

By: Wray

H.B. No. 2435

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. 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;

(5) acquisition and installation of pieces of art;

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

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

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

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

(10) the establishment or improvement of parks and

1 recreational facilities;

2 (11) acquisition, construction, or improvement of a
3 facility related to the generation of renewable energy from wind,
4 solar, geothermal, or other renewable sources of energy;

5 (12) acquisition, construction, or improvement of a
6 facility related to a water feature, including a recreational
7 lagoon or artificial body of water used for:

8 (A) aesthetic purposes; or

9 (B) swimming, boating, or other aquatic
10 recreational sports or activities;

11 (13) projects similar to those listed in Subdivisions
12 (1)-(12) [~~(1)-(10)~~];

13 (14) [~~(12)~~] acquisition, by purchase or otherwise, of
14 real property, including a right-of-way, in connection with an
15 authorized improvement;

16 (15) [~~(13)~~] special supplemental services for
17 improvement and promotion of the district, including services
18 relating to advertising, promotion, health and sanitation, water
19 and wastewater, public safety, security, business recruitment,
20 development, recreation, and cultural enhancement;

21 (16) [~~(14)~~] payment of expenses incurred in the
22 establishment, administration, and operation of the district; and

23 (17) [~~(15)~~] the development, rehabilitation, or
24 expansion of affordable housing.

25 (b-1) Payment of expenses under Subsection (b)(16)
26 [~~(b)(14)~~] may also include expenses related to the operation and
27 maintenance of a public improvement project [~~mass transportation~~

1 ~~facilities]~~.

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

5 SECTION 2. Section 372.010(c), Local Government Code, is
6 amended to read as follows:

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

20 SECTION 3. Sections 372.012, 372.019, and 372.020, Local
21 Government Code, are amended to read as follows:

22 Sec. 372.012. AREA OF DISTRICT; INCREASE OF AREA. (a) The
23 area of a public improvement district to be assessed according to
24 the findings of the governing body of the municipality or county may
25 be less than the area described in the proposed boundaries stated by
26 the notice under Section 372.009. The area to be assessed may not
27 include property not described by the notice as being within the

1 proposed boundaries of the district unless a hearing is held to
2 include the property and notice for the hearing is given in the same
3 manner as notice under Section 372.009.

4 (b) The governing body of the municipality or county may
5 call and hold a public hearing in the same manner as a hearing under
6 Section 372.009 for the purpose of increasing the area of a public
7 improvement district if a petition requesting the increase is filed
8 as provided by Section 372.005. After the hearing, the governing
9 body may by ordinance or order increase the area of the district in
10 accordance with the increase proposed in the hearing.

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

16 (1) make a supplemental assessment under Section
17 372.019; or

18 (2) reapportion the existing assessment in a manner
19 consistent with Section 372.015 after notice is given and a hearing
20 is held in the same manner as required by Sections 372.016 and
21 372.017.

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

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

27 (2) levy an assessment on property added to the public

1 improvement district under Section 372.012.

2 **(b)** Notice must be given and the hearing held under this
3 section in the same manner as required by Sections 372.016 and
4 372.017.

5 Sec. 372.020. REASSESSMENT. **(a)** The governing body of the
6 municipality or county may make a reassessment or new assessment of
7 a parcel of land if:

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

10 (2) the governing body determines that the original
11 assessment is excessive; ~~or~~

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

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

16 **(b)** The governing body of the municipality or county may
17 only make a reassessment or new assessment under Subsection (a)(4)
18 for the purpose of reducing the overall principal amount of a prior
19 assessment.

20 SECTION 4. Section 372.021(c), Local Government Code, is
21 amended to read as follows:

22 **(c)** The fund may be used to:

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

25 (2) prepare preliminary plans, studies, and
26 engineering reports to determine the feasibility of an improvement;
27 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 5. 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 6. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0225 to read as follows:

Sec. 372.0225. TRANSFER OF PROJECT FOR OPERATION AND MAINTENANCE. The governing body of the municipality or county may transfer a public improvement project, for the purpose of operation and maintenance of the project for the benefit of the municipality or county, to:

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

1 (2) a district created and operating under Chapter 65,
2 Water Code; or
3 (3) an entity regulated by the Public Utility
4 Commission of Texas.

5 SECTION 7. Section 372.023(e), Local Government Code, is
6 amended to read as follows:

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

10 (1) may not exceed, for a period of not more than seven
11 [five] years, as determined by the governing body of the
12 municipality or county, five percent above the highest average
13 index rate for tax-exempt revenue bonds reported in a daily or
14 weekly bond index approved by the governing body and reported in the
15 month before the date the obligation was incurred; and

16 (2) after the period described by Subdivision (1), may
17 not exceed two percent above the bond index rate described by
18 Subdivision (1).

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

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

24 (1) an installment sale contract or reimbursement
25 agreement; or

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

27 (b) For the payment of obligations issued or agreed to under

1 this subchapter and the payment of principal, interest, and any
2 other amounts required or permitted in connection with the
3 obligations, the governing body of the municipality or county may
4 pledge:

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

8 (2) for a municipality, undedicated tax increment
9 revenue generated from ad valorem and sales taxes imposed in a
10 reinvestment zone:

11 (A) designated by the municipality under Chapter
12 311, Tax Code; and

13 (B) located wholly or partly within the
14 boundaries of the public improvement district.

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

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

1 (2) designate the entity that will hold title to the
2 [~~one or more~~] improvements under the agreement, which may include
3 an entity described by Section 372.0225 [~~will be held by the~~
4 corporation].

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

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

9 (2) a corporation created under Subchapter D, Chapter
10 431, Transportation Code; or

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

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

16 (a) Revenue bonds issued under this subchapter may be
17 refunded or refinanced by the issuance of refunding bonds, under
18 terms or conditions set forth in ordinances, [~~or~~] orders, or
19 resolutions of the municipality, [~~or~~] county, or other entity
20 issuing the bonds. The provisions of this subchapter applying
21 generally to revenue bonds, including provisions related to the
22 issuance of those bonds, apply to refunding bonds authorized by
23 this section. The refunding bonds may be sold and delivered in
24 amounts necessary for the principal, interest, and any redemption
25 premium of the bonds to be refunded, on the date of the maturity of
26 the bond or any redemption date of the bond. Refunding bonds may be
27 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) 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 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 to which the improvement will be transferred under Section 372.0225; and

(3) before the public improvement was dedicated to and accepted by the municipality or county, the governing body of the municipality or county entered into an agreement with the developer to pay for the public improvement.

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

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

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

As a purchaser of this parcel of real property you are

1 obligated to pay an assessment to ([a] municipality or county
2 levying assessment) for an improvement project undertaken by a
3 public improvement district under Subchapter A, Chapter 372, Local
4 Government Code, or Chapter 382, Local Government Code. ~~[The~~
5 ~~assessment may be due annually or in periodic installments.]~~ More
6 information concerning the amount of the assessment and the due
7 dates of that assessment may be obtained from ([the] municipality
8 or county levying ~~[the]~~ assessment).

9 The total unpaid principal amount of the assessment levied
10 against this parcel is (dollar amount) which may be paid in one lump
11 sum or in annual installments over (number of years). If paid in
12 annual installments, the unpaid principal amount of the assessment
13 bears interest at (percentage) and includes additional charges in
14 connection with administrative expenses associated with the public
15 improvement district. The amount of the assessment is subject to
16 change, but the principal amount of the assessment may not be
17 increased without a public hearing.

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

23 Date: _____

24 Signature of Purchaser

25 SECTION 12. This Act takes effect immediately if it
26 receives a vote of two-thirds of all the members elected to each
27 house, as provided by Section 39, Article III, Texas Constitution.

H.B. No. 2435

1 If this Act does not receive the vote necessary for immediate
2 effect, this Act takes effect September 1, 2017.