

LOCAL GOVERNMENT CODE

CHAPTER 372. IMPROVEMENT DISTRICTS IN MUNICIPALITIES AND COUNTIES  
SUBCHAPTER A. PUBLIC IMPROVEMENT DISTRICTS

Sec. 372.001. SHORT TITLE. This subchapter may be cited as the Public Improvement District Assessment Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 372.0015. DEFINITION. In this subchapter, "extraterritorial jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 76(b), eff. Aug. 28, 1989.

Sec. 372.002. EXERCISE OF POWERS. Powers granted under this subchapter may be exercised by a municipality or county in which the governing body of the municipality or county initiates or receives a petition requesting the establishment of a public improvement district. A petition must comply with the requirements of Section 372.005.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 2, eff. June 16, 2001.

Sec. 372.003. AUTHORIZED IMPROVEMENTS. (a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.

(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;
- (11) projects similar to those listed in Subdivisions (1)-(10);
- (12) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (13) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and
- (14) payment of expenses incurred in the establishment, administration, and operation of the district.

(c) A public improvement project may be limited to the provision of the services described by Subsection (b)(13).

(d) A county may establish a public improvement district unless within 30 days of a county's action to approve such a district, a home rule municipality objects to its establishment within the municipality's corporate limits or extraterritorial jurisdiction.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(c), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 3, eff. June 16, 2001.

Sec. 372.004. COMBINED IMPROVEMENTS. An improvement project may consist of an improvement on more than one street or of more than one type of improvement. A project described by this section may be included in one proceeding and financed as one improvement project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(d), eff. Aug. 28, 1989.

Sec. 372.005. PETITION. (a) A petition for the establishment of a public improvement district must state:

- (1) the general nature of the proposed improvement;
- (2) the estimated cost of the improvement;
- (3) the boundaries of the proposed assessment district;
- (4) the proposed method of assessment, which may specify included or excluded classes of assessable property;
- (5) the proposed apportionment of cost between the public improvement district and the municipality or county as a whole;
- (6) whether the management of the district is to be by the municipality or county, the private sector, or a partnership between the municipality or county and the private sector;
- (7) that the persons signing the petition request or concur with the establishment of the district; and
- (8) that an advisory body may be established to develop and recommend an improvement plan to the governing body of the municipality or county.

(b) The petition is sufficient if signed by:

(1) owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) record owners of real property liable for assessment under the proposal who:

(A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or

(B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

(c) The petition may be filed with the municipal secretary or other officer performing the functions of the municipal secretary.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(e), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 4, eff. June 16, 2001.

Sec. 372.006. FINDINGS. If a petition that complies with this subchapter is filed, the governing body of the municipality or county may make findings by resolution as to the advisability of the proposed improvement, its estimated cost, the method of assessment, and the apportionment of cost between the proposed improvement district and the municipality or county as a whole.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 5, eff. June 16, 2001.

Sec. 372.007. FEASIBILITY REPORT. (a) Before holding the hearing required by Section 372.009, the governing body of the municipality may use the services of municipal employees, the governing body of the county may use the services of county employees, or the governing body of the municipality or county may employ consultants to prepare a report to determine whether an improvement should be made as proposed by petition or otherwise or whether the improvement should be made in combination with other improvements authorized under this subchapter. The governing body may also require that a preliminary estimate of the cost of the improvement or combination of improvements be made.

(b) For the purpose of determining the feasibility and desirability of an improvement district, the governing body may take other preliminary steps before the hearing required by Section 372.009, before establishing a public improvement district, or before entering into a contract.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 6, eff. June 16, 2001.

Sec. 372.008. ADVISORY BODY. (a) After receiving a petition that complies with Section 372.005, the governing body of the municipality or county may appoint an advisory body with the responsibility of developing and recommending an improvement plan to the governing body.

(b) The composition of the advisory body must include:

(1) owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) record owners of real property liable for

assessment under the proposal who:

(A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or

(B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 7, eff. June 16, 2001.

Sec. 372.009. HEARING. (a) A public improvement district may be established and improvements provided by the district may be financed under this subchapter only after the governing body of the municipality or county holds a public hearing on the advisability of the improvement.

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

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

(c) Notice of the hearing must be given in a newspaper of general circulation in the municipality or county. If any part of the improvement district is to be located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the notice must also be given in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is to be located or in which the improvements are to be undertaken. The final publication of notice must be made before the 15th day before the date of the hearing. The notice must state:

- (1) the time and place of the hearing;
- (2) the general nature of the proposed improvement;
- (3) the estimated cost of the improvement;
- (4) the boundaries of the proposed assessment district;
- (5) the proposed method of assessment; and
- (6) the proposed apportionment of cost between the improvement district and the municipality or county as a whole.

(d) Written notice containing the information required by Subsection (c) must be mailed before the 15th day before the date of the hearing. The notice must be addressed to "Property Owner" and mailed to the current address of the owner, as reflected on tax rolls, of property subject to assessment under the proposed public improvement district.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(f), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 8, eff. June 16, 2001.

Sec. 372.010. IMPROVEMENT ORDER. (a) During the six-month period after the date of the final adjournment of the hearing under Section 372.009, the governing body of the municipality or county may authorize an improvement district if, by majority vote of all members of the governing body, the members adopt a resolution authorizing the district in accordance with its finding as to the advisability of the improvement.

(b) An authorization takes effect when it has been published one time in a newspaper of general circulation in the municipality or county. If any part of the improvement district is located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the authorization does not take effect until the notice is also given one time in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is located or in which the improvements are to be undertaken.

(c) Actual construction of an improvement may not begin until after the 20th day after the date the authorization takes effect and may not begin if during that 20-day period written protests signed by at least two-thirds of the owners of record of property within the improvement district or by the owners of record of property comprising at least two-thirds of the total area of the district are filed with the municipal or county secretary or other

officer performing the duties of the municipal or county secretary. A person whose name appears on a protest may withdraw the name from the protest at any time before the governing body of the municipality or county convenes to determine the sufficiency of the protest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(g), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 9, eff. June 16, 2001.

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

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 372.012. AREA OF DISTRICT. 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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 10, eff. June 16, 2001.

Sec. 372.013. SERVICE PLAN. (a) The advisory body shall prepare an ongoing service plan and present the plan to the governing body of the municipality or county for review and approval. The governing body may assign responsibility for the plan to another entity in the absence of an advisory body.

(b) The plan must cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements. The plan shall be reviewed and updated annually for the purpose of determining the annual budget for improvements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 11, eff. June 16, 2001.

Sec. 372.014. ASSESSMENT PLAN; PAYMENT BY EXEMPT JURISDICTIONS. (a) An assessment plan must be included in the annual service plan.

(b) The municipality or county is responsible for payment of assessments against exempt municipal or county property in the district. Payment of assessments by other exempt jurisdictions must be established by contract. An assessment paid by the municipality or county under this subsection is considered to have been paid by special assessment for the purposes of Subsection (a).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(h), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 12, eff. June 16, 2001.

Sec. 372.015. DETERMINATION OF ASSESSMENT. (a) The governing body of the municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district. The apportionment shall be made on the basis of special benefits accruing to the property because of the improvement.

(b) Cost of an improvement may be assessed:  
(1) equally per front foot or square foot;  
(2) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or  
(3) in any other manner that results in imposing equal shares of the cost on property similarly benefitted.

(c) The governing body may establish by ordinance or order:  
(1) reasonable classifications and formulas for the apportionment of the cost between the municipality or county and the area to be assessed; and  
(2) the methods of assessing the special benefits for various classes of improvements.

(d) The amount of assessment for each property owner may be adjusted following the annual review of the service plan.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 13, eff. June 16, 2001.

Sec. 372.016. ASSESSMENT ROLL. (a) After the total cost of

an improvement is determined, the governing body of the municipality or county shall prepare a proposed assessment roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality or county under this subchapter.

(b) The governing body shall file the proposed assessment roll with the municipal secretary or other officer performing the functions of the municipal secretary or in a district formed by a county, the county tax assessor-collector. The proposed assessment roll is subject to public inspection. The governing body shall require the municipal secretary or other officer or county tax assessor-collector to publish notice of the governing body's intention to consider the proposed assessments at a public hearing. The notice must be published in a newspaper of general circulation in the municipality or county before the 10th day before the date of the hearing. If any part of the improvement district is located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the notice must also be published, before the 10th day before the date of the hearing, in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is located or in which the improvements are to be undertaken. The notice must state:

- (1) the date, time, and place of the hearing;
- (2) the general nature of the improvement;
- (3) the cost of the improvement;
- (4) the boundaries of the assessment district; and
- (5) that written or oral objections will be considered

at the hearing.

(c) When the assessment roll is filed under Subsection (b), the municipal secretary or other officer shall mail to the owners of property liable for assessment a notice of the hearing. The notice must contain the information required by Subsection (b) and the secretary or other officer shall mail the notice to the last known address of the property owner. The failure of a property owner to receive notice does not invalidate the proceeding.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(i), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 14, eff. June 16, 2001.

Sec. 372.017. LEVY OF ASSESSMENT. (a) At or on the adjournment of the hearing referred to by Section 372.016 on proposed assessments, the governing body of the municipality or county must hear and pass on any objection to a proposed assessment. The governing body may amend a proposed assessment on any parcel.

(b) After all objections have been heard and the governing body has passed on the objections, the governing body by ordinance or order shall levy the assessment as a special assessment on the property. The governing body by ordinance or order shall specify the method of payment of the assessment. The governing body may provide that assessments be paid in periodic installments. The installments must be in amounts necessary to meet annual costs for improvements and must continue for a period necessary to retire the indebtedness on the improvements.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 15, eff. June 16, 2001.

Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) An assessment bears interest at the rate specified by the governing body of the municipality or county, but may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the public debt used to finance the improvement. Interest on the assessment between the effective date of the ordinance or order levying the assessment and the date the first installment is payable shall be added to the first installment. The interest on any delinquent installment shall be added to each subsequent installment until all delinquent installments are paid.

(b) An assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the property assessed, superior to all other liens and claims except liens or claims for state, county, school district, or municipality ad valorem taxes, and is a personal liability of and charge against the owners of the property regardless of whether the owners are named. The lien is effective from the date of the ordinance or order levying the assessment until the assessment is paid and may be enforced by the governing body in the same manner that an ad valorem tax lien against real property

may be enforced by the governing body. Delinquent installments of the assessment shall incur interest, penalties, and attorney's fees in the same manner as delinquent ad valorem taxes. The owner of assessed property may pay at any time the entire assessment, with interest that has accrued on the assessment, on any lot or parcel. Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(j), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 16, eff. June 16, 2001.

Sec. 372.019. SUPPLEMENTAL ASSESSMENTS. After notice and a hearing, the governing body of the municipality or county may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement. Notice must be given and the hearing held under this section in the same manner as required by Sections 372.016 and 372.017.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 17, eff. June 16, 2001.

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

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

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

(3) on the written advice of counsel, the governing body determines that the original assessment is invalid.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 18, eff. June 16, 2001.

Sec. 372.021. SPECIAL IMPROVEMENT DISTRICT FUND. (a) A municipality or county that intends to create a public improvement district may by ordinance or order establish a special improvement district fund in the municipal or county treasury.

(b) The municipality or county annually may levy a tax to support the fund.

(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 improvement bonds have been issued and sold.

(d) The fund is not required to be budgeted for expenditure during any year, but the amount of the fund must be stated in the municipality's or county's annual budget. The amount of the fund must be based on an annual service plan that describes the public improvements for the fiscal year.

(e) A grant-in-aid or contribution made to the municipality or county for the planning and preparation of plans for an improvement authorized under this subchapter may be credited to the special improvement district fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 19, eff. June 16, 2001.

Sec. 372.022. SEPARATE FUNDS. 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 improvements shall be transferred to the fund established for the retirement of bonds. Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 20, eff. June 16, 2001.

Sec. 372.023. PAYMENT OF COSTS. (a) The cost of an improvement made under this subchapter must be paid in accordance with this section.

(b) A cost payable by the municipality or county as a whole may be paid from general funds available for the purpose or other available general funds.

(c) A cost payable from a special assessment that has been paid in full shall be paid from that assessment.

(d) A cost payable from a special assessment that is to be paid in installments and a cost payable by the municipality or

county as a whole but not payable from available general funds or other available general improvement funds shall be paid by the issuance and sale of revenue or general obligation bonds.

(e) While an improvement is in progress, the governing body of the municipality or county may issue temporary notes or time warrants to pay for the costs of the improvement and, on completion of the improvement, issue revenue or general obligation bonds.

(f) The cost of more than one improvement may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

(g) The costs of any improvement include all costs incurred in connection with the issuance of bonds under Section 372.024 and may be included in the assessments against the property in the improvement district as provided by this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 76(k), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1341, Sec. 21, eff. June 16, 2001.

Sec. 372.024. GENERAL OBLIGATION AND REVENUE BONDS. General obligation bonds issued to pay costs under Section 372.023(d) must be issued under the provisions of Subtitles A and C, Title 9, Government Code. Revenue bonds issued to pay costs under that subsection may be issued from time to time in one or more series and are to be payable from and secured by liens on all or part of the revenue derived from improvements authorized under this subchapter, including revenue derived from installment payments of special assessments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.330, eff. Sept. 1, 2001.

Sec. 372.025. TERMS AND CONDITIONS OF BONDS. (a) Revenue bonds may be issued to mature serially or in any other manner but must mature not later than 40 years after their date. A provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms and conditions specified in the ordinance or order authorizing the issuance of the bonds.

(b) The bonds shall be executed and the bonds and interest coupons appertaining to them are negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code (Section 1.101 et seq., Business & Commerce Code). The ordinance or order authorizing the issuance of the bonds must specify:

(1) whether the bonds are issued registrable as to principal alone or as to both principal and interest;

(2) whether the bonds are redeemable before maturity;

(3) the form, denomination, and manner of issuance;

(4) the terms, conditions, and other details applying to the bonds including the price, terms, and interest rates on the bonds; and

(5) the manner of sale of the bonds.

(c) The ordinance or order authorizing the issuance of the bonds may specify that the proceeds from the sale of the bonds:

(1) be used to pay interest on the bonds during and after the period of acquisition or construction of an improvement financed through the sale of the bonds;

(2) be used for creating a reserve fund for payment of the principal of and interest on the bonds and for creating other funds; and

(3) may be placed in time deposit or invested, until needed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 22, eff. June 16, 2001.

Sec. 372.026. PLEDGES. (a) For the payment of bonds issued under this subchapter and the payment of principal, interest, and any other amounts required or permitted in connection with the bonds, the governing body of the municipality or county may pledge all or part of the income from improvements financed under this subchapter, including income received in installment payments under Section 372.023.

(b) Pledged income must be fixed and collected in amounts sufficient, with other pledged resources, to pay principal, interest, and other expenses related to the bonds, and to the extent required by the ordinance or order authorizing the bonds, to pay for the operation, maintenance, and other expenses related to improvements authorized by this subchapter.

(c) The bonds may also be secured by mortgages or deeds of trust on any real property related to the facilities authorized under this subchapter that are owned or are to be acquired by the

municipality or county and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances as evidence of the indebtedness.

(d) The governing body may pledge to the payment of bonds all or part of a grant, donation, revenue, or income received or to be received from the government of the United States or any other public or private source, whether or not it is received pursuant to an agreement or otherwise.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 23, eff. June 16, 2001.

Sec. 372.027. REFUNDING BONDS. (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 of the municipality or county 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.

(b) Refunding bonds may be issued for exchange with the bonds they are refunding. The comptroller of public accounts shall register refunding bonds described by this subsection and deliver the bonds to holders of bonds being refunded in accordance with the ordinance or order authorizing the issuance of refunding bonds. The exchange may be made in one delivery or several installment deliveries.

(c) General obligation bonds issued under this subchapter may be refunded in the manner provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1341, Sec. 24, eff. June 16, 2001.

Sec. 372.028. APPROVAL AND REGISTRATION. (a) Revenue bonds issued under this subchapter and a record of the proceedings authorizing their issuance must be submitted to the attorney general for examination. If bonds state that they are secured by a pledge of revenue or rentals from a contract or lease, a copy of the contract or lease and a description of the proceedings authorizing the contract or lease must also be submitted to the attorney general.

(b) If the attorney general determines that the bonds were authorized and the contracts or leases related to the bonds were made in accordance with the law, the attorney general shall approve the bonds and the contract or lease. On the approval of the attorney general, the comptroller of public accounts shall register the bonds.

(c) Bonds and contracts or leases approved and registered under this section are valid and binding obligations for all purposes in accordance with their terms and are incontestable in any court or other forum.

(d) General obligation bonds issued under this subchapter shall be approved and registered as provided by law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 372.029. AUTHORIZED INVESTMENTS; SECURITY. (a) Bonds issued under this subchapter are legal and authorized investments for:

(1) banks, trust companies, and savings and loan associations;

(2) all insurance companies;

(3) fiduciaries, trustees, and guardians; and

(4) interest funds, sinking funds, and other public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic.

(b) Bonds issued under this subchapter may be security for deposits of public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic, to the extent of the market value of the bonds, if accompanied by any appurtenant unmatured interest coupons.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 372.030. SUBCHAPTER NOT EXCLUSIVE. This subchapter is an alternative to other methods by which a municipality may finance

public improvements by assessing property owners.  
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. IMPROVEMENT DISTRICTS IN HOME-RULE MUNICIPALITIES

Sec. 372.041. AUTHORITY OF HOME-RULE MUNICIPALITY. (a) A home-rule municipality may create improvement districts for the purposes of:

(1) levying, straightening, widening, enclosing, or otherwise improving a river, creek, bayou, stream, other body of water, street, or alley;

(2) draining, grading, filling, and otherwise protecting and improving the territory within the municipality's limits; and

(3) issuing bonds to finance improvements listed in this subsection.

(b) If a home-rule municipality creates an improvement district in order to make improvements authorized by this subsection, the municipality must comply with the general law of the state relating to the creation of improvement districts. Bonds issued for improvements under this section must be issued in a manner that complies with the general authority of a home-rule municipality to issue bonds.

(c) A home-rule municipality may require the owners of property in the territory specially benefitted in enhanced value by improvements made under this section to pay the costs of the improvement. If a municipality finances an improvement under this subsection, the municipality shall make a personal charge against those property owners and fix a lien against that property by special assessment. The municipality may issue assignable or negotiable certificates to pay for the costs of improvements and require the property owners to make deferred payments to retire the certificates. Interest on deferred payments may not exceed eight percent. The municipality may appoint special commissioners or provide otherwise for the making and levying of special assessments under this subsection, or may provide that the making and levying of the assessment be performed by the governing body of the municipality, in compliance with requirements for hearings and other procedures as may be adopted under or required by the municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. IMPROVEMENT PROJECTS IN CERTAIN COUNTIES

Sec. 372.101. DEFINITIONS; APPLICABILITY. (a) In this subchapter:

(1) "Board" means the board of directors of a district.

(2) "District" means a public improvement district created by a county under this subchapter.

(3) "Hotel" has the meaning assigned by Section 156.001, Tax Code, and includes a timeshare, overnight lodging unit, or condominium during the time the timeshare, overnight lodging unit, or condominium is rented by a person who is not the owner of the timeshare, overnight lodging unit, or condominium.

(4) "Municipality" means the municipality in whose extraterritorial jurisdiction the improvement project is to be located.

(b) This subchapter applies only to a county with a population of 825,000 or more.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.102. PURPOSE. By enacting this subchapter, the legislature has created a program for economic development as provided in Section 52-a, Article III, Texas Constitution. A county may engage in economic development projects as provided by this subchapter, and, on a determination of the commissioners court of the county to create a district, may delegate the authority to oversee and manage the economic development project to an appointed board of directors. In appointing a board, the commissioners court delegates its authority to serve a public use and benefit.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.103. COUNTY MAY ESTABLISH DISTRICT. A county may create a public improvement district under this subchapter if the county determines it is in the county's best interest. A district created under this subchapter is a political subdivision of this state.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18,

2005.

Sec. 372.104. APPLICABILITY; CONFLICT OF LAWS. This subchapter controls to the extent of a conflict between this subchapter and Subchapter A.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.105. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PROJECTS; OPTIONAL CREATION OF PUBLIC IMPROVEMENT DISTRICT. (a) The commissioners court of a county, other than a county that borders on the Gulf of Mexico or a bay or inlet of the gulf or a county that has two municipalities located in whole or in part within its boundaries each having a population of 300,000 or more, may on receipt of a petition satisfying the requirements of Section 372.005, establish by order an economic development project in a designated portion of the county, or, if the county determines it is in the best interests of the county, create a district only in an area located in the extraterritorial jurisdiction of a municipality in that county.

(b) The order must:

(1) describe the territory in which the economic development project is to be located or the boundaries of a district;

(2) specifically authorize the district to exercise the powers of this subchapter if the county has determined that creating a district is in the county's best interests; and

(3) state whether the petition requests improvements to be financed and paid for with taxes authorized by this subchapter instead of or in addition to assessments.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.106. GOVERNING BODY; TERMS. If a county elects to delegate the authority granted under this subchapter, it shall appoint a board of seven directors to serve staggered two-year terms, with three or four directors' terms expiring June 1 of each year to manage the economic development project or, at the option of the county, govern the district.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.107. ELIGIBILITY. (a) To be eligible to serve as a director, a person must be at least 18 years old.

(b) If the population of the district is more than 1,000, to be eligible to serve as a director, a person must be at least 18 years old, reside in the district, and meet the qualifications of Section 375.063.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.108. VACANCIES; QUORUM. (a) A board vacancy is filled in the same manner as the original appointment.

(b) A vacant board position is not counted for the purposes of establishing a quorum of the board.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.109. CONFLICTS OF INTEREST. Chapter 171 governs conflicts of interest for directors.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.110. COMPENSATION. (a) For purposes of this section, "performs the duties of a director" means substantial performance of the management of the district's business, including participation in board and committee meetings and other activities involving the substantive deliberation of district business and in pertinent educational programs, but does not include routine or ministerial activities such as the execution of documents or self-preparation for meetings.

(b) A county is authorized to compensate the directors when they perform the duties of a director. The county shall compensate a director not more than \$50 a day for each day that the director performs the duties of a director.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.111. OATH AND BOND; OFFICER ELECTIONS. As soon as practicable, a board member shall give the bond and take the oath of office in accordance with Section 375.067, and the board shall elect officers in accordance with Section 375.068.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18,

2005.

Sec. 372.112. ELECTION DATES.

Text of section effective until January 1, 2007

(a) For an election ordered by the county under this subchapter before December 31, 2005, the uniform election dates under the Election Code in effect on January 1, 2005, apply.

(b) This section expires January 1, 2007.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.113. POWERS AND DUTIES. (a) A county operating under this subchapter has the powers and duties of:

(1) a county development district under Chapter 383, except for Section 383.066;

(2) a road district created by a county under Section 52, Article III, Texas Constitution; and

(3) a municipality or county under Chapter 380 or 381, or under Section 372.003(b)(9).

(b) A county is authorized to manage an economic development project in a designated portion of the county, or to create a district and to delegate to a board the county's powers and duties as provided by this subchapter.

(c) A county may not delegate to a district the powers and duties of a road district or the power to provide water, wastewater, or drainage facilities under this section unless both the municipality and county consent by resolution.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.114. DEVELOPMENT AGREEMENTS. A county may enter into a development agreement with an owner of land in the territory designated for an economic development project, or a district may enter into a development agreement, for a term not to exceed 30 years on any terms and conditions the county or the board considers advisable. The parties may amend the agreement.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.115. ECONOMIC DEVELOPMENT AGREEMENT; ELECTION; TAXES. (a) A county may enter into an agreement, only on terms and conditions the commissioners court and a board consider advisable, to make a grant or loan of public money to promote state or local economic development and to stimulate business and commercial activity in the territory where the economic development project is located, or in the district, including a grant or loan to induce the construction of a tourist destination or attraction in accordance with Chapter 380 or 381.

(b) If authorized by the county, a district created by the county may order an election to be held in the district to approve a grant or loan agreement. The grant or loan may be payable over a term of years and be enforceable on the district under the terms of the agreement and the conditions of the election, which may, subject to the requirements of Section 372.127(c), include the irrevocable obligation to impose an ad valorem tax, sales and use tax, or hotel occupancy tax for a term not to exceed 30 years. If authorized at the election, the board may contract to pay the taxes to the recipient of the grant or loan in accordance with the agreement.

(c) If the property owners petitioning a county to create a district under Section 372.105 propose that the district be created only to provide economic development grants or loans and road improvements and not to impose assessments, and the county determines that the creation of the district is in the best interests of the county, the district is not required to prepare a feasibility report, a service plan or assessment plan, or an assessment roll as required by this chapter.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.116. CONTRACTS; GENERAL. (a) A district may contract with any person, including the municipality or county, on the terms and conditions and for a period of time the board determines, to:

(1) accomplish any district purpose, including a contract to pay, repay, or reimburse from tax proceeds or another specified source of money any costs, including reasonable interest, incurred by a person on the county's or the district's behalf, including all or part of the costs of an improvement project; and

(2) receive, administer, and perform the county's or

the district's duties and obligations under a gift, grant, loan, conveyance, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or another person of an improvement project or proposed improvement project.

(b) A state agency, municipality, county, other political subdivision, corporation, or other person may contract with the county or district to carry out the purposes of this subchapter. Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.117. PROCUREMENT CONTRACTS. A district may contract for materials, supplies, and construction:

(1) in accordance with the laws applicable to counties; or

(2) in the same manner that a local government corporation created pursuant to Chapter 431, Transportation Code, is authorized to contract.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.118. RULES; ENFORCEMENT. A county may authorize the board to adopt rules:

(1) to administer and operate the district;

(2) for the use, enjoyment, availability, protection, security, and maintenance of district property, including facilities; or

(3) to provide for public safety and security in the district.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.119. FEES. A county may authorize a board to establish, revise, repeal, enforce, collect, and apply the proceeds from user fees or charges for the enjoyment, sale, rental, or other use of its facilities or other property, or for services or improvement projects.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.120. RULES; REGULATION OF ROADS AND OTHER PUBLIC AREAS. (a) A county may authorize a board to adopt rules to regulate the private use of public roadways, open spaces, parks, sidewalks, and similar public areas in the district, if the use is for a public purpose.

(b) A rule, order, ordinance, or regulation of a county or municipality that conflicts with a rule adopted under this section controls to the extent of any conflict.

(c) A rule adopted under this section may provide for the safe and orderly use of public roadways, open spaces, parks, sidewalks, and similar public areas in the area of the district or economic development project.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.121. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the county may delegate to the district the authority to construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the territory targeted by the county for an economic development project, or the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is located outside the extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.122. UTILITIES. (a) This subchapter does not grant the board any right-of-way management authority over public utilities.

(b) To the extent the construction, maintenance, or operation of a project under this subchapter requires the relocation or extension of a public utility facility, the district shall reimburse the public utility for all costs associated with

the relocation, removal, extension, or other adjustment of the facility.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.123. SERVICE PLAN REQUIRED. The commissioners court of the county that created the district may require a district to prepare an annual service plan, in the manner provided for by Section 372.013, that meets the approval of the commissioners court.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.124. NO EMINENT DOMAIN. A district may not exercise the power of eminent domain.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.125. NO TAX ABATEMENTS. A county may not grant a tax abatement or enter into a tax abatement agreement for a district created under this subchapter.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.126. BONDS; NOTES. (a) A district may not issue bonds unless approved by the commissioners court of the county that created the district. If the population in the district is more than 1,000, the bonds may not be issued unless approved by a majority of the voters of the district voting in an election held for that purpose. A bond election under this subsection does not affect prior bond issuances and is not required for refunding bond issuances.

(b) A district may not issue a negotiable promissory note or notes unless approved by the commissioners court of the county that created the district.

(c) If the commissioners court grants approval under this section, bonds, notes, and other district obligations may be secured by district revenue or any type of district taxes or assessments.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.127. AUTHORITY TO IMPOSE ASSESSMENTS AND AD VALOREM, SALES AND USE, AND HOTEL OCCUPANCY TAXES; ELECTION. (a) A county or a district created under this subchapter may accomplish its purposes and pay the cost of services and improvements by imposing:

- (1) an assessment;
- (2) an ad valorem tax;
- (3) a sales and use tax; or
- (4) a hotel occupancy tax.

(b) A district may impose an ad valorem tax, hotel occupancy tax, or sales and use tax to accomplish the economic development purposes prescribed by Section 52a, Article III, Texas Constitution, if the tax is approved by:

(1) the commissioners court of the county that created the district; and

(2) a majority of the voters of the district voting at an election held for that purpose.

(c) A county must adopt an order providing whether a district has the authority to impose a hotel occupancy tax, sales and use tax, or ad valorem tax, and must provide the rate at which the district may impose the tax. A tax rate approved by the commissioners court and pledged to secure bonds, notes, grant agreements, or development agreements may not be reduced until the obligations of those instruments have been satisfied.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.128. USE OF REVENUE FROM TAXES. A tax authorized by a county to be imposed under this subchapter may be used to accomplish any improvement project or road project, or to provide any service authorized by this chapter or Chapter 380, 381, or 383. Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.129. HOTEL OCCUPANCY TAX. (a) A county may authorize a district to impose a hotel occupancy tax on a person who pays for the use or possession of or for the right to the use or possession of a room that is ordinarily used for sleeping in a hotel in the district.

(b) If authorized by a county, a district shall impose a

hotel occupancy tax as provided by Chapter 383, Local Government Code, and Section 352.107, Tax Code, except that a hotel occupancy tax:

(1) may be used for any purpose authorized in this subchapter; and

(2) is authorized by the county to be imposed by the district.

(c) The hotel occupancy tax rate is the greater of nine percent or the rate imposed by the municipality.

(d) A hotel occupancy tax may not be imposed on the occupants of a hotel unless the owner of the hotel agrees to the imposition of the hotel occupancy taxes under this subchapter. After the owner agrees, the agreement may not be revoked by the owner of the hotel or any subsequent owner of the hotel. After an agreement under this section, the district may impose hotel occupancy taxes as provided by this subchapter.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.130. SALES AND USE TAX. (a) A commissioners court may authorize a district to impose a sales and use tax in increments of one-eighth of one percent up to a rate of two percent.

(b) Except as otherwise provided in this subchapter, a sales and use tax must be imposed in accordance with Chapter 383, Local Government Code, and Chapter 323, Tax Code.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.131. AD VALOREM TAX. A commissioners court may authorize a district to impose an ad valorem tax on property in the district in accordance with Chapter 257, Transportation Code.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.132. BORROWING. The commissioners court may authorize a district to borrow money for any district purpose, including for a development agreement that authorizes the district to borrow money.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.133. REPAYMENT OF COSTS. The commissioners court may authorize a district, by a lease, lease-purchase agreement, installment purchase contract, or other agreement, or by the imposition or assessment of a tax, user fee, concession, rental, or other revenue or resource of the district, to provide for or secure the payment or repayment of:

(1) the costs and expenses of the establishment, administration, and operation of the district;

(2) the district's costs or share of costs of an improvement project; or

(3) the district's contractual obligations or indebtedness.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.134. LIABILITIES; ASSUMPTION OF ASSETS AFTER COMPLETE ANNEXATION BY MUNICIPALITY. (a) If the municipality annexes the entire territory of a district, the municipality shall assume the district's assets, but is not liable for the district's debt or other obligations.

(b) If the county has authorized a district created under this subchapter to have debt or other obligations, the district remains in existence after the territory is annexed by the municipality for the purpose of collecting any taxes or assessments authorized by the county and imposed by the district before annexation. Taxes or assessments collected after annexation must be used by the district solely for the purpose of satisfying any preexisting county-authorized district debt or other obligation. After the debt or other obligations have been discharged, or two years have expired since the date of the annexation, the district is dissolved and any outstanding debt or obligations are extinguished.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.

Sec. 372.135. AUTHORITY TO IMPOSE TAXES OF ASSESSMENTS AFTER PARTIAL OR COMPLETE ANNEXATION. (a) After a district has been annexed by a municipality wholly or partly for general purposes, the county may not authorize the district to impose an ad valorem tax, hotel occupancy tax, or sales and use tax, or collect an assessment in the area that the municipality overlaps the district,

except as provided by Subsection (b) or Section 372.134(b).

(b) A district may continue to impose a tax in an area that the municipality annexes for limited purposes and in which the municipality does not impose taxes. If the municipality annexes an area for limited purposes and imposes some of the taxes which the district is imposing but not all of them, the district may continue to impose taxes only to the extent that the level of taxation of the municipality and the district combined, calculating the hotel tax, the sales tax, and the ad valorem tax independently, is equal to or less than the tax level of the municipality as to fully annexed areas.

(c) The legislature intends that the level of taxation of areas where the district and the municipality overlap do not exceed the level of taxation of fully annexed areas.

Added by Acts 2005, 79th Leg., ch. 1094, Sec. 34, eff. June 18, 2005.