obligations, the governing body of the municipality or county may  
18 pledge:

19 (1) all or part of the income from improvements  
20 financed under this subchapter, including income received in  
21 installment payments under Section 372.023; or

22 (2) for a municipality, tax increment revenue  
23 generated from ad valorem and sales taxes imposed in a reinvestment  
24 zone:

25 (A) designated by the municipality under Chapter  
26 311, Tax Code; and

27 (B) located wholly or partly within the



boundaries of the public improvement district.

(f) The governing body may enter into an agreement with an entity described by Subsection (g) ~~[a corporation created by the municipality or county under the Texas Constitution or other law]~~ that provides for payment of amounts pledged under this section to the entity ~~[corporation]~~ to secure indebtedness issued by the entity ~~[corporation]~~ to finance an improvement project, including indebtedness to pay capitalized interest and a reserve fund permitted by this subchapter for revenue or general obligation bonds issued under this subchapter and indebtedness issued to pay the entity's ~~[corporation's]~~ costs of issuance. In addition, the agreement may ~~[provide that]~~:

(1) for an agreement with a corporation, provide that the corporation is responsible for managing the district; or

(2) designate the entity that will hold title to the ~~[one or more]~~ improvements under the agreement, which may include an entity described by Section 372.023(a) ~~[will be held by the corporation]~~.

(g) The governing body of the municipality or county may enter into an agreement described by Subsection (f) only with:

(1) a corporation created by a municipality or county under the Texas Constitution or other law;

(2) a corporation created under Subchapter D, Chapter 431, Transportation Code; or

(3) a political subdivision, instrumentality, or entity created and authorized to issue bonds secured by pledged revenue from a municipality or county.

SECTION 9. Section 372.027(a), Local Government Code, is amended to read as follows:

(a) Revenue bonds issued under this subchapter may be refunded or refinanced by the issuance of refunding bonds, under terms or conditions set forth in ordinances, ~~[or]~~ orders, or resolutions of the municipality, ~~[or]~~ county, or other entity issuing the bonds. The provisions of this subchapter applying generally to revenue bonds, including provisions related to the issuance of those bonds, apply to refunding bonds authorized by this section. The refunding bonds may be sold and delivered in amounts necessary for the principal, interest, and any redemption premium of the bonds to be refunded, on the date of the maturity of the bond or any redemption date of the bond. Refunding bonds may be issued in a principal amount in excess of the bonds to be refunded.

SECTION 10. Section 372.152(a), Local Government Code, is amended to read as follows:

(a) General ~~[The governing body of a municipality or county may issue and sell general]~~ obligation bonds or revenue bonds to reimburse a developer for the cost of a public improvement may be issued and sold in accordance with this chapter if:

(1) the public improvement is located in a public improvement district created on or after January 1, 2005;

(2) the public improvement is ~~[has been]~~ dedicated to and accepted by the municipality, ~~[or]~~ county, or entity designated to receive the improvement under Section 372.023(a); and

(3) before the public improvement was dedicated to and accepted by the municipality or county, the governing body of the

1 municipality or county entered into an agreement with the developer  
2 to pay for the public improvement.

3 SECTION 11. Section 5.014(a), Property Code, is amended to  
4 read as follows:

5 (a) A seller of residential real property that is located in  
6 a public improvement district established under Subchapter A,  
7 Chapter 372, Local Government Code, or Chapter 382, Local  
8 Government Code, and that consists of not more than one dwelling  
9 unit located in this state shall give to the purchaser of the  
10 property a written notice that reads substantially similar to the  
11 following:

12 NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT  
13 TO (municipality or county levying assessment) CONCERNING THE  
14 PROPERTY AT (street address)

15 As a purchaser of this parcel of real property you are  
16 obligated to pay an assessment to [(a)] municipality or county  
17 levying assessment) for an improvement project undertaken by a  
18 public improvement district under Subchapter A, Chapter 372, Local  
19 Government Code, or Chapter 382, Local Government Code. ~~[The~~  
20 ~~assessment may be due annually or in periodic installments.]~~ More  
21 information concerning the amount of the assessment and the due  
22 dates of that assessment may be obtained from [(the)] municipality  
23 or county levying [the] assessment).

24 The total unpaid principal amount of the assessment levied  
25 against this parcel is (dollar amount) which may be paid in one lump  
26 sum or in annual installments over (number of years). If paid in  
27 annual installments, the unpaid principal amount of the assessment

1 bears interest at (percentage) and includes additional charges in  
2 connection with administrative expenses associated with the public  
3 improvement district. The amount of the assessment is subject to  
4 change, but the principal amount of the assessment may not be  
5 increased without a public hearing.

6 YOUR FAILURE TO PAY THE ASSESSMENTS COULD RESULT IN A LIEN ON  
7 AND THE FORECLOSURE OF YOUR PROPERTY. ~~[The amount of the~~  
8 ~~assessments is subject to change. Your failure to pay the~~  
9 ~~assessments could result in a lien on and the foreclosure of your~~  
10 ~~property.]~~

11 Date: \_\_\_\_\_

12 Signature of Purchaser

13 SECTION 12. This Act takes effect immediately if it  
14 receives a vote of two-thirds of all the members elected to each  
15 house, as provided by Section 39, Article III, Texas Constitution.  
16 If this Act does not receive the vote necessary for immediate  
17 effect, this Act takes effect September 1, 2017.