

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recent attempts to apply the Public Improvement District (PID) Assessment Act, Chapter 372 (Improvement Districts in Municipalities and Counties), Local Government Code, to cities' current needs in the context of a growing capital market for PID-based public infrastructure financing has caused the attorney general, cities, and the capital markets to identify various technical corrections that need to be made in the current statute.

As proposed, S.B. 978 makes various changes to Chapter 372 of the Local Government Code to permit the code to be used to provide public improvements within cities without taxing the entire city to pay for the costs. The bill clarifies that a project can be undertaken inside or outside the boundaries of a public improvement district area; attempts to provide a comprehensive list of authorized projects; allows landowners to petition to join or petition to be excluded from the district area, both based on a benefit analysis, as long as no debt has been issued; permits a city or county to go back through the public hearing and notice process to amend the creation resolution; allows for non-contiguous areas; allows for the payment of interest on the bonds to the call date to reduce the city's and county's exposure and to align assessment revenue bonds with market expectations and practices; clarifies that a city or county may enter into installment purchase or reimbursement contracts, temporary notes, time warrants, special assessment bonds or certificates of obligations to pay for the costs of public improvements or to refund these instruments; clarifies that an assessment is a covenant that runs with the land; and clarifies that in the event of an ad valorem tax foreclosure, the current assessment installment due in that year is wiped out, but that the remaining assessment installments continue to run with the land and the subsequent owner takes the land subject to such future assessment installments.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 372, Local Government Code, as follows:

SUBCHAPTER A. PUBLIC IMPROVEMENT DISTRICTS

Sec. 372.001. SHORT TITLE. Authorizes this subchapter to be cited as the Public Improvement District Assessment Act.

Sec. 372.0015. New heading: DEFINITIONS. Defines "authorized instrumentality," "public improvement district" (district), "qualified costs," "revenue bonds," and "special assessment bonds" and redefines "extraterritorial jurisdiction."

Sec. 372.002. EXERCISE OF POWERS. (a) Provides that a district is not a separate body politic or corporate from the municipality or county that created the district.

(b) Authorizes powers granted under this subchapter in an area comprising a district to be exercised by a municipality or county on and after the date the governing body of the municipality or county (governing body) receives a petition requesting the establishment of a district that complies with the requirements of Section 372.005. Deletes existing text authorizing powers granted under this

subchapter to be exercised by a municipality or county in which the governing body initiates or receives a petition that is required to comply with the requirements of Section 372.005.

(c) Authorizes the powers granted under this subchapter to be exercised by the governing body of any other political subdivision if the law creating or governing the political subdivision grants the political subdivision authority described by this subchapter. Provides that the governing body of the political subdivision has the same powers and is subject to the same limitations as are applicable to the governing body of a municipality or county under this subchapter unless and except as modified by the law creating or governing the political subdivision.

Sec. 372.003. New heading: AUTHORIZED IMPROVEMENTS AND SERVICES. (a) Provides that if the governing body finds that it promotes the interests of the municipality or county, the governing body is authorized to create one or more districts under this subchapter and undertake one or more improvement projects that confer a special benefit on the property located in the district, rather than a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. Authorizes a project to be undertaken within or outside the district in the municipality or county or in the municipality's extraterritorial jurisdiction. Makes nonsubstantive changes.

(b) Authorizes a public improvement project to include:

(1) landscaping;

(2) erection of fountains, distinctive lightning, and signs;

(3) acquiring, constructing, improving, repairing, widening, closing, or rerouting of sidewalks or of streets, roads, highways, bridges, culverts, water retention walls, or related rights-of-way owned by or to be conveyed to the municipality, the county, the federal government, or another political subdivision or entity exercising powers granted under this subchapter;

(4) construction or improvement of pedestrian malls;

(5) acquisition and installation of pieces of art;

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

(7) acquisition, construction, or improvement of mass transportation facilities, including light rail mass transit, street car, or similar systems, and related vehicle parking facilities;

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

(9) the establishment or improvement of playgrounds, lakes, and open spaces, including paths, trails, boat docks, and wharves;

(10) acquisition of school buildings and related facilities, which are authorized to be leased by or purchased by the school district, for use in the educational system as authorized by the board of trustees of the school district;

(11) acquisition, construction, or improvement of other public projects that are determined by the municipality or county to promote the interests of the municipality or county and to be of a special benefit to the district, including community centers, recreation centers, and recreation facilities; libraries; facilities for police, sheriffs, or firefighters; municipal or county

administration centers; and other governmental buildings for the provision of governmental services;

(12) acquisition, construction, or improvement of other public projects, facilities, or services required by a development agreement, interlocal agreement, zoning regulation, or permit issued by a municipality or county having jurisdiction in the district;

(13) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement; and

(14) special supplemental services for improvement and promotion of the district, including services relating to advertising; promotion; health and sanitation; water and wastewater; enhanced fire protection, police, sheriff, and other public safety and security; business recruitment; development; recreation; and cultural enhancement.

Deletes existing text authorizing a public improvement project to include narrowing of sidewalks or of any other roadways or their rights-of-way; acquisition, construction, or improvement of libraries; rerouting of mass transportation facilities; projects similar to those listed in Subdivisions (1)-(10); and payment of expenses incurred in the establishment, administration, and operation of the district. Redesignates Subdivisions (8)-(13) as (7)-(14) and makes nonsubstantive changes.

(c) Authorizes a public improvement project to include or be limited to the provision of all or any part of the services described by Subsection (b)(14), rather than (b)(13).

(d) Authorizes a municipality that exercises powers under this subchapter to establish a district in the corporate limits or the extraterritorial jurisdiction of the municipality. Authorizes a county or other political subdivision that exercises powers under this subchapter to establish a district in the county or area of the political subdivision, including in the corporate limits or the extraterritorial jurisdiction of a municipality unless within 30 days after the date notice is provided to the municipality of an action to approve a district, the municipality objects to the district's establishment within the municipality's corporate limits or extraterritorial jurisdiction. Deletes existing text authorizing a county to establish a district unless within 30 days of a county's action to approve such a district, a home rule municipality objects to its establishment.

Sec. 372.004. COMBINED IMPROVEMENTS. Authorizes a public improvement project, rather than an improvement project, to consist of an improvement on more than one street or of more than one type of improvement. Authorizes an improvement project, rather than a project, described by this section to be included in one proceeding and financed as one improvement project.

Sec. 372.005. PETITION. (a) Requires that a petition for the establishment of a district state:

(1) the general nature of the proposed improvements;

(2) the estimated qualified costs of the improvements;

(3) the boundaries of the proposed district;

(4) the proposed method of assessment, which is authorized to specify included or excluded classes of assessable property;

(5) whether the management of the district is to be by the municipality, the county, an authorized instrumentality, the private sector, or a partnership

between the private sector and one of the entities described by Paragraphs (A)-(C), rather than the municipality or county and the private sector, that the persons signing the petition request or concur with the establishment of the district, and that an advisory body is authorized to be established or an authorized instrumentality is authorized to be incorporated to develop and recommend an improvement plan to the governing body.

Deletes existing text requiring that a petition for the establishment of a district state the general nature of the proposed improvement, the estimated cost of the improvement, the boundaries of the proposed assessment district, and the proposed apportionment of cost between the district and the municipality or county as a whole. Redesignates Subdivisions (6)-(8) as Subdivisions (5)-(7) and makes nonsubstantive changes.

(b) Provides that the petition is sufficient if signed by certain property owners.

(c) Authorizes a petition, rather than the petition, filed with the municipality to be filed with the municipal secretary or other officer performing the functions of the municipal secretary, a petition filed with the county to be filed with the county clerk or other officer designated by the commissioners court, and a petition filed with any other political subdivision exercising powers under this subchapter to be filed with the political subdivision's governing body.

Sec. 372.006. FINDINGS. (a) Provides that if a petition that complies with this subchapter is filed, the governing body is authorized to make findings by resolution as to the advisability of the proposed improvements, the estimated qualified costs of the proposed improvements, and the method of assessment. Deletes existing text authorizing the governing body to make findings by resolution as to the advisability of the proposed improvements, its estimated cost, the method of assessment, and the apportionment of cost between the proposed district and the municipality or county as a whole.

(b) Provides that the governing body's findings under this section are conclusive.

Sec. 372.007. FEASIBILITY REPORT. (a) Makes conforming changes.

(b) Provides that for the purpose of determining the feasibility and desirability of a public improvement district, the governing body is authorized to take other preliminary steps before the hearing required by Section 372.009 and before establishing a district. Deletes existing text authorizing the governing body to take other preliminary steps before entering into a contract. Makes nonsubstantive changes.

Sec. 372.008. ADVISORY BODY. (a) Authorizes the governing body, on the governing body's own initiative or after receiving a petition that complies with Section 372.005, to appoint an advisory body with the responsibility of developing and recommending an improvement plan to the governing body. Deletes existing text authorizing the governing body, after receiving a petition that complies with Section 372.005, to appoint an advisory body.

(b) Requires that the composition of an advisory body, if established, include certain property owners. Makes a nonsubstantive change.

(c) Provides that the members of the advisory body serve at the will of the governing body creating the district and are authorized to be removed at any time.

Sec. 372.009. HEARING. (a) Makes conforming changes.

(b) Authorizes the hearing to be adjourned from time to time until the governing body makes findings by resolution as to the advisability, nature, and estimated qualified costs of each improvement; the boundaries of the district; and the method of assessment. Deletes existing text authorizing the hearing to be

adjourned from time to time until the governing body makes findings by resolution as to the advisability, nature, and estimated cost of the improvement; the boundaries of the public improvement district; and the apportionment of costs between the district and the municipality or county as a whole. Makes nonsubstantive changes.

(c) Requires that notice of the hearing be filed with the municipal secretary or other officer performing the duties of the municipal secretary and published, rather than 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. Makes conforming changes.

(d) Makes no changes to this subsection.

Sec. 372.010. IMPROVEMENT ORDER. (a) Authorizes, during the six-month period after the date of the final adjournment of the hearing under Section 372.009, the governing body to authorize the creation of a public improvement district, rather than an improvement district, subject to Section 372.012 if, by majority vote of all members of the governing body, the governing body adopts, rather than the members adopt, a resolution authorizing the district in accordance with its finding as to the advisability of the improvements, rather than improvement.

(b) Provides that an authorization takes effect when it has been published one time in a newspaper of general circulation in the municipality or county and that if any part of the district, rather than improvement district, is located in, or 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) Prohibits actual construction of improvements from beginning, and acquisition of existing improvements from occurring, until after the 20th day after the date the authorization takes effect and from beginning if during that 20-day period written protests signed by at least two-thirds of certain property owners are filed with the municipal secretary, rather than the municipal or county secretary, or other officer performing the duties of the municipal secretary or the county clerk or other officer designated by the commissioners court. Makes conforming changes.

(d) Authorizes, before the levy of assessments under Section 372.017, a property owner in the district to request the governing body to include the owner's property in the boundaries of the district if the owner agrees the property is benefited by the proposed improvements or exclude the owner's property from the boundaries of the district if the owner determines the property is not benefited by the proposed improvements. Requires the governing body to publish notice of the owner's request and hold a public hearing as provided under Section 372.009 to make findings by resolution as to the boundaries of the district. Requires the governing body to confirm or adjust the boundaries. Provides that the governing body's findings under this subsection are conclusive.

(e) Authorizes, before the levy of assessments under Section 372.017, the property owners in the district who signed the original petition to petition the governing body to amend the resolution creating the district adopted under Subsection (a) to amend the estimated qualified costs of the improvements, including adding or deleting improvement projects. Requires the governing body to publish notice of the amended resolution in accordance with Subsection (b). Requires a county or other entity that proposes to amend a resolution under this subsection in the corporate boundaries or extraterritorial jurisdiction of a municipality to provide notice to the municipality on or before the 30th day before the date the entity amends the resolution.

Sec. 372.011. DISSOLUTION. (a) Authorizes a public hearing to be held, rather than called and held, after giving notice 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). Provides that if the district is dissolved, the district nonetheless is required to remain in effect for the purpose of meeting obligations of indebtedness for improvements.

(b) Authorizes a district to be dissolved at the discretion of the governing body without a petition only if no assessments have been levied on property in the district or if assessments previously levied have been paid in full and the district has no other outstanding obligations. Prohibits a dissolution under this subsection from occurring until after the governing body holds a hearing and gives notice in the manner required by Section 372.009.

Sec. 372.012. AREA OF DISTRICT. Provides that the area of a district to be assessed according to the findings of the governing body establishing the boundaries is authorized to include contiguous and noncontiguous tracts of land and to be less than the area described in the proposed boundaries stated by the notice under Section 372.009. Prohibits the area to be assessed from including 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.

Sec. 372.013. SERVICE PLAN. (a) Requires the advisory body to prepare an ongoing service plan and present the plan to the governing body for review and approval. Authorizes the governing body to assign responsibility for the plan to the employees of the governing body or an authorized instrumentality or to another entity instead, rather than in the absence, of an advisory body.

(b) Makes a conforming change.

(c) Requires the plan to be reviewed and updated annually for the purpose of determining the annual budget for improvements. Requires that as a part of the annual update, a revised assessment roll be prepared to reflect any division of parcels and any reallocation of assessments based on the division.

Sec. 372.014. ASSESSMENT PLAN; PAYMENT BY EXEMPT JURISDICTIONS. (a) Requires that an assessment plan be included in the annual service plan prepared under Section 372.013.

(b) Provides that the municipality or county is responsible for payment of assessments against exempt municipal or county property in the district if any assessments are levied. Requires that payment of assessments by other exempt jurisdictions be established by contract.

(c) Authorizes the assessment plan to require the district to be divided into development phases and to levy assessments periodically in separate development phases or to stagger the collection of assessments, with different development phases in the district assigned different payment and collection dates. Authorizes the development phases and staggered collection dates to be coordinated with the installation of the improvements or with the maturity dates of installation purchase or reimbursement contract obligations or with temporary notes, time warrants, or bonds. Deletes existing text providing that 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).

Sec. 372.015. DETERMINATION OF ASSESSMENT. (a)-(c) Makes conforming changes.

(d) Authorizes the amount of assessment for each property owner to be adjusted following the annual review of the service plan and reallocated, but not increased, if an assessed parcel has been divided.

(e) Requires that notice of any reallocation of assessments be given to the property owner of the divided parcel.

(f) Provides that the findings, determinations, and assessments made by the governing body under this section are conclusive.

Sec. 372.016. ASSESSMENT ROLL. (a) Requires the municipality or county to prepare a proposed assessment roll based on the estimated qualified costs of the improvements, rather than after the total cost of an improvement is determined, requiring the governing body to prepare a proposed assessment roll. Requires that the roll state the assessment against each parcel of land in the district and the method of assessment, rather than 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) Requires that the proposed assessment roll be filed 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, and provides that it is subject to public inspection. Provides that when the assessment roll is filed, the appropriate designated officer described by this subsection is required to publish notice of the governing body's intention to consider the proposed amendments at a public hearing. Requires that the notice state the date, time, and place of the hearing; the general nature of the improvements; the qualified costs of the improvements; the boundaries of the district, rather than the assessment district; and that written or oral objections will be considered at the hearing. Deletes existing text requiring the governing body to file the proposed assessment roll and to 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 amendments at a public hearing. Makes conforming changes.

(c) Provides that when the assessment roll is filed under Subsection (b), the appropriate designated officer, rather than the municipal secretary or other officer, is required to mail to the owners of property liable for assessment a notice of the hearing. Makes conforming changes.

Sec. 372.017. New heading: LEVY OF ASSESSMENTS. (a) Provides that at or on the adjournment of the hearing referred to by Section 372.016 on proposed assessments, the governing body is required to hear and pass on any objection to a proposed amendment. Authorizes the governing body to amend a proposed assessment on any parcel and initially or by amendment, to provide for reductions of the amount of the annual assessment installments if and to the extent other revenues of the municipality or county of any of the types described by Section 372.026(e) are pledged or become available to pay all or part of installment purchase or reimbursement contract obligations or temporary notes, time warrants, revenue bonds, special assessment bonds, or certificates of obligation that are payable in whole or in part from the assessment installments.

(b) Provides that after all objections have been heard and the governing body has passed on the objections, the governing body by ordinance or order is required to levy the assessment in the amount required to pay qualified costs as a special assessment on the property and to specify the method of payment of the assessment. Authorizes the governing body to provide that assessments be paid in periodic installments, in equal or different annual amounts, but requires that the installments be in amounts each year necessary to meet annual qualified costs. Requires that the installments continue for a period and be in amounts necessary to retire any indebtedness or obligation to pay or reimburse for the qualified costs, including the proper administration of the district. Authorizes that the obligation to pay installments be conditioned on the occurrence of a future event or condition if the first periodic installment payment of the assessment occurs on a

date not later than the fifth anniversary of the date the assessment was levied. Deletes existing text requiring that the installments be in amounts necessary to meet annual costs for improvements and to continue for a period necessary to retire the indebtedness on the improvements.

(c) Authorizes the governing body to levy multiple assessments on property in the district to finance all or part of public improvements; to execute and deliver installment purchase or reimbursement contracts or temporary notes or time warrants or issue revenue bonds, special assessment bonds, or certificates of obligation to pay the qualified costs or to refund previously executed installment purchase or reimbursement contracts or temporary notes or time warrants; and to secure the obligations under this subsection by pledging one or more of the assessments levied under this subchapter.

Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) Provides that an assessment bears interest at the rate and for the period specified by the governing body, but is prohibited from exceeding a rate that is one percent higher, rather than one-half of one percent higher, than the actual interest rate paid on any installment purchase or reimbursement contract obligation or temporary note or time warrant, rather than on the public debt, used to finance or to evidence an obligation to pay for the improvement. Provides that if revenue bonds, special assessment bonds, or certificates of obligation are issued to pay or refund any of the obligations described by this subsection, the annual interest rate is adjusted to a rate not to exceed one percent higher than the actual rate paid on the bonds or certificates, if the rate is lower than the rate on the obligations. Provides that the added interest payable on an installment purchase or reimbursement contract or a temporary note, time warrant, or bond under this subsection is authorized to be used by a municipality or county to pay qualified costs of improvements or the costs of administration of the district, including the enforcement of assessments or the payment or prepayment of obligations.

(b) Provides that 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 those for county, school district, hospital district, community or junior college district, or municipality ad valorem taxes, rather than state ad valorem taxes, and is a personal liability of and charge against the owners of the property regardless of whether the owners are named. Provides that the lien is effective from the date of the ordinance or order levying the assessment until it is paid in full and is authorized to be enforced by the governing body in the same manner that an ad valorem tax lien against real property is authorized to be enforced by the governing body. Provides that on the sale of assessed property, any installment or portion of an assessment that is or will be payable for the property during the year of the sale is required to be prorated between the buyer and the seller in the same manner as ad valorem taxes are prorated between a buyer and seller. Requires that delinquent installments of the assessment incur interest, penalties, and fees, rather than attorney's fees, in the same manner as delinquent ad valorem taxes.

(c) Provides that a district assessment on property under this subchapter runs with the land and that any portion of an assessment payment obligation that is not yet due is not eliminated by the foreclosure of an ad valorem tax lien. Provides that any purchaser of property at a foreclosure sale under an ad valorem tax lien takes the property subject to any assessment payment obligation that is not yet due and to the terms of payment under the applicable assessment ordinance or order.

(d) Authorizes the owner of assessed property to pay at any time on any parcel or lot the entire assessment, with interest that has accrued on the assessment and will accrue on the assessment until the next scheduled prepayment or redemption date on the installment purchase or reimbursement contract or temporary note, time warrant, revenue bond, special assessment bond, or certificate of obligation that secured the assessment. Deletes existing text authorizing the owner of assessed

property to pay at any time the entire assessment, with interest that has accrued on the assessment, on any lot or parcel.

Sec. 372.019. SUPPLEMENTAL ASSESSMENTS. (a) Provides that after notice and a hearing, the governing body is authorized to make supplemental assessments to correct omissions or mistakes in the assessment relating to the qualified costs, rather than the total cost, of the improvement.

Sec. 372.020. REASSESSMENT. Authorizes the governing body to make a reassessment or new assessment of a parcel of land if a court, rather than a court of competent jurisdiction, sets aside an assessment against the parcel, the governing body determines that the original assessment is excessive, or on the written advice of counsel, the governing body determines that the original assessment is invalid.

Sec. 372.021. SPECIAL IMPROVEMENT DISTRICT FUND. (a) Authorizes a municipality or county that intends to create a district by ordinance or order to establish a special improvement district fund in the municipal or county treasury or in a bank designated by the municipality or county to serve as a depository bank for the district's funds.

(b) Authorizes the municipality or county to annually levy a tax to support the fund established under this section.

(c) Authorizes the fund to be used to pay the qualified costs of improvements, to prepare preliminary plans, studies, and engineering reports to determine the feasibility of improvements, and if ordered by the governing body, to pay the initial qualified costs of improvements until installment purchase contracts or reimbursement contracts are entered into or temporary notes or time warrants are issued or revenue bonds, special assessment bonds, or certificates of deposit are issued and sold. Deletes existing text authorizing the fund to be used to pay the costs of planning, administration, and an improvement authorized by this subchapter, to prepare preliminary plans, studies, and engineering reports to determine the feasibility of an improvement, and if ordered by the governing body, to pay the initial cost of the improvement until temporary notes, time warrants, or improvement bonds have been issued and sold.

(d) Makes no changes to this subsection. Deletes existing Subsection (e) providing that 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 is authorized to be credited to the fund.

Sec. 372.022. SEPARATE FUNDS. (a) Requires that a separate public improvement district fund be created in the municipal or county treasury or in a designated depository bank as provided by Section 372.021 for each district.

(b) Requires that the revenues deposited to the fund include special assessments, money, if any, contributed by the municipality or county to pay qualified costs, proceeds from the sale of revenue bonds, if payable in part from special assessments, proceeds from the sale of special assessment bonds or certificates of obligation, and any other sums appropriated to the fund by the governing body for the district.

(c) Authorizes the fund to be used solely to pay qualified costs of improvement, amounts due on an installment purchase contract or reimbursement amounts owed under a reimbursement contract, temporary note, or time warrant, or any revenue bonds, special assessment bonds, or certificates of obligation that are payable in whole or in part from special assessments levied under this subchapter.

(d) Provides that when an improvement is completed and all the obligations are paid in full, the balance on deposit in the special improvement district fund that was derived from special assessments, if any, is required to be transferred to a

fund established for the retirement of bonds that are payable in whole or in part from assessments.

Deletes existing text requiring that proceeds from the sale of bonds, temporary notes, and time warrants, and other sums appropriated to the fund by the governing body be credited to the fund, which is authorized to be used solely to pay costs incurred in making an improvement, that when completed, the balance of the part of the assessment that is for improvements is required to be transferred to the fund established for the retirement of bonds.

Sec. 372.023. New heading: PAYMENT OF QUALIFIED COSTS. (a) Authorizes the qualified costs of an improvement made under this subchapter to be paid by a method or by a combination of methods described by this section and Section 372.024, rather than requires the cost of an improvement to be paid in accordance with this section.

(b) Authorizes a municipality or county to, on its own or under an installment purchase, reimbursement, or other contract with a third party, to erect, acquire, construct, improve, repair, establish, install, or equip improvements, and to pay all or part of the qualified costs of the improvements from general funds or other revenues available for that purpose, special assessments, or the issuance and sale of general obligation bonds, certificates of obligation, revenue bonds, or special assessment bonds. Deletes existing text authorizing a cost payable by the municipality or county as a whole be paid from general funds available for the purpose or other available general funds.

(c) Authorizes the municipality or county to enter into and execute an installment purchase or reimbursement contract with or to deliver a nonnegotiable but transferrable temporary note or time warrant to a third party under which:

(1) the third party agrees to erect, acquire, construct, improve, repair, establish, install, or equip public improvements and to dedicate or sell the improvements to the municipality, county, or authorized instrumentality; and

(2) the municipality, county, or authorized instrumentality agrees to pay or reimburse the third party for the qualified costs by paying accumulated amounts due under the installment purchase or reimbursement contract, temporary note, or time warrant from any and all of the sources described by Subsection (b)(2). Deletes existing text providing that a cost payable from a special assessment that has been paid in full is required to be paid from that assessment.

(d) Authorizes, subject to Section 372.018, an installment purchase or reimbursement contract, temporary note, or time warrant to bear interest at a rate and for a period determined by the governing body. Deletes existing text requiring that 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 be paid by the issuance and sale of revenue or general obligation bonds.

(e) Provides that an installment purchase or reimbursement contract, temporary note, or time warrant that is payable from installments of assessments is subject to prepayment and redemption at any time from the proceeds of prepayment of assessments made by a property owner under Section 372.018(d). Deletes existing text authorizing the governing body, while an improvement is progress, to 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.

Deletes existing Subsection (f) authorizing the cost of more than one improvement to be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

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

Sec. 372.024. New heading: GENERAL OBLIGATION BONDS, REVENUE AND SPECIAL ASSESSMENT BONDS, CERTIFICATES OF OBLIGATION, AND BONDS ISSUED BY AUTHORIZED INSTRUMENTALITY. (a) Authorizes the governing body to issue general obligation bonds under Subtitles A (General Provisions) and C (Provisions Applicable to Securities Issued by More Than One Type of Local Government), Title 9 (Public Securities), Government Code, revenue bonds or special assessment bonds in one or more series, and certificates of obligation under Subchapter C (Certificate of Obligation Act of 1971), Chapter 271. Deletes existing text requiring that general obligation bonds issued to pay costs under Section 372.023(d) be issued under the provisions of Subtitles A and C, Title 9, Government Code.

(b) Authorizes a bond or obligation described by Subsection (a) to be issued to pay qualified costs under Section 372.023(b), including the costs of issuing bonds, and to pay or refund obligations executed or issued under Section 372.023(c).

(c) Authorizes certificates of obligation to be payable from and secured by installment payments of special assessments levied under this subchapter.

(d) Authorizes the governing body or the authorized instrumentality to include any term or provision consistent with this subchapter in a revenue bond or a special assessment bond issued under this section.

(e) Authorizes the governing body to incorporate an authorized instrumentality to act on its behalf to issue revenue bonds or special assessment bonds under this section. Authorizes the governing body to enter into agreements and contracts with the authorized instrumentality to transfer pledged revenues, funds, and special assessments to or for the account of the authorized instrumentality at the times and as required by the terms of the resolution authorizing the issuance of the revenue bonds or special assessment bonds. Requires that any bonds issued by an authorized instrumentality be approved by the governing body before issuance and delivery to the purchaser.

(f) Provides that to the extent consistent with this subchapter, an authorized instrumentality is required to issue revenue bonds or special assessment bonds under Chapter 303 (Public Facility Corporations), if the authorized instrumentality is a public facility corporation or Subchapter D (Local Government Corporations), Chapter 431 (Texas Transportation Corporation Act), Transportation Code, if the authorized instrumentality is a local government corporation. Deletes existing text authorizing revenue bonds issued to pay costs under that subsection to 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.

Sec. 372.0241. SPECIAL ASSESSMENT PUBLIC IMPROVEMENT DISTRICT MANAGEMENT POLICY. (a) Authorizes the governing body to develop, adopt, and amend a special assessment public improvement district management policy.

(b) Authorizes the policy to establish the general requirements and standards for and the preconditions to the creation of a public improvement district under this subchapter, the execution and issuance of installment purchase or reimbursement

contracts or temporary notes or time warrants, and the issuance of any bonds or certificates of obligation payable in whole or in part from special assessments.

(c) Provides that if a management policy is adopted, compliance with the terms of the policy, including any amendments to the policy, is required for the execution of any installment purchase or reimbursement contracts or temporary notes or time warrants, the issuance of any revenue bonds or special assessment bonds by the municipality or county or by an authorized instrumentality, and the issuance of any certificates of obligation by a municipality or county.

Sec. 372.025. TERMS AND CONDITIONS OF BONDS. (a) Requires that revenue bonds and special assessment bonds issued under Section 372.024 be authorized by ordinance, if issued by a municipality; order, if issued by a county; and resolution, if issued by an authorized instrumentality.

(b) Authorizes revenue bonds and special assessment bonds to be issued to mature serially or in any other manner but are required to mature not later than 40 years after their date. Authorizes a provision to be made for the subsequent issuance of additional parity bonds or subordinate lien bonds secured in whole or in part by any assessments or any other revenues authorized by this subchapter under terms and conditions specified in the ordinance, order, or resolution authorizing the issuance of the bonds. Makes nonsubstantive changes.

(c) Authorizes revenue bonds, special assessment bonds, and certificates of obligation to be subject to redemption before maturity at the option of the issuer and at the times and in the manner provided by the ordinance, order, or resolution authorizing the issuance. Provides that revenue bonds and certificates of obligation that are secured in part by a pledge of special assessments and all special assessment bonds are subject to mandatory redemption at least semiannually from funds provided by assessed parties, if any, as prepayment of installments of special assessments under Section 372.018(d).

(d) Requires that revenue bonds and special assessment bonds be executed in the manner and by the persons required by the ordinance, order, or resolution authorizing the issuance.

(e) Redesignates Subsection (b) as Subsection (e). Requires that revenue bonds and special assessment bonds and any interest coupons appertaining to the bonds are negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code (Section 1.101 et seq., Business & Commerce Code). Deletes existing text requiring that the bonds 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).

(f) Provides that the ordinance, order, or resolution authorizing the issuance of the revenue bonds or special assessment bonds are required to specify whether the bonds are authorized to be registered, rather than are issued registrable, as to principal alone or as to both principal and interest; whether the bonds are redeemable before maturity; the form, denomination, and manner of issuance; the terms, conditions, and other details applying to the bonds including the price, terms, and interest rates on the bonds; and the manner of sale of the bonds. Makes a nonsubstantive change.

(g) Redesignates Subsection (c) as Subsection (g). Authorizes the ordinance, order, or resolution authorizing the issuance of the bonds to specify that the proceeds from the sale of bonds 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, be used for creating a reserve fund for payment of the principal of and interest on the bonds and for creating other funds, be used for the payment of any other qualified costs as determined by the governing body or

by the authorized instrumentality, and are authorized to be placed in time deposit or invested, until needed. Makes a conforming and nonsubstantive change.

Sec. 372.026. PLEDGES. (a) Provides that for the payment of principal, interest, and any other amounts payable on or with request to any bonds issued by a municipality or county under this subchapter, the governing body is authorized to pledge all or part of the income from improvements financed under this subchapter, including income received in installment payments from special assessments and if the payment is for the payment of revenue bonds, any other revenue described by Subsection (e). Deletes existing text providing that 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 is authorized to pledge all or part of the income from improvements financed under this subchapter, including income received in installment payments under Section 372.023.

(b) Provides that for the payment of principal, interest, and any other amounts payable on or with respect to bonds issued by an authorized instrumentality under this subchapter, the authorized instrumentality is authorized to pledge all or part of the assessments or other revenues, if any, that are to be transferred and paid to the authorized instrumentality by the municipality or county under an agreement entered into between the parties under Section 372.024(e).

(c) Requires that pledged income be sufficient, rather than fixed and collected in amounts sufficient, with other pledged resources, if any, to pay principal, interest, and other expenses related to the bonds, and to the extent required by the ordinance, order, or resolution authorizing the bonds, to pay for the operation, maintenance, and other expenses related to improvements authorized by this subchapter. Makes nonsubstantive changes.

(d) Redesignates Subsection (c) as Subsection (d). Authorizes bonds issued by a municipality or county, rather than the bonds, to 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. Authorizes the governing body to authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances as evidence of the security interest of the holders of the bonds in the related property, rather than evidence of the indebtedness.

(e) Redesignates Subsection (d) as Subsection (e). Authorizes the governing body to pledge to the payment of certificates of obligation issued by the governing body or to the payment of revenue bonds issued by the governing body or by an authorized instrumentality 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, including impact fees and incremental ad valorem tax revenues collected by a municipality or by another taxing unit and municipal sales tax collected by a municipality from all or part of a tax increment reinvestment zone created under Chapter 311 (Tax Increment Financing Act), Tax Code.

Sec. 372.027. REFUNDING BONDS. (a) Authorizes revenue bonds and special assessment bonds issued under this subchapter to be refunded or refinanced by the issuance of refunding bonds, under terms or conditions provided in the ordinance, order, or resolution authorizing the issuance of the bonds. Provides that the provisions of this subchapter applying generally to revenue bonds and special assessment bonds, including provisions related to the issuance of those bonds, apply to refunding bonds of like kind authorized by this section. Authorizes the refunding bonds to be sold and delivered in amounts necessary to pay the principal, interest, and any redemption premium of the bonds, on the date of the maturity of the bonds or any redemption date of the bonds. Deletes existing text authorizing revenue bonds issued under this subchapter to be refunded or refinanced by the issuance of refunding bonds, under terms or conditions set

forth in ordinance on orders of the municipality or county issuing the bonds; providing that 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; and authorizing the refunding bonds to 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) Makes conforming changes.

(c) Authorizes general obligation bonds and certificates of obligation issued under this subchapter to be refunded in the manner provided by law.

Sec. 372.028. APPROVAL AND REGISTRATION. (a) Makes conforming changes.

(b) Requires the comptroller of public accounts to register the bonds, after the attorney general approves the bonds and the contract or lease, rather than on the approval of the attorney general.

(c) Provides that 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 incontestable in any court or other forum. Makes nonsubstantive changes.

(d) Makes conforming changes.

Sec. 372.029. AUTHORIZED INVESTMENTS; SECURITY. (a) Makes no changes to this subsection.

(b) Authorizes bonds issued under this subchapter to 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 interest coupons that have not matured, rather than if accompanied by any appurtenant unmatured interest coupons.

Sec. 372.030. SUBCHAPTER NOT EXCLUSIVE. Provides that this subchapter is an alternative to other methods by which a municipality is authorized to finance public improvements under applicable law, rather than by assessing property owners.

SECTION 2. Provides that all governmental acts and proceedings of a governmental body of a municipality or county under Subchapter A, Chapter 372, Local Government Code, as that subchapter existed before the effective date of this Act, to establish a public improvement district, designate improvements, levy assessments, and finance costs of improvements in response to a petition filed with the governing body that conformed to the requirements of Section 372.005, Local Government Code, as that section existed before the effective date of this Act, are validated and confirmed in all respects.

SECTION 3. Effective date: upon passage or September 1, 2009.