

JAB



# No accidental tourists!

*County development districts may attract industry, visitors*

**D**isney World in the Panhandle? Could be. How is this possible? Effective September 1, 1995, the Legislature authorized certain counties to create county development districts to provide incentives for increasing tourism. So it appears the Lone Star State won't have to rely on accidental tourism now that counties can better plan for it.

The Legislature determined that small- and medium-sized counties need incentives to develop public improvements to attract visitors and tourists.

Because of financial incentives offered in other states, Texas counties often cannot compete to attract companies to develop projects that appeal to tourists.

Eligible counties now have the opportunity to create ways to land the type of projects that will increase visitors and tourism, generating more economic activity and employment.

### Eligibility

Eligibility requirements to establish a district are in the County Development District Act, V.T.C.A., Tax Code, Chapter 312, Subchapter D. A county may create a development district if the county has a population of 400,000 or less. An election must be held to confirm the district's creation. (Refer to V.T.C.A., Tax Code §312.605.)

A district may levy a sales tax if authorized by a majority of the qualified voters of the district and if the total combined rate of all local sales and use taxes would not exceed 2 percent at any location within the district. (Refer to V.T.C.A., Tax Code §312.637.)

Therefore, most counties are

- a statement indicating why the district is necessary, how it is feasible and whether it will attract tourism.

The landowners must sign the petition and file it with the commissioners court.

Within 60 days after a county receives a petition for creation of a district, the commissioners court must post notice for and hold a hearing to grant or to refuse the petition. If



eligible to form districts and to levy the sales tax. It is also possible for some eligible counties to have more than one district.

### Creating a district

For a district to be created, all landowners within a proposed district must agree to and petition for the creation of the county development district. The petition must include:

- the proposed boundaries of the district;
- the name and the number of the district;
- the names of five people willing and qualified to serve as temporary directors;
- a description of the proposed project;
- the estimated cost of the project; and

the commissioners grant the petition, the temporary board must hold an election within the boundaries of the proposed district to confirm the district's creation and to authorize the sales tax within the district. If the commissioners deny the petition, they must do so by order. (Refer to V.T.C.A., Tax Code §§312.6055-312.610, 312.613.)

### Calling for an election

Voters of a proposed district must confirm the creation of the district and the adoption of the sales and use tax at an election. The commissioners court must appoint the temporary board of directors who will conduct the election according to V.T.C.A., Tax Code §§312.615-312.616.

Voters may adopt a local sales tax rate of  $\frac{1}{4}$ ,  $\frac{3}{8}$  or  $\frac{1}{2}$  percent as long as the combined rate of all local sales and use taxes would not exceed 2 percent at any location within the district. (Refer to V.T.C.A., Tax Code §312.637(d), (h).)

After the board passes the order calling for the election, 30 days must elapse and the board must hold the election on the next uniform election date.

The uniform election dates are:

- the third Saturday in January;
- the first Saturday in May;
- the second Saturday in August; and
- the first Tuesday after the first Monday in November.

(Refer to V.T.C.A., Election Code §§41.001, 41.003.)

**Note:** If the election is not countywide, refer to §41.003 to see how these election statutes apply to the district.

If a district adopts a local sales and use tax rate, the board by order may call an election to increase, decrease or abolish it. The board also has the authority by order to decrease or abolish the tax rate without voter approval. (Refer to V.T.C.A., Tax Code §312.637(e).)

### Ballot wording

At an election, the ballot must allow voters the choice of voting *for* or *against* the proposition.

For a proposed district to create the district and the tax, the ballot should state:

*The creation of \_\_\_\_\_ County Development District No. \_\_\_\_\_ and the adoption of a proposed local sales and use tax rate of \_\_\_\_\_ (the rate specified in the election order) to be used for the promotion and development of tourism.*

(Insert one-fourth, three-eighths or one-half of one percent as appropriate.) (Refer to V.T.C.A., Tax Code §§312.616(b), 312.637(d).)

For a district to increase or decrease the tax rate, the ballot should state:

*The increase (decrease) in the local sale and use tax rate of (name of district) to (percentage) to be used for the promotion and development of tourism.*

(Refer to V.T.C.A., Tax Code §312.637(f).)

***The Legislature determined that small- and medium-sized counties need incentives to develop public improvements to attract visitors and tourists.***

For a district to abolish the tax rate, the ballot should state:

*The abolition of the district sales and use tax used for the promotion and development of tourism.*

(Refer to V.T.C.A., Tax Code §312.637(f).)

### Notification of the election results

After an election, the presiding judge must notify the temporary board of directors of the results. Within 10 days after the election, the board is required to canvass the returns, declare the results and enter the results—regardless of the outcome—into its minutes. The law states that the board must

send a certified copy of the minute order declaring the results and the tax rate, if adopted, to the commissioners court, the Comptroller's office and any taxing entity by certified mail or registered mail—regardless if the election to create the district and the tax passes or fails. The order must show:

- the date of the election;
- the proposition on which the vote was held;
- the total number of votes for or against the proposition; and
- the number of votes by which the proposition was approved. (Refer to V.T.C.A., Tax Code §§312.616, 312.617.)

After voter approval and proper notification to the Comptroller's office, a full calendar quarter must elapse for a tax change to become effective on the following October 1. (Refer to V.T.C.A., Tax Code §§312.637(c), 323.102.)

### Frequency for holding an election

Elections under the County Development District Act are not limited to only once a year. They can be held as frequently as the number of uniform election dates per year. (Refer to V.T.C.A., Tax Code §312.637(c).)

### Adopting the hotel tax

The commissioners court may also elect to impose a county hotel occupancy tax within the district, which cannot exceed 7 percent. If the county decides to impose the hotel tax, it will not be a countywide tax. Rather, it will apply only to hotels located within the district. The county must remit the hotel tax to the district within 10 days of receiving it from the hotels. (Refer to V.T.C.A., Tax Code §352.107.)

*(Continued on next page)*

## No accidental tourists! *(continued)*

### Annexation and deannexation of territory within a district

Once created, a district may annex and deannex territory only with the commissioners court's unanimous approval. (Refer to V.T.C.A., Tax Code §312.638.)

If a city within a district increases its sales tax rate or annexes territory within the district, resulting in a total local sales tax rate that exceeds 2 percent, then the district is forced to lower its rate so that it does not exceed 2 percent. The city, however, must then pay the district what it would have collected had the city not levied the increase or annexed the area within the district. The city must pay the district within 10 days of receiving the money from the Comptroller's office and must do so as long as the district has outstanding bonds. (Refer to V.T.C.A., Tax Code §312.637(h).)

### Use of the revenues

The use of the district sales tax revenues is outlined under district purposes and powers. (Refer to V.T.C.A., Tax Code §§312.637(g), 312.628.) The district may use the hotel tax revenues for any purposes as sales and use tax revenues are used. (Refer to V.T.C.A., Tax Code §352.107.)

### Dissolving a district

The board of directors may petition the commissioners court to dissolve a district if a majority of the board determines:

- before the district enters into any debts, that the proposed project is not feasible; or
- the district has paid its existing and past debts and accomplished the reasons the district was created.

After receiving the petition from the board, the commissioners court must hold a hearing according to V.T.C.A., Tax Code §312.607. For a district to be dissolved, the commissioners court must unanimously agree that the dissolution is in the best interests of the county and the owners of the property and interest in property within the district. If a district is dissolved, the district must transfer its funds and property to the county. (Refer to V.T.C.A., Tax Code §312.639.) Otherwise, the commissioners court must enter an order that the district has not been dissolved.

Other provisions apply if the district is located wholly within a city or annexed by a municipality. (Refer to V.T.C.A., Tax Code §312.640.)

### Purposes and powers of a district

The County Development District Act grants districts the authority to give incentives to locate and develop projects that will attract visitors and promote tourism. A district may promote and advertise for the district and its vicinity. It can also conduct a marketing program to attract visitors. A district may contract for professional services to carry out these purposes, too. (Refer to V.T.C.A., Tax Code §312.628.)

A district may borrow money, issue bonds, and pledge the revenues it receives from its hotel tax and sales and use tax to pay the bonds. (Refer to V.T.C.A., Tax Code §§312.635, 352.107.)

A county development district may exercise the power of eminent domain within the district to provide water and sewer services

to an authorized project. A district also has the powers of a municipal management district under V.T.C.A., Local Government Code, Chapter 375, so long as those powers are consistent with V.T.C.A., Tax Code, Chapter 312, Subchapter D. (Refer to V.T.C.A., Tax Code §§312.630, 312.628.)

### Board of directors

If the commissioners court grants the petition for creation, the commissioners will appoint the board of directors to govern the district. If the district is confirmed, then the temporary directors appointed under V.T.C.A., Tax Code §312.611 become permanent. Directors must be qualified voters within the county and serve staggered four-year terms without compensation. (Refer to V.T.C.A., Tax Code §§312.618-312.619, 312.626.) The commissioners also appoint for vacancies.

The board is governed by V.T.C.A., Water Code §§54.107, 54.108, 54.111 and 54.118 relating to quorum, officers' duties and district management.

The Texas Open Meetings Law, Chapter 551 of the Government Code, applies to the board meetings. Therefore, anyone may attend the board's meetings.

*Editor's note: If the sales tax is adopted and the county has a sales tax to reduce property taxes, the county would not include the new sales tax in its ad valorem and rollback tax calculations.*

### For more information

For more information, call the Local Assistance Division at 1-800-531-5441, ext. 3-4679. ■

# FAX

Date 06/25/95

Number of pages including cover sheet 4

TO: Don Hansen  
Texas Hotel & Motel  
Association

Phone  
Fax Phone

Robin - done  
Fax this note to Don H. w/ the 1st page of the attached and the article about co. dev. dis. in the DRC this past week. Ret. all to me. J.

CC:

REMARKS:  Urgent  For your review  Reply ASAP  Please Comment

Dear Don:

Attached is an article and a memo regarding County Economic Development Districts. Apparently this was passed in the legislature at the end of the session this year and will affect Denton County. What do you know about it in relation to imposing hotel occ. taxes? Your thoughts when you have time.

Also, regarding the history of the occupancy tax in Texas...where can I find information on how this tax began, who initiated it, etc. I did read an article about Lance Lalor in Texas Monthly a long time ago but my memory is fuzzy on the details. Please respond at your convenience.

P.S. The council voted to keep our tax receipts at the current level (the CVB will stay at \$205,000 and not go to the anticipated 5% increase of \$218,000). The council decided to do that to open the pie for Main Street but didn't count on a new council member asking for funds on behalf of the new black and hispanic chambers. The new scenario has provided \$35,000 new funds for qualifying agencies and no mention was made about the maintenance or renovation of our Civic Center. The soap opera goes on!



TEXAS ECONOMIC DEVELOPMENT COUNCIL, INC.

400 W. 15th Street, Suite 910  
Austin, Texas 78701  
(512) 480-8432  
Fax (512) 472-7907

TO: ~~James~~  
~~Rosen~~  
Kerr Burdick

## Legislative Update

**DATE:** June 13, 1995  
**TO:** Any Interested TEDC Member  
**FROM:** Joe Newman, Executive Director  
**SUBJECT:** SB-345

### WHAT IT DOES:

- Extends tax abatement Sunset Legislation to Sept. 1, 2001.
- Allows companies that create \$3,000,000 or more in new payroll OR \$4,000,000 or more in appraised value to apply for a rebate of school taxes. NOTE: only \$10,000,000 per year has been allocated by the state, so this won't be a very big factor. If there's more applications for the \$10 million than available, then the money will be pro-rated.
- Allows counties, of less than 400,000 residents, to form a County Economic Development District governed by a board. Landowners must petition the county to create the district. Purpose is to attract visitors and tourists to the county. Election must be held within the boundaries of the district (several districts could be created in one county). Ballot wording is: "The creation of (blank) County Development District No. ? and the adoption of a proposed local sales and use tax rate of (blank) percent (1/4%, 3/8% or 1/2%) to be used for the promotion and development of tourism."

If the county already has a sales tax to reduce property taxes, the new sales tax will not be counted in the county's ad valorem and rollback tax calculations. The District may also impose a Hotel/Motel Occupancy Tax of up to 7 percent.

P.S. HB-788 did pass, but all of Senator Ratliff's new sales tax legislation changes were "stripped" from the bill before passage. This means that municipal economic development sales tax law continues to be virtually unchanged.

The Texas Economic Development Council is a statewide professional association dedicated to the development of economic and employment opportunities in Texas.

TEDC provides information, educational and legislative services to its members in order to foster the expansion of existing industry, location of new firms and development of strategies that promote a positive business climate in Texas.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE**  
**74th Regular Session**

May 27, 1995

TO: Honorable Bob Bullock  
Lieutenant Governor  
Senate Chamber  
Austin, Texas

Honorable Pete Lancy  
Speaker of the House  
House of Representatives  
Austin, Texas

IN RE: Conference Committee Report for  
Senate Bill No. 345

FROM: John Keel, Director

In response to your request for a Fiscal Note on Senate Bill No. 345 (Relating to tax abatement, reinvestment zones, and the refund of certain taxes by the comptroller to reimburse certain taxes paid on property in a reinvestment zone; and to the creation of development districts in certain counties.) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would amend Chapter 111, Tax Code, by requiring the Comptroller to issue a refund of state sales and franchise tax payments paid by a taxpayer when presented with an application for refund. The application would specify the amount of school taxes paid on property abated by a county or a municipality that would not have been paid if the school district had abated the property under an agreement with terms identical to those in the county or municipality's abatement agreement. The total amount of tax refunds would be capped at \$10,000,000 per fiscal year.

To be eligible for the refund the property owner must have established a new business (or expanded or modernized an existing business) and must have increased the business's payroll by \$3,000,000 or increased the appraised value of the business's property by \$4,000,000 since an initial base year beginning on or after January 1, 1996. In addition, no refund would be made if the person makes a payment in lieu of taxes to a municipality or county during the period of a tax abatement agreement between the person and the municipality or county.

The refund would be limited to the net amount of state franchise and sales taxes paid into general revenue during the calendar year or the total school property tax paid for that year. The refund would be limited to 5 years or the term of the abatement, whichever is less.

The bill would amend Chapter 312, Tax Code, by requiring an abatement agreement to provide for criteria, specific agreed terms and conditions, cancellation or modification if the terms are not met, and an annual report from the property owner to the taxing unit certifying that the terms were met. The bill would also require each taxing unit to provide the abatement criteria, a copy of the abatement agreement and any amendments or modifications to the Comptroller, and the Texas Department of Commerce.

The bill would amend the section in Chapter 312, Tax Code, that sunsets the Property Redevelopment and Tax Abatement Act, by extending the sunset date to 2001.

The Comptroller has estimated the impact of the above provisions of this bill as follows:

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Fiscal Year	Probable Cost Out of General Revenue Fund 001	Probable Administrative Cost Out of General Revenue Fund 001	Probable Revenue Loss to Counties	Probable Revenue Loss to Cities	Change in Number of State Employees from FY 1995
1996	\$0	\$0	\$23,350,000	\$3,857,000	.0
1997	0	0	27,451,000	4,737,000	.0
1998	0	218,624	31,966,000	5,516,000	4.5
1999	10,000,000	177,884	34,371,000	5,931,000	4.5
2000	10,000,000	177,884	34,795,000	6,004,000	4.5

Similar annual fiscal implications would continue as long as the above provisions of the bill are in effect.

In addition, the bill would establish the "County Development District Act." The act would authorize the creation of development districts in certain counties to provide incentives for the location and development of projects to attract visitors and tourists.

No significant fiscal implication to the state is anticipate due to this provision.

The fiscal implication to units of local government cannot be estimated as the number of counties that would choose to create development districts cannot be determined.

Source: Comptroller of Public Accounts  
LBB Staff: JK, BR, DF

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LEGISLATIVE INFORMATION SYSTEM 74(R)  
BILL TEXT REPORT  
SB 345 ENROLLED VERSIONDATE: 06/01/95  
TIME: 13:10:14  
PAGE: 1

S. B. No. 345

AN ACT  
relating to tax abatement, reinvestment zones, and the refund of certain taxes by the comptroller to reimburse certain taxes paid on property in a reinvestment zone and to the creation of development districts in certain counties, which districts may adopt and levy a sales and use tax, receive the proceeds of a hotel occupancy tax, issue bonds, and exercise the power of eminent domain.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
SECTION 1. Chapter 111, Tax Code, is amended by adding  
Subchapter F to read as follows:

SUBCHAPTER F. TAX REFUND FOR ECONOMIC DEVELOPMENT

Sec. 111.301. REFUND OF STATE TAXES. APPLICATION FOR REFUND.  
(a) An eligible person is entitled to a refund of state sales and use taxes imposed under Chapter 151 and state franchise taxes imposed under Chapter 171 paid in a calendar year for which the person paid ad valorem taxes to a school district on property that in that year is:

(1) located in a reinvestment zone established under Chapter 312;

(2) exempt in whole or in part from the payment of ad valorem taxes imposed by a municipality or a county under a tax abatement agreement entered into with the municipality or county under Chapter 312; and

(3) not subject to a tax abatement agreement entered into by the school district.

(b) No refund may be made under this section if the person makes a payment in lieu of taxes, or any other payment, including a gift, grant, donation, or provision of in-kind services, to a municipality or county with which the person has executed a tax abatement agreement, if the payment was made during the period of the agreement. This subsection does not apply to a payment that is a tax, fee, or charge for services provided by the municipality or county, or to payments pursuant to a contract with an industrial district under Chapter 42 or Chapter 43, Local Government Code, or to a payment that in any year of the agreement does not in the aggregate exceed \$5,000 in value.

(c) The amount of a refund may not exceed the amount of net state sales and use and state franchise taxes paid by the person after any applicable tax credit, in that year. A person is entitled to a refund under this section for the lesser of five years or the duration of the tax abatement agreement. If the tax abatement agreement is cancelled or the person relocates the person's business outside the zone, a person may not apply for a refund after the date of the cancellation or the date of the relocation, as applicable.

(d) To be eligible for the refund:

(1) a person must have:

(A) established a new business in the

reinvestment zone; (B) expanded an existing business located in the

reinvestment zone; or (C) modernized an existing business located in

TO: Ken  
BURDICK

From Jan



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LEGISLATIVE INFORMATION SYSTEM 74(R)  
 BILL TEXT REPORT  
 SB 345 ENROLLED VERSION

DATE: 06/01/95  
 TIME: 13:10:14  
 PAGE: 2

the reinvestment zone to retain jobs of employees of the business;

(2) that business must have had:

(A) since the date the person entered into the tax abatement agreement with the municipality or county, an increase in the business's payroll of \$3 million, specific to property located in this state according to records filed by the business with the Texas Employment Commission; or

(B) since an initial comparison year beginning on or after January 1, 1996, an increase of at least \$4 million in the appraised value of the business's property subject to the tax abatement agreement with the municipality or county according to the appraisal rolls; and

(3) that person must have furnished the comptroller with a copy of the tax abatement agreement entered into by the person with the municipality or county.

(g) Application for the refund is to the comptroller. The application must:

(1) be made on the form prescribed by the comptroller;

(2) have attached a tax receipt from the assessor and school district ad valorem taxes on the property for the tax year for which the refund is sought; and

(3) include sufficient information for the comptroller to determine the portion of the ad valorem taxes paid to a school district by the person for the applicable tax year on the property that the person would not have been required to pay if the school district had entered into a tax abatement agreement concerning the property that included the same terms, including terms governing the portion of the property that is to be exempt from taxation under the agreement, as the applicable municipal or county tax abatement agreement.

(f) A refund amount payable under this subchapter does not earn interest.

(g) A person applying for a refund must certify to the comptroller that the person is in compliance with each term of the tax abatement agreement entered into with the municipality or county.

(h) If the relevant tax abatement agreement has not been filed with the comptroller and the Texas Department of Commerce, the comptroller may not act on the application until the agreement is on file.

(i) If, after a review or audit, the comptroller determines that the person applying for the refund is not in compliance with each term of the appropriate tax abatement agreement, the comptroller may not act on the refund application until the person comes into compliance and shall notify the municipality or county of the person's noncompliance.

(j) The comptroller may grant to a person who is not in compliance with a tax abatement agreement a temporary waiver if the comptroller determines that the person's noncompliance is the result of a natural disaster.

(k) The comptroller may conduct any audit that the comptroller determines necessary for the enforcement of

L18030C

LEGISLATIVE INFORMATION SYSTEM 74(R)  
 BILL TEXT REPORT  
 SB 345 ENROLLED VERSION

DATE: 06/01/95  
 TIME: 13:10:14  
 PAGE: 3

administration of this subchapter.

Sec. 111.302. ISSUANCE OF TAX REFUND; AMOUNT OF REFUND.

(a) The comptroller shall issue a tax refund to a person for a tax year in which the person applying has paid the ad valorem taxes imposed by a school district on property of the person described by Section 111.301(a).

(b) Applications for refund must be filed before August 1 of the year following the tax year for which the person applying has paid ad valorem taxes described by Section 111.301(a). Within 60 days thereafter, the comptroller shall compute the total amount eligible for refund.

(c) If the total amount of eligible refunds claimed by all persons, as determined under Subsection (b), is less than \$10 million, the amount of a tax refund is equal to the ad valorem taxes paid by a school district by the person for the applicable tax year on the property that the person would not have been required to pay if the school district had entered into a tax abatement agreement covering the property that included the same terms, including terms governing the portion of the property that is to be exempt from taxation under the agreement, as the applicable municipal or county tax abatement agreement. If the total amount of eligible refunds claimed by all persons, as determined under Subsection (b), is greater than \$10 million, the comptroller shall reduce the amount of each refund as necessary to allow all claimants to share proportionally the \$10 million available. The amount by which a refund is reduced under this subsection may not be included in a claim for a refund in a subsequent year.

Sec. 111.303. RULES AND FORMS. (a) The comptroller shall adopt rules and forms for the administration of this subchapter. The rules must identify the state taxes to which this subchapter applies.

(b) The comptroller shall provide without charge one copy of the rules and forms to each person applying for a refund under this subchapter.

Sec. 111.304. EVALUATION; ANNUAL REPORT. Not later than December 1, 1999, and December 1 of each subsequent year, the comptroller shall submit an annual report to the legislature. The report:

(1) must document the applications for refunds filed with the comptroller under this subchapter;

(2) must document the refunds paid by the comptroller under this chapter;

(3) must contain relevant information obtained from the Texas Department of Commerce, including information to demonstrate the relationship between tax refunds under this subchapter and the economy; and

(4) may include any other relevant information that the comptroller determines is applicable to this subchapter or to Chapter 312.

SECTION 2. Subsection (a), Section 312.005, Tax Code, is amended to read as follows:

(a) The Texas Department of Commerce shall maintain a

LI8030C

LEGISLATIVE INFORMATION SYSTEM 74(R)  
 BILL TEXT REPORT  
 SB 345 ENROLLED VERSION

DATE: 06/01/95  
 TIME: 13:10:14  
 PAGE: 4

central registry of reinvestment zones designated under this chapter and of ad valorem tax abatement agreements executed under this chapter. Each taxing unit that designates a reinvestment zone or executes a tax abatement agreement under this chapter shall deliver to the department and to the comptroller before April 1 of the year following the year in which the zone is designated or the agreement is executed a report providing the following information:

(1) for a reinvestment zone, a general description of the zone, including its size, the types of property located in it, and its duration, and the guidelines and criteria established for the reinvestment zone under Section 312.002, including subsequent amendments and modifications of the guidelines or criteria; and

(2) for a copy of each tax abatement agreement to which the taxing unit is a party; and

(3) any other information required by the comptroller to administer Subchapter F, Chapter 111, the parties to the agreement; a general description of the property and the improvements or repairs to be made under the agreement; the portion of the property to be exempted; and duration of the agreement.

SECTION 3. Subsection (a), Section 312.205, Tax Code, is amended to read as follows:

(a) An agreement made under Section 312.204 must:

(1) list the kind, number, and location of all

proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement;

(5) contain each term agreed to by the owner of the property;

(6) require the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement; and

(7) provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

SECTION 4. Section 312.006, Tax Code, is amended to read as follows:

Sec. 312.006. EXPIRATION DATE. If not continued in effect, this chapter expires September 1, 2001 1995.

SECTION 5. Chapter 312, Tax Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. COUNTY DEVELOPMENT DISTRICTS

Sec. 312.601. SHORT TITLE. This subchapter may be cited as the County Development District Act.

Sec. 312.602. LEGISLATIVE INTENT. The intent of the

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LEGISLATIVE INFORMATION SYSTEM 74(R)  
 SB 345 BILL TEXT REPORT  
 ENROLLED VERSION

DATE: 06/01/95  
 TIME: 13:10:14  
 PAGE: 5

legislature is to further the public purpose of developing and diversifying the economy of this state by providing incentives for the location and development of projects in certain counties to attract visitors and tourists.

Sec. 312.603. LEGISLATIVE FINDINGS. The legislature finds that:

(1) small and medium-sized counties in Texas are in need of incentives for the development of public improvements to attract visitors and tourists to such counties, and that such counties are at a disadvantage in competing with counties in other states for the location and development of projects that attract visitors by virtue of the availability and prevalent use in other states of financial incentives;

(2) the means and measures authorized by this subchapter are in the public interest and serve a public purpose of the state in promoting the economic welfare of the citizens of the state by providing incentives for the location and development in certain Texas counties of projects that attract visitors and tourists and that result in employment and economic activity; and

(3) the creation of development districts is essential to the accomplishment of Section 52-a, Article III, Texas Constitution, and to the accomplishment of the other public purposes stated in this subchapter and further serves the purpose of Section 59, Article XVI, and Section 52, Article III, Texas Constitution.

Sec. 312.604. DEFINITIONS. In this subchapter:

(1) "District" means a county development district created under this subchapter.

(2) "Board" means the board of directors of the district.

(3) "Director" means a member of the board.

(4) "Commissioners court" means the governing body of the county in which the district is located.

(5) "County" means the county in which the district is located.

(6) "Project" has the same meaning as that term is defined to mean in Section 48(a)(2), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(7) "Cost" has the same meaning as that term is defined to mean in Section 2(4), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(8) "Bonds" means bonds, notes, and other obligations, Commissioners court of a county with a population of not more than 400,000 according to the most recent federal decennial census may, on petition of the owners of land in a proposed district, commence the creation of a county development district. The creation of the district is subject to a confirmation election held as provided by this subchapter.

Sec. 312.605. COUNTIES AUTHORIZED TO CREATE DISTRICTS. The Commissioners court of a county with a population of not more than 400,000 according to the most recent federal decennial census may, on petition of the owners of land in a proposed district, commence the creation of a county development district. The creation of the district is subject to a confirmation election held as provided by this subchapter.

Sec. 312.6055. PETITION OF LANDOWNERS. To create a district, a petition requesting creation shall be filed with the county commissioners court of the county in which all of the land in the proposed district is located. The petition shall be

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LEGISLATIVE INFORMATION SYSTEM 74(R)  
 SB 345 BILL TEXT REPORT  
 ENROLLED VERSION

DATE: 06/01/95  
 TIME: 13:10:14  
 PAGE: 6

accompanied by a sworn statement indicating consent to creation signed by the holders of fee simple title of all of the land within the proposed district.

Sec. 312.605. CONTENTS OF PETITION. The petition shall:

- (1) describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;
- (2) include a name of the district which shall include the name of the county followed by the words "Development District No. \_\_\_\_\_";
- (3) include the names of five persons who are willing and qualified to serve as temporary directors of the proposed district;

(4) state the general nature of the work proposed to be done and the cost of the project as then estimated by the petitioners; and

(5) state the necessity and feasibility of the proposed district and whether the district will serve the public purpose of attracting visitors and tourists to the county.

Sec. 312.607. HEARING ON PETITION. Not later than the 60th day after the date a petition is received, the commissioners court shall fix a date, time, and place at which the petition shall be heard and shall issue notice of the date, time, place, and subject matter of the hearing. The notice shall inform all persons of their right to appear and present evidence and testify for or against the creation of the district.

Sec. 312.608. NOTICE OF HEARING. At least 30 days before the date set for the hearing, notice of the hearing shall be mailed to the developer who signed the petition and the landowners of all the land in the district and shall be published in a newspaper with general circulation in the county in which the proposed district is located.

Sec. 312.609. HEARING. At the hearing, the commissioners court shall examine the petition to ascertain its sufficiency, and any person interested may appear before the commission to offer testimony on the sufficiency of the petition and whether or not the district should be created.

Sec. 312.610. GRANTING OR REFUSING PETITION. (a) After the hearing, if it is found that the petition conforms to the requirements of Section 312.6055 and that the creation of the district and the proposed project is feasible and necessary and would serve the public purpose of attracting visitors and tourists to the county, the commissioners court shall so find and enter an order creating the district.

(b) If the commissioners court finds that the petition does not conform to the requirements of Section 312.6055 or that the creation of the district and the proposed project is not feasible and necessary and would not serve the purpose of attracting visitors and tourists to the county, the commissioners court shall so find by its order and deny the petition.

Sec. 312.611. TEMPORARY DIRECTORS: VACANCY IN OFFICE. If the commissioners court grants the petition, it shall appoint to serve as temporary directors of the district five persons who are

L18030C

LEGISLATIVE INFORMATION SYSTEM 74(R)  
 BILL TEXT REPORT  
 SB 345 ENROLLED VERSION

DATE: 06/01/95  
 TIME: 13:10:14  
 PAGE: 7

qualified under this subchapter to serve as directors. A vacancy in the office of temporary director shall be filled by appointment by the commissioners court.

Sec. 312.612. QUALIFICATION OF TEMPORARY DIRECTORS. Each temporary director shall execute a bond in accordance with the provisions of Section 312.626 and shall take an oath of office, and the board shall meet and organize.

Sec. 312.613. CONFIRMATION AND SALES AND USE TAX ELECTION. The temporary board of directors shall conduct an election within the boundaries of the district to confirm the creation of the district and authorize a sales and use tax in conformity with this subchapter.

Sec. 312.614. ELECTION ORDER. An order calling an election under Section 312.613 must state:

- (1) the nature of the election, including the proposition that is to appear on the ballot;
- (2) the date of the election;
- (3) the hours during which the polls will be open;
- (4) the location of the polling places; and
- (5) the proposed rate of the sales and use tax for the district.

Sec. 312.615. NOTICE. The temporary directors shall give notice of the confirmation and sales and use tax election by publishing a substantial copy of the election order in a newspaper with general circulation in the county in which the proposed district is located once a week for two consecutive weeks. The first publication must appear at least 14 days before the date set for the election.

Sec. 312.616. CONDUCT OF ELECTION. (a) The election shall be held in accordance with the provisions of the Election Code, to the extent not inconsistent with this subchapter.

(b) The ballot shall be printed to permit voting for or against the proposition: "The creation of \_\_\_\_\_ County Development District No. \_\_\_\_\_ and the adoption of a proposed local sales and use tax rate of \_\_\_\_\_ (the rate specified in the election order) to be used for the promotion and development of tourism."

Sec. 312.617. RESULTS OF ELECTION. (a) After the confirmation and sales and use tax election, the presiding judge shall make returns of the result to the temporary board of directors. The temporary board of directors shall canvass the returns and declare the results.

(b) If a majority of the votes cast in the election favor the creation of the district and the adoption of the sales and use tax, then the temporary board shall declare that the district is created and shall declare the amount of the local sales and use tax adopted and enter the result in its minutes. If a majority of the votes cast in the election are against the creation of the district and the adoption of the sales and use tax, the temporary board shall declare that the proposition to create the district was defeated and enter the result in its minutes.

(c) A certified copy of the minute order declaring that the district is created and the local sales and use tax adopted and including the rate of the sales and use tax, or declaring that the

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LEGISLATIVE INFORMATION SYSTEM 74(R)  
BILL TEXT REPORT  
SB 345 ENROLLED VERSIONDATE: 06/01/95  
TIME: 13:10:14  
PAGE: 8

Proposition to create the district was defeated, shall be sent to the Commissioners court, the comptroller, and any taxing entity by certified or registered mail. Such order shall also show the date of the election, the proposition on which the vote was held, the total number of votes cast for or against the proposition, and the number of votes by which the proposition was approved.

Sec. 312.618. BOARD OF DIRECTORS. (a) A district is governed by a board of five directors appointed by the county commissioners of the county in which the district is located. The temporary directors appointed under Section 312.611 shall become permanent directors of the district, provided that the creation of the district is confirmed at the confirmation election.

(b) Directors serve staggered four-year terms that expire September 1, following confirmation of the district at the election, the temporary directors shall draw lots to determine:

(1) the two directors to serve terms that expire on September 1 of the second year following creation of the district; and

(2) the three directors to serve terms that expire on September 1 of the fourth year following creation of the district.

Sec. 312.619. QUALIFICATIONS FOR DIRECTORS. To be qualified to serve as a director, a person shall be at least 21 years of age, a resident citizen of the State of Texas, and a qualified voter within the county in which the district is located.

Sec. 312.620. PERSONS DISQUALIFIED TO SERVE. Section 50.026, Water Code, relating to disqualification of directors, shall apply to directors of districts created under this subchapter.

Sec. 312.621. VACANCIES ON THE BOARD. A vacancy in the office of director shall be filled by appointment of the Commissioners court.

Sec. 312.622. REMOVAL OF DIRECTOR. The governing body of the commissioners court, after notice and hearing, may remove a director for misconduct or failure to carry out the director's duties on petition by a majority of the remaining directors.

Sec. 312.623. ORGANIZATION OF BOARD. After each appointment of directors by the commissioners court, and after the directors have qualified by taking the proper oath, they shall organize by electing a president, a vice president, a secretary, and any other officers as in the judgment of the board are considered necessary.

Sec. 312.624. QUORUM; OFFICERS' DUTIES; MANAGEMENT OF DISTRICT. Sections 54.107, 54.108, 54.111, and 54.118, Water Code, relating to quorum, officers' duties, and management of the district, shall govern the board of directors of a district created under this subchapter.

Sec. 312.625. MEETINGS AND NOTICE. (a) The board shall designate and establish a district office in the county.

(b) The board may establish regular meetings to conduct district business and may hold special meetings at other times, as the business of the district requires.

(c) Notice of the time, place, and purpose of any meeting of the board shall be given by posting the notice at a place convenient to the public within the district. A copy of the notice

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LEGISLATIVE INFORMATION SYSTEM 74(R)  
 BILL TEXT REPORT  
 SB 345 ENROLLED VERSION

DATE: 06/01/95  
 TIME: 13:10:14  
 PAGE: 9

shall be furnished to the clerk or clerks of the county in which the district is located, who shall post it on a bulletin board in the county courthouse used for such purpose.

(d) Except as herein provided the provisions of the open meetings law, Chapter 591, Government Code, shall be applicable to meetings of the board of directors. Any interested person may attend any meeting of the board.

Sec. 312.626. DIRECTOR'S COMPENSATION; BOND AND OATH OF OFFICE. A director is not entitled to receive compensation for service on the board. Sections 375.067, 375.069, and 375.070, Local Government Code, apply to directors of a district created under this subchapter.

Sec. 312.627. GOVERNMENTAL AGENCY; SUITS. (a) A district, when created and confirmed, may, through its directors, sue and be sued in any and all courts of this state in the name of the district. Service of process in any suit may be had by serving any two directors.

(b) A district is a governmental agency, a body politic and corporate, and a political subdivision of the state. Section 375.004, Local Government Code, applies to a district created under this subchapter.

Sec. 312.628. POWERS. (a) A district shall have the power to acquire and dispose of projects and shall have all of the other powers, authority, rights, and duties which will permit accomplishment of the purposes for which the district was created.

(b) The district shall have the power to provide for general promotion and tourist advertising of the district and its vicinity and to conduct a marketing program to attract visitors, any of which may be conducted by the district pursuant to contracts for professional services with persons or organizations selected by the district.

(c) The district shall have the powers of a municipal management district created under Chapter 375, Local Government Code, to the extent not inconsistent with this subchapter.

Sec. 312.629. COMPETITIVE BIDDING; CONTRACT AWARD. Sections 375.221 and 375.223, Local Government Code, apply to a district created under this subchapter. Notwithstanding any other provision of this subchapter to the contrary, any contract between the district and a governmental entity or nonprofit corporation created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) shall not be subject to the competitive bidding requirements of this subchapter.

Sec. 312.630. EMINENT DOMAIN. A district not located within the corporate limits of a municipality may exercise the power of eminent domain to acquire land or interests in land within the district deemed necessary by the board of directors of the district for the purpose of providing water and sewer services to an authorized project. The right of eminent domain shall be exercised in the manner provided by Chapter 21, Property Code.

Sec. 312.631. EXPENDITURES. A district's money may be disbursed only by check, draft, order, or other instrument which shall be signed by at least three directors. The general manager, treasurer, or other employee of the district when authorized by



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LEGISLATIVE INFORMATION SYSTEM 74(R)  
 SB 345 BILL TEXT REPORT  
 ENROLLED VERSION

DATE: 06/01/95  
 TIME: 13:10:14  
 PAGE: 10

resolution of the board may sign checks, drafts, orders, or other instruments on any district operation account and these need not be signed by anyone else.

Sec. 312.632. PURPOSES FOR BORROWING MONEY. The district may borrow money for any corporate purpose or combination of corporate purposes.

Sec. 312.633. REPAYMENT OF ORGANIZATIONAL EXPENSES. The district's directors are authorized to pay all costs and expenses necessarily incurred in the creation and organization of a district, the cost of investigation and making plans, the cost of the engineer's report, project designer fees, legal fees, and other incidental expenses and to reimburse any person for money advanced for these purposes. These payments may be made from money obtained from the issuance of notes or the sale of bonds first issued by the district or out of other revenues of the district.

Sec. 312.634. ISSUANCE OF BONDS. The district may issue bonds for the purpose of defraying all or part of the cost of any project as provided in this subchapter. Sections 375.201 through 375.209, Local Government Code, shall apply to a district created under this subchapter to the extent not inconsistent with this subchapter.

Sec. 312.635. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of principal of and interest and redemption price on bonds from taxes; by pledging all or any part of the designated revenues, license fees, or other compensation from a project or any part thereof, including revenues and receipts derived by the district from the lease or sale of the project or by pledging all or any part of any grant, donation, revenues, or income received or to be received from any public or private source; or from a combination of such sources.

Sec. 312.636. USE OF BOND PROCEEDS. The district may use bond proceeds to pay interest on the bonds during and after the period of the acquisition or construction of a project, to pay administrative and operating expenses, to create a reserve fund for the payment of principal and interest on the bonds, and to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

Sec. 312.637. SALES AND USE TAX. (a) A district may levy a sales and use tax for the benefit of the district if authorized by a majority of the qualified voters of the district voting at an election called for that purpose. The sales and use tax, if adopted, does not count toward the limitation imposed by Chapter 323 on any sales and use tax that has been levied by the county.

(b) If a district adopts the tax, there is imposed a tax on the receipts from the sale at retail of taxable items within the district at a rate of up to one-half of one percent. For purposes of this section, the term "taxable items" includes all items subject to any sales and use tax that is imposed by the county in which the district is located if the county has imposed a sales and use tax. There is also imposed an excise tax on the use, storage, or other consumption within the district of taxable items purchased, leased, or rented from a retailer during the period that the tax is effective within the district. The rate of the excise

L18030C

LEGISLATIVE INFORMATION SYSTEM 74(R)  
BILL TEXT REPORT  
SB 345 ENROLLED VERSIONDATE: 06/01/95  
TIME: 13:10:14  
PAGE: 11

tax is the same as the rate of the sales tax portion of the tax applied to the sales price of the taxable items and is included in the sales tax.

(c) Chapter 323, to the extent not inconsistent with this subchapter, governs the imposition, computation, administration, and governance of the tax under this section, except that Sections 323.101(b) and (e), and Sections 323.209, 323.401 through 323.406, and 323.505 do not apply. Chapter 323 does not apply to the use and allocation of revenues under this subchapter. In applying the procedures under Chapter 323, the district's name shall be substituted for "the county" and "board of directors" is substituted for "commissioners court."

(d) The permissible rates for a local sales and use tax levied under this subchapter are one-fourth of one percent, three-eighths of one percent and one-half of one percent.

(e) The board by order may decrease or abolish the local sales and use tax rate or may call an election to increase, decrease, or abolish the local sales and use tax rate.

(f) At the election, the ballots shall be prepared to permit voting for or against the proposition: "The increase (decrease) in (percentage) to be used for the promotion and development of tourism" or "The abolition of the district sales and use tax used for the promotion and development of tourism." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. In calling and holding the election, the board shall use the procedure for the confirmation and tax election set forth in this subchapter.

(g) Taxes collected under this section may be used only for the purposes for which the district was created, and the district may pledge the revenue derived from the taxes imposed under this section to the payment of bonds issued by the district.

(h) A county development district may adopt a tax under this section only if as a result of adoption of the tax the combined rate of all local sales and use taxes imposed by political subdivisions having territory in the district will not exceed two percent. If, as a result of the levy or increase in a sales and use tax by a municipality in which there is located a district with an existing sales and use tax or as a result of the annexation by a municipality of the territory in a district with an existing sales and use tax, the overlapping local sales and use taxes in the area within the district will exceed two percent, then the district's sales and use tax rate shall automatically be reduced to a rate that when added to the combined rate of local sales and use taxes will equal two percent. If a district's tax rate is so reduced, the municipality shall make payments to the district equal to the amounts that would have been collected by the district had the municipality not levied or increased its sales and use tax or annexed the area within the district, less amounts that the district collects following the city's levy of or increase in its sales and use tax or annexation of the area within the district. Such payment shall be made by the municipality to the district within 10 days of receipt of the money from the comptroller's

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LEGISLATIVE INFORMATION SYSTEM 74(R)

BILL TEXT REPORT  
58 345 ENROLLED VERSIONDATE: 06/01/95  
TIME: 13:10:14  
PAGE: 12

office and shall continue only for so long as any bonds of the district are outstanding.

Sec. 312.638. ADDING AND EXCLUDING LAND FROM THE DISTRICT.

(a) Before the board issues bonds, the board may, on its own motion or on request of a landowner in the district, petition the county commissioners for the addition of land to or exclusion of land from the district.

(b) If the commissioners court unanimously determines from the evidence that the best interests of the persons and property in the district will be served by adding or excluding land, the commissioners court shall enter in its records the appropriate findings and order adding or excluding land.

Sec. 312.639. DISSOLUTION OF DISTRICT. (a) A district may be dissolved only as provided by this section.

(b) The board of directors may petition the commissioners court to dissolve the district if a majority of the board finds at any time:

(1) before the authorization of bonds or the final lending of its credit, that the proposed undertaking is impracticable or cannot be successfully and beneficially accomplished; or

(2) that all bonds of the district or other debts of the district have been paid and the purposes of the district have been accomplished.

(c) On receipt of a petition from the board of dissolution of the district, the county commissioners shall hold a hearing as provided by Section 312.607.

(d) If the commissioners court unanimously determines from the evidence that the best interests of the county and the owners of property and interests in property within the district will be served by dissolving the district, the commissioners court shall enter in its records the appropriate findings and order dissolving the district. Otherwise the commissioners court shall enter its order providing that the district has not been dissolved. On dissolution of the district, funds and property of the district, if any, shall be transferred to the commissioners court.

Sec. 312.640. DISSOLUTION OF DISTRICT ON AGREEMENT WITH MUNICIPALITY. A district may be dissolved by agreement between the governing body of a municipality and the board of directors of a district if all of the territory within the district is located within or annexed by the municipality. The agreement shall require the municipality to acquire all of the funds, property, and other assets of the district and assume all contracts, debts, bonds, and other obligations of the district, and the municipality shall be bound in the same manner and to the same extent that the district was bound with respect to such contracts, debts, bonds, and other obligations. On dissolution of the district, the taxes levied by the district are abolished.

SECTION 6. Chapter 352, Tax Code, is amended by adding Section 352.107 to read as follows:

Sec. 352.107. HOTEL TAX AUTHORIZED FOR COUNTY DEVELOPMENT

DISTRICTS. Notwithstanding any other provision of this chapter to the contrary, a commissioners court of a county with a population

LI80930C LEGISLATIVE INFORMATION SYSTEM 74(R) DATE: 06/01/95  
 SB 345 BILL TEXT REPORT TIME: 13:10:14  
 ENROLLED VERSION PAGE: 13

~~of less than 400,000 may impose a hotel occupancy tax not to exceed seven percent on a person who pays for the use or possession or for the right to the use or possession of a room in a hotel ordinarily used for sleeping that is located within the boundaries of the county development district created under Subchapter D, Chapter 312, and that is not located within the corporate limits of a municipality, subject to the limitations set forth in Sections 352.002(b) and (c). Taxes collected by a county under this section shall be remitted to the county development district not later than the 10th day after the date the county receives such funds, and may be used by the district for the purposes for which sales and use tax proceeds may be used by the district.~~

SECTION 7. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1995. The change in law made by Section 1 of this Act applies only to an abatement agreement entered into after January 1, 1996, and a tax that is paid on or after September 1, 1996.

(b) Section 4 of this Act takes effect August 31, 1995. SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 345 passed the Senate on April 27, 1995, by a viva-voce vote; May 24, 1995, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 25, 1995, House granted request of the Senate; May 29, 1995, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 345 passed the House, with amendments, on May 23, 1995, by a non-record vote; May 25, 1995, House granted request of the Senate for appointment of Conference Committee; May 28, 1995, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved: \_\_\_\_\_

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LEGISLATIVE INFORMATION SYSTEM 74(R)

BILL TEXT REPORT  
S# 345 ENROLLED VERSION

Date

DATE: 06/07/95  
TIME: 13:10:14  
PAGE: 14

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Governor

Brothers team up in summer league /1B

Look for the DEAL of the DAY

12, 5, 8

# Denton Record-Chronicle

24 pages in 4 sections

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Denton, Texas

Saturday, June 24, 1995

25 cents

## Secret law gives arena new life

By Leslie Hueholt and Kelly Ryan Staff Writers ©

Denton County commissioners will be able to go around the majority of Lewisville's voters to give tax breaks to a pro sports arena.

State Gov. George W. Bush quietly signed a bill last week that allows commissioners to create a special taxing district that can levy a sales tax, issue bonds and draw proceeds from a hotel occupancy tax.

Under the legislation, businesses that move into the dis-

■ **FIRST** in a two-part series  
trict also can receive tax abatements from the county and the state.

While county officials praised the legislation as an economic tool to promote a variety of developments, other observers criticized the secrecy that surrounded its passage and warned that it gives commissioners too much power.

"I think this is one of the most dangerous bills that the state of Texas has ever

passed," Lewisville City Councilwoman Ronni Cade said. "In the right hands for the right purpose . . . this could be a good bill."

Denton County officials fought hard last year to convince Dallas Mavericks owner Don Carter to build his new arena on his Lewisville land near Vista Ridge Mall. But in January of this year voters rejected a half-cent sales tax to help fund the arena there.

"If Vista Ridge and the Cart-  
See ARENA/3A

### How taxing district works

A new law gives counties with less than 400,000 population the ability to create a development district with full taxing authority.

This development district would be run by a five-member board of directors who are appointed by the county commissioners. The directors can create a special taxing district, call a sales tax election, negotiate property tax abatements with a corporation and levy a hotel/motel tax.

Here is how the county development district would work:

■ **BOARD OF DIRECTORS** — The only qualifications for the five directors are that they be 21 years old and eligible to vote in Denton County.

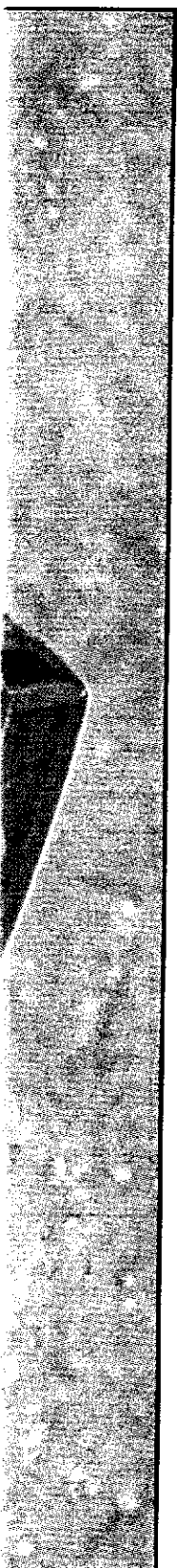
They will serve staggered four-year terms, that expire Sept. 1 and they will not be paid for their service. Commissioners can remove a board member for misconduct or failure to carry out duties.

The board will establish regular public meetings at a district office. The meeting times will be posted at the County Courthouse on the Square.

■ **TAXING DISTRICT** — The board can create a taxing district, decide who to include in the district and call a sales tax election within the district.

See DISTRICTS/3A

## Splash, boom, bang



## TWU board

## raises salaries

By April M. Washington Staff Writer

growth, the lobbying efforts of

# Arena

From/1A

er family got in bed together on this... it clearly affords an opportunity for Denton County to renew its efforts to attract the Mavericks," said Bernard Weinstein, director of the center for economic development and research at the University of North Texas.

Jeff Carey, the county's economic development director, secretly lobbied for the bill in Austin.

Rep. Jim Horn, R-Denton, said Mr. Carey was working with sponsors of the bill from South Texas rather than local legislators such as himself.

"It got my attention seeing someone from Denton County talking to anyone in the Legislature without saying 'hi' to me," Rep. Horn said.

Mr. Carey said he worked "quietly behind the scenes" with lobbyists from Lennard, Hurt, Terry, and Blinn Attorneys at Law. County commissioners have approved about \$15,000 for the firm in the past

two years.

This year, \$3,200 was set aside for legislative work pertaining to a sports arena.

He said the county worked behind the scenes on the legislation because of the way some larger counties, such as Dallas and Tarrant counties, might react. The legislation gives an economic development advantage to the smaller counties.

Rep. Horn said he "smelled something strange" about this legislation and voted against it because of that gut feeling.

"I don't think we should ever impose something like that without the vote of the people," Rep. Horn said. "Commissioners who would do that would do so at their own peril in the next election."

The new law, which goes into effect Sept. 1, is designed to promote development and tourism in counties with populations of less than 400,000.

Mr. Carey said the legislation could benefit a number of developments in Denton County — not just a professional sports arena.

"There are a lot of projects we're interested in using it on,"

he said. "We have a vehicle to possibly accomplish (the arena), but I'm not going to pursue the project unless everyone feels comfortable with it."

"And I sense everyone's not comfortable with it. If the city, the citizens and the Carters were interested, we're interested."

Ron Carter, who handles the Carter property in Lewisville, could not be reached for comment.

But Mr. Carey said he no longer is considering Lewisville for the possible location of a sports arena because he does not know of an appropriate location.

County Judge Jeff Moseley praised the legislation.

"It's going to benefit the county whether or not we pursue an arena," Mr. Moseley said.

He said the county is interested in how it can promote various developments, such as a proposed equestrian arena in Denton. Mr. Carey said the county is considering two other "confidential" developments.

But he acknowledged that the legislation certainly could

make Denton County more attractive to Mavericks' officials.

"It gives us a tool that could be useful, if the Mavericks are still interested in Denton County, that we didn't have before," Mr. Moseley said.

Mr. Moseley said he does not see creation of a taxing district as "going around the voters," saying the citizens would be involved in the process and be able to represent their views.

But, by law, only residents within the taxing district will be able to vote on the tax increase. The size of the district is flexible, and experts suggested it would include only a few people.

"There would be a real small turnout — it would be real interesting," said Bob Bland, chairman of the department of public administration at UNT.

Essentially, the law allows Denton County to go around the voters, Dr. Bland said. The voters can have an opinion but no voice in the matter, he said.

"I really hate to see this. We have such a convoluted system of local government as it is," Dr. Bland said.

Mr. Carey said the county

never intended to go over the heads of city officials to promote economic developments.

"The concept of the county trying to cut off the cities on this is completely false," he said.

But several Lewisville City Council members were concerned about the amount of power the legislation gives county commissioners.

Lewisville Councilwoman Cade said she was "absolutely shocked" that no one contacted the councils of any cities about the legislation. She believes Lewisville and county officials need to sit down and discuss the law.

Mr. Carey agreed the legislation could be dangerous. He said he is working with officials throughout the state to review the legislation to avoid

making a costly mistake.

"It could do a lot of really neat things. It also could do a lot of really bad things if we're not careful," he said.

County Commissioner Don Hill, who is not part of the inner circle pushing the arena project, expressed concern about the bill.

"I think it can work one of two ways," he said. "One, if it is used honestly and openly and in the way it was conceptually devised, it can be progressive and assisting to county government in the area of economic development. But just knowing what I know about the way county government operates, it really does give the county government a lot of power."

"In the wrong hands it could be dangerous."

# Districts

From/1A

The law does not specify the size of the district, but local experts say the district could include just a few people.

enter into an agreement for property tax abatements, and the arena would pay only school property taxes. The arena would pay county taxes to the state comptroller's office, but then be

by the district.

The district can use bond proceeds to pay interest on bonds during and after construction of the arena; pay administrative and operating

domain to acquire land or interest in land within the district if the district is outside the corporate limits of a city.

**■ COUNTIES APPLICABLE** — The law

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## COUNTY DEVELOPMENT DISTRICTS

By Tom Leonard<sup>1</sup>

The Commissioners Court of any Texas County with a population of 400,000 or less may create County Development Districts ("CDD"s) upon petition of the owners of all of the land within the CDD. No city consent is required. If the petitioners persuade the Commissioners Court that the CDD will "serve the public purpose of attracting visitors and tourists to the county," the Commissioners Court creates the CDD after a hearing and appoints five temporary directors.

The Temporary Board of Directors calls an election within the boundaries of the CDD for the confirmation of the creation of the CDD and the imposition of a sales tax of up to 1/2 of one cent. If the election passes, the members of the Board of Directors become permanent directors and serve four-year, staggered terms. The Commissioners Court appoints successor directors and may remove a director on petition by a majority of the remaining directors. The directors receive no compensation and must be qualified voters within the county in which the CDD is located.

A County Development District has the following powers:

1. The power to "...acquire and dispose of projects...."
2. The power to "...provide for general promotion and tourist advertising of the district and its vicinity and to conduct a marketing program to visitors..."
3. The powers "...of a municipal management district created under Chapter 375, Local Government Code..." which are not inconsistent with the CDD Act.
4. "...all of the other power, authority, rights and duties which will permit accomplishment of the purposes for which the district was created..."

The statutory definitions of "project" and "cost," together with a copy of the Municipal Management District Act, are attached hereto for a more comprehensive understanding of the powers of a CDD.

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The CDD may exercise the right of eminent domain if the CDD is not located within the boundaries of a municipality.

The CDD may impose a hotel occupancy tax not to exceed 7% on a hotel room located within a CDD but outside a municipality.

The CDD may issue bonds and pledge the sales and use tax and other revenues available to the CDD. The bonds may be issued to pay all or part of the cost of a project, to pay administrative and operating expenses, to create reserve funds for the bonds, and to pay all issuance costs of the bonds. In addition, the CDD is authorized to borrow money for any corporate purpose.

The CDD's sales and use tax may not cause the combined rate of all local sales and use taxes within the CDD to exceed 2%. If a municipality adds a sales and use tax to the territory within a CDD, which would cause the combined sales and use tax to exceed 2%, then the CDD's tax is reduced so that the combined tax will equal 2%. However, to the extent that the CDD has pledged its sales and use tax to the repayment of bonds, then the municipality must pay the CDD the amount the CDD would have collected prior to the imposition of the municipality's sales and use tax. These payments continue until the bonds of the CDD are paid.

LABOR  
Title 83

Art. 5190.6

(r) At an election called or held under Subsection (d) or (o) of this section, the city may also allow the voters to vote on a ballot proposition that limits the use of the sales and use tax to a specific project. If a city elects to limit the use to a specific project, in the ballot proposition prescribed by Subsection (m) or (p) a description of the project shall be substituted in place of the words "new and expanded business enterprises." When the last of its obligations for the specific project have been satisfied, the corporation shall send a notice to the comptroller stating that the sales and use tax imposed for the specific project may not be collected after the last day of the first calendar quarter beginning after the date of notification. A sales and use tax imposed for a specific project under this subsection may not be collected after the last day of the first calendar quarter beginning after the date of the notification to the comptroller. Revenue collected after the obligations for the specific project have been satisfied shall be forwarded by the state to the governing body to be used to pay current bonded indebtedness of the municipality. A corporation that has been created to perform a specific project under this subsection may retain its corporate existence and perform other projects as may be approved by the voters of the city under an election called and held under Subsection (d) or (o) of this section.

Sec. 4A added by Acts 1989, 71st Leg., ch. 877, § 2, eff. June 14, 1989. Amended by Acts 1991, 72nd Leg., ch. 184, § 1, eff. May 24, 1991. Sec. 4A(c) amended by Acts 1991, 72nd Leg., ch. 634, § 1, eff. June 16, 1991; Acts 1991, 72nd Leg., ch. 705, § 36, eff. Sept. 1, 1991; Sec. 4A(h) amended by and Sec. 4A(l) added by Acts 1991, 72nd Leg., ch. 634, § 1, eff. June 16, 1991; Sec. 4A(b) amended by Acts 1993, 73rd Leg., ch. 1001, § 1, eff. Sept. 1, 1993; Sec. 4A(i) amended by Acts 1993, 73rd Leg., ch. 12, § 3, eff. March 25, 1993; amended by Acts 1993, 73rd Leg., ch. 1022, § 2, eff. Sept. 1, 1993; Sec. 4A(k) amended by Acts 1993, 73rd Leg., ch. 1022, § 2, eff. Sept. 1, 1993; Sec. 4A(l) repealed by Acts 1993, 73rd Leg., ch. 1022, § 4, eff. Sept. 1, 1993; Sec. 4A(n) amended by Acts 1993, 73rd Leg., ch. 12, § 5, eff. March 25, 1993; amended by Acts 1993, 73rd Leg., ch. 1022, § 2, eff. Sept. 1, 1993; Sec. 4A(p), amended by Acts 1993, 73rd Leg., ch. 1031, § 11, eff. Sept. 1, 1993; Sec. 4A(q), (r) added by Acts 1993, 73rd Leg., ch. 1022, § 2, eff. Sept. 1, 1993.

Corporation in City Located in County With Population of 750,000 or More, or 150,000 or more

Sec. 4B. (a) In this section:

(1) "Eligible city" means a city:

(A) that is located in a county with a population of 750,000 or more, according to the most recent federal decennial census and in which the combined rate of all sales and use taxes imposed by the city, the state, and other political subdivisions of the state having territory in the city does not exceed 7.25 percent on the date of any election held under or made applicable to this section;

(B) that has a population of 400,000 or more, according to the most recent federal decennial census, and that is located in more than one county, and in which the combined rate of all sales and use taxes imposed by the city, the state, and other political subdivisions of the state having territory in the city, including taxes under this section, does not exceed 8.25 percent; or

(C) to which Section 4A of this Act applies.

(2) "Project" means land, buildings, equipment, facilities, and improvements included in the definition of that term under Section 2 of this Act, including recycling facilities, and land, buildings, equipment, facilities, and improvements found by the board of directors to:

(A) be required or suitable for use for professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, learning centers, parks and park facilities, open space improvements, municipal buildings, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of those items; or

(B) promote or develop new or expanded business enterprises, including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, as well as any improvements or facilities that are related to any of those projects and any other project that the board in its discretion determines promotes or develops new or expanded business enterprises.

Definitions

Sec. 2. Wherever used in this Act unless a different meaning clearly appears in the context, the following terms, whether singular or plural, shall mean as follows:

\* \* \* \* \*

(2) "Department" shall mean the Texas Department of Commerce.

\* \* \* \* \*

(4) "Cost" as applied to a project shall mean and embrace the cost of acquisition, construction, reconstruction, improvement, and expansion, including the cost of the acquisition of all land, rights-of-way, property rights, easements, and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving, and expanding any such project, administrative expense and such other expense as may be necessary or incident to the acquisition, construction, reconstruction, improvement, and expansion thereof, the placing of the same in operation, and the financing or refinancing of any such project, including the refunding of any outstanding obligations, mortgages, or advances issued, made or given by any person for any of the aforementioned costs.

\* \* \* \* \*

(10) "Project" shall mean the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities, transportation facilities (including but not limited to airports, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, and facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Act, all as defined in the rules of the department, irrespective of whether in existence or required to be identified, acquired, or constructed thereafter. As used in this Act, the term "development areas" shall mean any area or areas of a city that the city finds and determines, after a public hearing, should be developed in order to meet the development objectives of the city. In addition, in blighted or economically depressed areas, development areas or federally assisted new communities located within a home-rule city or a federally designated economically depressed county of less than 50,000 persons according to the last federal decennial census, a project may include the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of commercial development and expansion and in furtherance of the public purposes of this Act, or for use by commercial enterprises, all as defined in the rules of the department, irrespective of whether in existence or required to be acquired or constructed thereafter. As used in this Act, the term blighted or economically depressed areas shall mean those areas and areas immediately adjacent thereto within a city which by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures, or which suffer from a high relative rate of unemployment, or which have been designated and included in a tax incremental district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes),<sup>1</sup> or any combination of the foregoing, the city finds and determines, after a hearing, substantially impair or arrest the sound growth of the city, or constitute an economic or social liability and are a menace to the public health, safety, or welfare in their present condition and use. The department shall adopt guidelines that describe the kinds of areas that may be considered to be blighted or economically depressed. The city shall consider these guidelines in making its findings and determinations. Notice of the hearing at which the city considers establishment of a development area or an economically depressed or blighted area shall be posted at the city hall before the hearing.

§ 375.005

PLANNING AND DEVELOPMENT  
Title 12

Historical and Statutory Notes

1989 Legislation

The 1989 amendment to conform to Acts 1987, 70th Leg., ch. 643, § 1 [see italicized note in main volume] rewrote subd. (b)(2); in subd. (b)(4) inserted provisions relating to rehabilitation to promote energy efficiency and to the renovation of closed school buildings; in subd. (b)(5) deleted "if incidental to other activities under this chapter" following "properties"; in subd. (b)(9) deleted "in areas in which other activities authorized under this chapter are being carried out, if those services are determined to be necessary or appropriate to support the activities or" following "services not otherwise available"; in subd. (b)(12) substituted "if determined by the municipality to be appropriate" for "displaced by activities assisted under this chapter"; in subd. (b)(13) inserted "short-term"

preceding "objectives"; in subd. (b)(14) inserted provisions relating to the Housing Act of 1964 and the Housing and Community Development Amendments of 1981; in subd. (b)(16) designated para. (A), (B); in par. (b)(16)(A) inserted "projects," following "revitalization"; in par. (b)(16)(A) inserted a reference to energy conservation projects; inserted par. (b)(16)(C); inserted subds. (b)(17), (b)(18); in subsec. (c) inserted provisions relating to the assistance of private for-profit entities in the first sentence; and in the fourth sentence, twice inserted provisions relating to financing economic development projects. Acts 1987, 70th Leg., ch. 643, § 1, 2 which amended Vernon's Ann.Civ.St. art. 1269-4, § 4 was repealed by Acts 1989, 71st Leg., ch. 1, § 77(b), eff. Aug. 28, 1989.

CHAPTER 375. MUNICIPAL MANAGEMENT DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Section  
375.001. Legislative Findings; Purposes.  
375.002. Construction of Chapter.  
375.003. Definitions.  
375.004. Governmental Agency; Tort Claims.  
[Sections 375.005 to 375.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

375.021. Areas Eligible for Creation of District.  
375.022. Petition.  
375.023. Commission Hearing; Contents of Notice.  
375.024. Publication of Notice.  
375.025. Hearing.  
375.026. Order; Initial Directors.  
375.027. Municipality with Population More Than 1,500,000.  
[Sections 375.028 to 375.040 reserved for expansion]

SUBCHAPTER C. BOUNDARIES

375.041. Commission Order.  
375.042. Mistake in Boundary Description.  
375.043. Annexation.  
375.044. Excluding Territory.  
[Sections 375.045 to 375.060 reserved for expansion]

SUBCHAPTER D. ADMINISTRATIVE PROVISIONS; BOARD OF DIRECTORS

375.061. Number of Directors; Terms.  
375.062. Terms of Initial Directors.  
375.063. Qualifications of Director.  
375.064. Recommendations for Succeeding Board.  
375.065. Removal of Director.  
375.066. Board Vacancy.  
375.067. Director's Bond and Oath.  
375.068. Officers.

PLANNING AND DEVELOPMENT  
Title 12

Section  
SUBCHAPTER G. IMPACT FEES

375.141. Imposition of Impact Fees.  
375.142. Procedure for Adopting Impact Fees.  
[Sections 375.143 to 375.160 reserved for expansion]

SUBCHAPTER H. EXEMPTIONS

375.161. Certain Residential Property Exempt.  
375.162. Governmental Entities; Assessments.  
375.163. Recreational, Park, or Scenic Use Property.  
375.164. Residential Property Exempted by Board.  
375.165. Governmental Entities; Impact Fees.  
[Sections 375.166 to 375.180 reserved for expansion]

SUBCHAPTER I. FUNDS

375.181. Funds Available for Payment of Projects and Services.  
375.182. Prohibited Use of Funds.  
[Sections 375.183 to 375.200 reserved for expansion]

SUBCHAPTER J. BONDS

375.201. General Obligations and Revenue Bonds.  
375.202. Terms and Conditions of Bonds.  
375.203. Pledges.  
375.204. Refunding Bonds.  
375.205. Approval by Attorney General; Registration.  
375.206. Authorized Investments; Security.  
375.207. Municipal Approval.

SUBCHAPTER N. CONTRACTS WITH DISTRICT

375.281. Contracts with District.

SUBCHAPTER A. GENERAL PROVISIONS

§ 375.001. Legislative Findings; Purposes

(a) The creation of a municipal management district is declared to be essential to the accomplishment of the purposes of Article III, Section 52, Article XVI, Section 59, and Article III, Section 52-a, of the Texas Constitution and to the accomplishment of the other public purposes stated in this chapter.

(b) The creation of each district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the commercial areas of municipalities and metropolitan areas of this state.

(c) The creation of districts and this chapter may not be interpreted to relieve any municipality from providing services to an area included in the district or to release the municipality from the obligation it has to provide municipal services to that area. A district is created to supplement and not supplant the municipal services of the municipality.

(d) All of the land and other property to be included within the boundaries of a district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52, Article XVI, Section 59, and Article III, Section 52-a, of the Texas Constitution and other powers granted under this chapter.

(e) A district is created to serve a public use and benefit.

(f) The creation of a district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment, and the development or expansion of transportation and commerce and is in the public interest.

§ 375.001

Section  
375.208. Commission Approval.  
[Sections 375.209 to 375.220 reserved for expansion]

SUBCHAPTER K. COMPETITIVE BIDDING; DISADVANTAGED BUSINESSES

375.221. Competitive Bidding on Certain Public Works Contracts.  
375.222. Disadvantaged Businesses.  
375.223. Supersees Other Law.  
[Sections 375.224 to 375.240 reserved for expansion]

SUBCHAPTER L. ELECTIONS

375.241. Time of Election.  
375.242. Election Called by Board.  
375.243. Petition Required for Bond Election.  
375.244. Election to Approve Issuance of Bonds.  
[Sections 375.245 to 375.260 reserved for expansion]

SUBCHAPTER M. DISSOLUTION

375.261. Dissolution by Board Vote.  
375.262. Dissolution by Petition by Owners.  
375.263. Dissolution by Municipal Ordinance.  
375.264. Limitation.  
[Sections 375.265 to 375.280 reserved for expansion]

## § 375.001

### PLANNING AND DEVELOPMENT Title 12

(g) A district will promote the health, safety, and general welfare of residents, employees, employees, and consumers in the district and the general public.

(h) A district is designed to provide needed funding for metropolitan areas to preserve, maintain, and enhance the economic health and vitality of the areas as community and business centers.

(i) The present and prospective traffic congestion in municipalities in this state, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and a district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by a district will be attractive, safe, and convenient and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public.

(j) A district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district that are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty.

(k) A district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(l) The purpose of this chapter is to promote and benefit commercial development and commercial areas throughout the state. Each improvement project or service authorized by this chapter is found and declared to carry out a public purpose.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### 1991 Legislation

This chapter was added to codify Vernon's Ann. Civ.St. art. 8280-15, which was repealed by Acts 1991, 72nd Leg., ch. 16, § 13.05(b).

#### MUNICIPAL MANAGEMENT DISTRICTS

Name	Creation and Authority
Greater Greenspoint Management District	Acts 1991, 72nd Leg., ch. 817
	Vernon's Ann.Civ.St. art. 8280-15, §§ 1(c), (d), 4(a), (b).

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

## § 375.002. Construction of Chapter

(a) This chapter shall be liberally construed in conformity with the findings and purposes in Section 375.001.

(b) If any provision of general law is in conflict or inconsistent with this chapter, this chapter prevails. Any general law not in conflict or inconsistent with this chapter is adopted and incorporated by reference.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, §§ 4(c), 7(b).

## § 375.003. Definitions

In this chapter:

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

86

### PLANNING AND DEVELOPMENT Title 12

## § 375.004

(2) "Bond" means any type of interest-bearing obligation, including a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "Commission" means the Texas Water Commission.

(4) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians;

(B) a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described by Paragraph (A);

(C) a partnership that is formed for the purpose of making a profit, in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Paragraph (A), and in which minority or women partners have a proportionate interest in the control, operation, and management of the partnership affairs;

(D) a joint venture between minority and women's group members formed for the purpose of making a profit and the minority participation in which is based on the sharing of real economic interest, including equally proportionate control over management, interest in capital, and interest earnings, other than a joint venture in which majority group members own or control debt securities, leasehold interest, management contracts, or other interests; or

(E) a supplier contract between persons described in Paragraph (A) and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means a management district created under this chapter.

(6) "Mass transit" means transportation of passengers and their hand-carried packages or baggage by motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the preceding and includes stations or terminals and public parking facilities and facilities incidental to or related to any of the preceding, including commercial or shopping areas.

(7) "System" means all real and personal property owned or held by a district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of those facilities.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 6.

## § 375.004. Governmental Agency; Tort Claims

(a) A district is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) A district is a unit of government for purposes of Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of a district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

87

**§ 375.004**

**PLANNING AND DEVELOPMENT**  
Title 12

Historical and Statutory Notes

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 8(f).

[Sections 375.005 to 375.020 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT**

**§ 375.021. Areas Eligible for Creation of District**

- (a) A district may be created only:
- (1) in an area devoted primarily to commercial development and business activity inside the boundaries of a municipality with a population of at least 25,000; or
  - (2) in an area devoted primarily to commercial development or business activity.
- (b) A district created as authorized under Subsection (a)(2) may include the extraterritorial jurisdiction of a municipality with a population of at least 25,000 if the area has an assessed valuation of \$500 million or more according to the rolls of the central appraisal district for the year preceding the date of creation of the district.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 2(b).

**§ 375.022. Petition**

- (a) Before a district may be created, the commission must receive a petition requesting creation of the district.
- (b) The petition must be signed by:
- (1) the owners of a majority of the assessed value of the real property in the proposed district, according to the most recent certified county property tax rolls; or
  - (2) 50 persons who own real property in the proposed district if, according to the most recent certified county property tax rolls, more than 50 persons own real property in the proposed district.
- (c) The petition must:
- (1) describe the boundaries of the proposed district by metes and bounds or, if there is a recorded map or plat and survey of the area, by lot and block number;
  - (2) state the specific purposes for which the district will be created;
  - (3) state the general nature of the work, projects, or services proposed to be provided, the necessity for those services, and the costs as estimated by the persons filing the petition;
  - (4) include a name of the district, which must be generally descriptive of the location of the district, followed by "Management District";
  - (5) include a proposed list of initial directors that includes the directors' experience and initial term of service; and
  - (6) include a resolution of the governing body of the municipality in support of the creation of the district.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(e), eff. Aug. 26, 1991.

88

**PLANNING AND DEVELOPMENT**  
Title 12

Historical and Statutory Notes

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 2(a), (c).

**§ 375.023. Commission Hearing; Contents of Notice**

The commission or a person authorized by the commission shall set a date, time, and place for a hearing to consider each petition received. The commission or authorized person shall issue a notice of the date, time, and place of hearing. The notice must state that each person has a right to appear and present evidence and testify for or against the allegations in the petition, the form of the petition, the necessity and feasibility of the district's project, and the benefits to accrue.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 2(d).

**§ 375.024. Publication of Notice**

(a) The commission or authorized person shall publish notice of the hearing in a newspaper of general circulation in the municipality in which the proposed district is located once a week for two consecutive weeks. The first publication must occur not later than the 31st day before the date on which the hearing will be held.

(b) The commission or authorized person shall also mail a copy of the notice to each county in which the proposed district is located if the county has formally requested notice of the creation of each district in the county.

(c) A municipality may request that it receive during a year notice of hearings on the creation of a district by filing a request with the commission during January of the year. The municipality's request must state the names and mailing addresses of not more than two persons to whom the commission shall send the notice on behalf of the municipality.

(d) A certificate of a representative of the commission that notice was mailed to each county in which the proposed district is located that had formally requested notice is conclusive evidence that notice was properly mailed to each county.

(e) Not later than the 30th day before the date of the hearing, the petitioner shall send the notice of the hearing by certified mail, return receipt requested, to each person who owns real property in the proposed district, according to the most recent certified county property tax rolls, other than a property owner who signed the petition for creation. The tax assessor and collector shall certify from the tax rolls ownership of property on the date the petition is filed with the commission.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 2(e), (f), (g), (h) and (i).

**§ 375.025. Hearing**

(a) At a hearing set under Section 375.023, the commission shall examine the petition to determine its sufficiency. Any interested person may appear before the commission in person or by attorney and offer testimony on the sufficiency of the petition and whether the district is feasible and necessary and would be a benefit to all or any part of the land proposed to be included in the district.

(b) The commission has jurisdiction to determine each issue relating to the sufficiency of the petition and to the creation of the district and may issue necessary incidental orders in

89

**§ 375.025**

**PLANNING AND DEVELOPMENT**  
Title 12

relation to the issues before the commission. The commission may adjourn the hearing from day to day.

(c) If after the hearing the commission finds that the petition conforms to the requirements of Section 375.022(c) and that the district is feasible and necessary and would benefit the public, the commission by order shall make that finding and grant the petition. In determining if the project is feasible and necessary and would benefit the public, the commission shall consider:

- (1) the availability of comparable services from other systems, including special districts, municipalities, and regional authorities; and
- (2) the reasonableness of the proposed public purpose projects and services.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 20, (k) and (l).

**§ 375.026. Order; Initial Directors**

If the commission grants the petition, the commission in the order creating the district shall state the specific purposes for which the district is created and shall appoint the initial directors.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 2(m).

**§ 375.027. Municipality with Population More Than 1,500,000**

A district may not be created within the boundaries of a municipality with a population of more than 1,500,000 unless the district is:

- (1) outside a radius of 3.5 miles from the county courthouse; or
- (2) created by a local law bill passed by the legislature.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 14, § 7.01, eff. Nov. 12, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 2(n).

[Sections 375.028 to 375.040 reserved for expansion]

**SUBCHAPTER C. BOUNDARIES**

**§ 375.041. Commission Order**

The boundaries of a district are as prescribed by the commission order creating the district. The commission may issue a subsequent order changing the boundaries of the district. Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(e), eff. Aug. 26, 1991.

90

**PLANNING AND DEVELOPMENT**  
Title 12

§ 375.044

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 3.

**§ 375.042. Mistake in Boundary Description**

If in the petition or order a mistake is made in the field notes or in copying the field notes of the boundaries of a district, the mistake does not affect:

- (1) the organization, existence, and validity of the district;
- (2) the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;
- (3) the right of the district to levy and collect assessments or taxes; or
- (4) the legality or operation of the district or its governing body.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 3.

**§ 375.043. Annexation**

A district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the municipality.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 18.

**§ 375.044. Excluding Territory**

(a) At any time during which a district does not have outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board shall call a hearing on the exclusion of land or other property from the district if a landowner or property owner in the district files with the secretary of the board a written petition requesting the hearing before the issuance of bonds.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(e), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 15.

91

PLANNING AND DEVELOPMENT

Title 12

(e) If any provision of Subsections (a) through (d) is found to be invalid, the commission shall appoint the board from recommendations submitted by the preceding board.  
 (f) The governing body of the municipality or the commission, as appropriate, shall make appointments to the board so that places on the board are occupied by persons with experience in one or more of the following areas:

- (1) energy matters;
- (2) commercial banking;
- (3) real estate development;
- (4) finance and insurance matters;
- (5) matters relating to retail or the provision of services;
- (6) provision of utilities; or
- (7) general issues the district will address.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
 Vernon's Ann.Civ.St. art. 8280-15, § 5(d).

§ 375.065. Removal of Director

The governing body of the municipality after notice and hearing may remove a director for misconduct or failure to carry out the director's duties on petition by a majority of the remaining directors.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
 Vernon's Ann.Civ.St. art. 8280-15, § 5(f).

§ 375.066. Board Vacancy

A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
 Vernon's Ann.Civ.St. art. 8280-15, § 5(g).

§ 375.067. Director's Bond and Oath

(a) As soon as practicable after a director is appointed, the director shall execute a \$10,000 bond payable to the district and conditioned on the faithful performance of the director's duties.

(b) Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers.

(c) The bond and oath shall be filed with the district and retained in its records.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

93

PLANNING AND DEVELOPMENT  
 Title 12

[Sections 375.045 to 375.060 reserved for expansion]

SUBCHAPTER D. ADMINISTRATIVE PROVISIONS; BOARD OF DIRECTORS

§ 375.061. Number of Directors; Terms

A district is governed by a board of at least nine but not more than 30 directors who serve staggered four-year terms.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
 Vernon's Ann.Civ.St. art. 8280-15, § 5(a).

§ 375.062. Terms of Initial Directors

The initial directors shall be divided into two groups that are as equal in number as possible; one group serves four-year terms and one group serves two-year terms. The grouping of initial directors and terms for the directors in each group shall be determined by the commission.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
 Vernon's Ann.Civ.St. art. 8280-15, § 5(b).

§ 375.063. Qualifications of Director

To be qualified to serve as a director, a person must be at least 18 years old and:

- (1) a resident of the district;
- (2) an owner of property in the district;
- (3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;
- (4) an owner of a beneficial interest in a trust that owns property in the district; or
- (5) an agent, employee, or tenant of a person covered by Subdivision (2), (3), or (4).

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
 Vernon's Ann.Civ.St. art. 8280-15, § 5(c).

§ 375.064. Recommendations for Succeeding Board

(a) The initial and each succeeding board of directors shall recommend to the governing body of the municipality persons to serve on the succeeding board.

(b) After reviewing the recommendations, the governing body shall approve or disapprove the directors recommended by the board.

(c) If the governing body is not satisfied with the recommendations submitted by the board, on the request of the governing body, shall submit to the governing body additional recommendations.

(d) Board members may serve successive terms.

92



## § 375.067

### PLANNING AND DEVELOPMENT Title 12

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 5(h).

#### § 375.068. Officers

After directors are appointed and have qualified by executing a bond and taking the oath, they shall organize by electing a president, a vice-president, a secretary, and any other officers the board considers necessary.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 5(i).

#### § 375.069. Board Position not Civil Office of Emolument

A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 5(j).

#### § 375.070. Compensation of Directors; Reimbursement of Expenses

A director is not entitled to compensation for service on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 5(k).

#### § 375.071. Quorum

One-half of the directors constitutes a quorum, and a concurrence of a majority of a quorum of directors is required for any official action of the district. The written consent of at least two-thirds of the directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 5(l).

94

### PLANNING AND DEVELOPMENT Title 12

§ 375.092

#### § 375.072. Participation in Voting

(a) A person who qualifies to serve on the board under Section 375.063 is qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any other statutory provision to the contrary.

(b) A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit.

(c) An employee of a public entity may serve on the board of directors of the district, but the public employee may not participate in the discussion or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 5(m).

[Sections 375.073 to 375.090 reserved for expansion]

#### SUBCHAPTER E. POWERS AND DUTIES

#### § 375.091. General Powers of District

(a) A district has the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water Code.

(b) The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code.

(c) The district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the limitations provided in Article III, Section 52, and Article III, Section 52(a), of the Texas Constitution.

(d) A district has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), and the additional rights, privileges, authority, and functions contained in that Act.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 7.

#### § 375.092. Specific Powers

(a) A district has the powers necessary or convenient to carry out and effect the purposes and provisions of this chapter, including the powers granted in this section.

(b) A district has perpetual succession.

(c) A district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond.

95

### § 375.092

#### PLANNING AND DEVELOPMENT Title 12

(d) A district may incur liabilities, borrow money on terms and conditions the board determines, and issue notes, bonds, or other obligations.

(e) A district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of real and personal property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this chapter.

(f) A district may acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services inside and outside its boundaries.

(g) A district may enter into agreements with a person or entity, public or private, for the joint use of facilities, installations, and property.

(h) A district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(i) A district may enter contracts, leases, and agreements with and accept grants and loans from the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable.

(j) A district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) A district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or properties that are not needed for or, in the case of leases, that are not inconsistent with the efficient operation and maintenance of the district's improvements. A district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for its requirements or for the purpose of carrying out its powers under this chapter.

(l) A district may lease projects or any part of a project to or contract for the use or operation of the projects or any part of a project by any operator.

(m) A district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this chapter.

(n) A district may procure and pay premiums to insurers for insurance of any type in amounts considered necessary or advisable by the board.

(o) A district may do anything necessary, convenient, or desirable to carry out the powers expressly granted or implied by this chapter.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 8.

### § 375.093. Use and Alteration of Public Ways

(a) With the consent of the municipality, the district is entitled to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other property, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system or to have those things done at the district's sole expense.

(b) The district may not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or owners rendering public services, or that will disrupt those services being provided by others, or to otherwise inconvenience the owners of that property or those facilities without having first obtained the written consent of those owners. If the owners of the property or facilities

96

### § 375.096

#### PLANNING AND DEVELOPMENT

##### Title 12

desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(c) If a district, in exercising any of the powers conferred by this chapter, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of or altering the construction of any street, alley, highway, overpass, underpass, or road, or other facilities or bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any gas property, any telephone or telegraph lines, conduits, or other facilities or property, any water, transmission or distribution pipes, pipelines, mains, or other facilities or property, or any other pipelines, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities or property, or any cable television lines, cables, conduits, or other facilities or property, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 8(O), (g).

### § 375.094. No Eminent Domain Power

A district may not exercise the power of eminent domain.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 8(u).

### § 375.095. Management by Board of Directors

The responsibility for the management, operation, and control of the property belonging to a district is vested in the board.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 8(p).

### § 375.096. Specific Powers and Duties of Board

(a) The board may:

- (1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;
- (2) dismiss employees;

97

§ 375.096

PLANNING AND DEVELOPMENT  
Title 12

- (3) adopt a seal for the district;
- (4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes) and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;
- (5) establish a fiscal year for the district;
- (6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an independent certified public accountant or a firm of independent certified public accountants; and
- (7) designate one or more banks to serve as the depository bank or banks.
- (b) Funds of a district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board by resolution may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.
- (c) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.
- (d) The name of the district may be established or changed by resolution of the board.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Vernon's Ann.Civ.St. art. 8280-15, § 8(q), (r) and (s).

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

§ 375.097. Hearings Examiner; Administrative Procedure Act

(a) The board may appoint a hearings examiner to conduct any hearing called by the board, including a hearing required by Chapter 396. The hearings examiner may be an employee of the district or a member of the district's board.

(b) The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 9(b).

[Sections 375.098 to 375.110 reserved for expansion]

SUBCHAPTER F. ASSESSMENTS

§ 375.111. General Powers Relating to Assessments

In addition to the powers provided by Subchapter E, the board of a district may undertake improvement projects and services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and services. If the board determines that there is a benefit to the district, the district may provide improvements and services to an area outside the boundaries of the district.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

98

PLANNING AND DEVELOPMENT  
Title 12

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 9(a).

§ 375.112. Specific Powers Relating to Assessments

(a) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and sidewalks; pedestrian skywalks, crosswalks, and tunnels; seawalls; marinas; drainage and navigation improvements; pedestrian malls; solid waste, water, sewer, and power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, rivers, bayous, ponds, and recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1);

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this chapter, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674f-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(b) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 9(b), (c).

§ 375.113. Proposed Assessments

Services or improvement projects may be financed under this chapter after a hearing notice given as required by this subchapter and a public hearing by the board on the advisability of the improvements and services and the proposed assessments.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.

Vernon's Ann.Civ.St. art. 8280-15, § 9(d).

§ 375.114. Petition Required

The board may not finance services and improvement projects under this chapter unless written petition has been filed with the board requesting those improvements or services signed by:

(1) the owners of 50 percent or more of the assessed value of the property in the district as determined from the most recent certified county property tax rolls; or

99

### § 375.114

#### PLANNING AND DEVELOPMENT Title 12

(2) the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas, and any other property exempt from assessment under Section 375.162 or 375.163 as determined from the most recent certified county property tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(c).

### § 375.115. Notice of Hearing

(a) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing.

(b) The notice must include:

- (1) the time and place of the hearing;
- (2) the general nature of the proposed improvement project or services;
- (3) the estimated cost of the improvement, including interest during construction and associated financing costs; and
- (4) the proposed method of assessment.

(c) Written notice containing the information required by Subsection (b) shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(f), (g).

### § 375.116. Conclusion of Hearing Findings

(a) A hearing on the services or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time.

(b) At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project or services, the nature of the improvement project or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment.

(c) If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating the examiner's findings and conclusions.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(f).

### § 375.117. Area to be Assessed

(a) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing.

100

### § 375.119

#### PLANNING AND DEVELOPMENT

##### Title 12

(b) Except as provided by Subsection (c), the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the required notice.

(c) The owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(j).

### § 375.118. Objections; Levy of Assessment

(a) At a hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment.

(b) The board may amend proposed assessments for any parcel.

(c) After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest.

(d) Periodic installments must be in amounts sufficient to meet annual costs for services and improvements as provided by Section 375.119 and continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection.

(e) If assessments are levied for more than one service or improvement project, the board may provide that assessments collected for one service or improvement project may be borrowed to be used for another service or improvement project.

(f) The board shall establish a procedure for the distribution or use of any assessments in excess of those necessary to finance the services or improvement project for which those assessments were collected.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

#### Historical and Statutory Notes

##### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(k).

### § 375.119. Apportionment of Cost

The portion of the cost of an improvement project or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project or services. The cost may be assessed:

- (1) equally by front foot or by square foot of land area against all property in the district;
- (2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or
- (3) on any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

101

§ 375.119

PLANNING AND DEVELOPMENT  
Title 12  
Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(f).

§ 375.120. Assessment Roll

If the total cost of an improvement project or services is determined, the board shall levy the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(p).

§ 375.121. Interest on Assessments; Lien

(a) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

(b) Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to each subsequent installment until paid.

(c) An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid.

(d) The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(q).

§ 375.122. Supplemental Assessments

After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment:

- (1) relating to the total cost of the improvement project or services; or
- (2) covering delinquencies or costs of collection.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(r).

102

PLANNING AND DEVELOPMENT

Title 12

§ 375.141

§ 375.123. Appeal

(a) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal.

(b) The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to the assessment.

(c) Failure to file either of the notices in the time required by this section results in a loss of the right to appeal the assessment.

(d) If an assessment against a parcel of land is set aside by a court of competent jurisdiction found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(a), (f).

§ 375.124. Appeal of Order

A person against whom an assessment is made by board order may appeal the assessment to a district court in the county in which the district is located in the manner provided for the appeal of contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). Review by the district court is by trial *de novo*.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 9(k).

[Sections 375.125 to 375.140 reserved for expansion]

SUBCHAPTER G. IMPACT FEES

§ 375.141. Imposition of Impact Fees

(a) The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide under this chapter, including mass transit systems.

(b) The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid.

(c) The board may provide interest charges and penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 12.

103

**§ 375.142**

**PLANNING AND DEVELOPMENT**  
Title 12

**§ 375.142. Procedure for Adopting Impact Fees**

Impact fees shall be adopted under the procedures provided by Chapter 395, Local Government Code.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 12.

[Sections 375.143 to 375.160 reserved for expansion]

**SUBCHAPTER H. EXEMPTIONS**

**§ 375.161. Certain Residential Property Exempt**

The board may not impose an impact fee, assessment, tax, or other requirement for payment, construction, alteration, or dedication under this chapter on single-family detached residential property, duplexes, triplexes, and quadruplexes.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 22.

**§ 375.162. Governmental Entities; Assessments**

Payment of assessments by municipalities, counties, other political subdivisions, and organizations exempt from federal income tax under Section 601(c)(3), Internal Revenue Code of 1986, shall be established by contract. Municipalities, counties, and other political subdivisions may contract with the district under terms and conditions those entities consider advisable to provide for the payment of assessments.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 9(m).

**§ 375.163. Recreational, Park, or Scenic Use Property**

(a) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property.

(b) Property is exempt from assessment by the district under this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section.

(c) The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to

104

**PLANNING AND DEVELOPMENT**

**§ 375.181**

Title 12

make or offer to make that type of dedication and does not affect the status of the property as private property.

(d) If the district levies ad valorem taxes, property that qualifies for an exemption from assessment under this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 9(m).

**§ 375.164. Residential Property Exempted by Board**

The board may exempt residential property from all or a part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 9(o).

**§ 375.165. Governmental Entities; Impact Fees**

(a) A municipality, county, or other political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or other political subdivision consents to payment of the fees by official act of its governing body.

(b) Payment of impact fees by a municipality, county, or other political subdivision must be established by contract.

(c) A municipality, county, or other political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 12.

[Sections 375.166 to 375.180 reserved for expansion]

**SUBCHAPTER I. FUNDS**

**§ 375.181. Funds Available for Payment of Projects and Services**

(a) The cost of any improvement project or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project or services and issue bonds on completion.

105

## § 375.181

## PLANNING AND DEVELOPMENT

Title 12

(c) The costs of more than one improvement project or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue. Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(e), eff. Aug. 26, 1991.

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 10.

## § 375.182. Prohibited Use of Funds

Funds may not be spent, an assessment imposed, or a tax levied under this chapter to finance the opening, reopening, or maintenance of a pass, canal, or waterway across a barrier island connecting the Gulf of Mexico with inland waters.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(e), eff. Aug. 26, 1991.

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 21.

[Sections 375.183 to 375.200 reserved for expansion]

## SUBCHAPTER J. BONDS

## § 375.201. General Obligation and Revenue Bonds

For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this chapter, including installment payments of special assessments or from any other source pledged to their payment.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 11(a).

## § 375.202. Terms and Conditions of Bonds

(a) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated in the order or resolution authorizing the issuance of the bonds.

(b) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code.

(c) The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates determined and provided in the order or resolution authorizing the issuance of the bonds.

(d) Bonds may bear interest and may be issued in accordance with Chapter 603, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil

106

## PLANNING AND DEVELOPMENT

## § 375.204

Title 12

(Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 606, Acts of the 68th Legislature, Regular Session, 1983 (Article 717g, Vernon's Texas Civil Statutes).

(e) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(e), eff. Aug. 26, 1991.

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 11(b), (c)  
and (d).

## § 375.203. Pledges

(a) The board may pledge all or part of the income or assessments from improvement projects financed under this chapter or from any other source to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds and, to provide the principal interest, and any other amounts required in connection with the bonds, to provide for the payment of expenses in connection with the bonds and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this chapter.

(b) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this chapter owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(c) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

### Historical and Statutory Notes

Prior Laws: Vernon's Ann.Civ.St. art. 8280-15, § 11(e), (f)  
and (g).

Acts 1989, 71st Leg., ch. 1056.

## § 375.204. Refunding Bonds

(a) Bonds issued under this chapter may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board. Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding.

(b) The refunding bonds shall be issued in the manner provided by this chapter for other bonds.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

107

## § 375.204

## PLANNING AND DEVELOPMENT Title 12

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 11(b).

## § 375.205. Approval by Attorney General; Registration

(a) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination.

(b) If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it.

(c) If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, the attorney general shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller.

(d) After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for any reason and are valid and binding obligations for all purposes in accordance with their terms.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 11(f).

## § 375.206. Authorized Investments; Security

(a) District bonds are legal and authorized investments for:

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

(2) insurance companies;

(3) fiduciaries, trustees, and guardians; and

(4) all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state, including counties, municipalities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic.

(b) District bonds are eligible and lawful security for deposits of counties, municipalities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unamortized interest coupons appurtenant to the bonds.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 11(f).

## § 375.207. Municipal Approval

(a) A district must obtain the approval of the governing body of the municipality in which it is located for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue before those bonds may be issued.

(b) Instead of approval of bonds by the municipality, the district before finally approving a capital improvements budget may obtain approval from the governing body of the municipal-

108

## PLANNING AND DEVELOPMENT

Title 12

## § 375.221

ty of a capital improvements budget for a period not to exceed five years. If a district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the municipality.

(c) A district must obtain approval from the municipality of the plans and specifications of any improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the municipality.

(d) Except as provided by Section 375.263, a municipality is not obligated to pay any bonds, notes, or other obligations of the district.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 14.

## § 375.208. Commission Approval

A district must obtain approval of the commission as provided by Chapter 64, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Sections 375.062 and 375.064, a district is not subject to the jurisdiction of the commission.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

### Historical and Statutory Notes

#### Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 17.

[Sections 375.209 to 375.220 reserved for expansion]

## SUBCHAPTER K. COMPETITIVE BIDDING; DISADVANTAGED BUSINESSES

### § 375.221. Competitive Bidding on Certain Public Works Contracts

(a) A contract, other than a contract for services, for more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, may be entered into only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement if:

(1) there is an emergency;

(2) the needed materials are available from only one source;

(3) in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement; or

(4) after solicitation, it is ascertained that there will be only one bidder.

(b) If a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is for an estimated amount of more than \$15,000 but less than \$25,000 or for a duration of more than two years, competitive bids shall be asked from at least three persons.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 757, § 20, eff. Sept. 1, 1993.

109



§ 375.221

PLANNING AND DEVELOPMENT  
Title 12

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 13(a), (b).

§ 375.222. Disadvantaged Businesses

(a) A district shall attempt to stimulate the growth of disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for district contracts.

(b) A district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination.

(c) The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses.

(d) A program established by a district under this section must attempt to remedy any statistically significant disparities that are found to exist, and, because a program is remedial in nature, it continues only until its purposes and objectives are met as determined by the regular periodic review.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 13(c).

Cross References

Disadvantaged businesses, public contracts, see  
Vernon's Ann.Civ.St. art. 8011.

§ 375.223. Supersedes Other Law

This chapter states the required procedures necessary for the district to award contracts and supersedes any law or other requirement with respect to award of contracts.  
Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 13(d).

[Sections 375.224 to 375.240 reserved for expansion]

SUBCHAPTER L. ELECTIONS

§ 375.241. Time of Election

(a) A bond election, maintenance tax election, and any other election held in a district may be held at the same time and in conjunction with any other election.

110

PLANNING AND DEVELOPMENT

§ 375.244

Title 12

(b) Elections shall be called and held as provided by the appropriate provisions of Chapter

64, Water Code.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 16(a), (b).

§ 375.242. Election Called by Board

The board may call an election for the purpose of voting on any measure.  
Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 16(c).

§ 375.243. Petition Required for Bond Election

The board may not call a bond election unless a written petition has been filed with the board requesting an election signed by the owners of:

- (1) 50 percent or more of the assessed value of the property in the district as determined from the most recent certified county property tax rolls; or
- (2) 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment under Sections 375.161, 375.183, and 375.164 as determined from the most recent certified county property tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 16(d).

§ 375.244. Election to Approve Issuance of Bonds

(a) Bonds payable in whole or in part from taxes may not be issued unless approved by a majority or any larger percentage if required by the constitution of the qualified voters in the district voting at an election held for that purpose.

(b) Bonds payable from sources other than taxes may be issued by the board, and assessments may be levied without approval at an election.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 16(e).

111

§ 375.261

PLANNING AND DEVELOPMENT  
Title 12

[Sections 375.245 to 375.260 reserved for expansion]

SUBCHAPTER M. DISSOLUTION

§ 375.261. Dissolution by Board Vote

Except as limited by Section 375.264, the board of a district by majority vote may dissolve the district at any time.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 20(a).

§ 375.262. Dissolution by Petition by Owners

Except as limited by Section 375.264, the board shall dissolve the district on written petition filed with the board by the owners of:

(1) 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls; or

(2) 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment under Sections 375.161, 375.163, and 375.164, according to the most recent certified county property tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 20(b).

§ 375.263. Dissolution by Municipal Ordinance

(a) Except as limited by Section 375.264, the governing body of a municipality in which a district is located, by a vote of not less than two-thirds of its membership, may adopt an ordinance dissolving the district.

(b) On the adoption of the ordinance, the district is dissolved, and, in accordance with Section 43.076, the city succeeds to the property and assets of the district and assumes all bonds, debts, obligations, and liabilities of the district.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 20(c).

§ 375.264. Limitation

A district may not be dissolved by its board or by a city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

112

PLANNING AND DEVELOPMENT  
Title 12

§ 380.002

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 20(c).

[Sections 375.265 to 375.280 reserved for expansion]

SUBCHAPTER N. CONTRACTS WITH DISTRICT

§ 375.281. Contracts with District

Notwithstanding any other law to the contrary, a state agency, municipality, county, other political subdivision, corporation, individual, or other entity may contract with a district without further authorization to carry out the purposes of this chapter.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

Prior Laws:

Acts 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8290-15, § 19.

[Chapters 376 to 379 reserved for expansion]

CHAPTER 380. MISCELLANEOUS PROVISIONS RELATING  
TO MUNICIPAL PLANNING AND DEVELOPMENT

Section 380.001. Economic Development Programs.

Section 380.002. Economic Development Grants by Certain Municipalities.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

§ 380.001. Economic Development Programs

(a) The governing body of a municipality may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality.

(b) The governing body may:

- (1) administer a program by the use of municipal personnel;
- (2) contract with the federal government, the state, a political subdivision of the state, a nonprofit organization, or any other entity for the administration of a program; and
- (3) accept contributions, gifts, or other resources to develop and administer a program.

Added by Acts 1989, 71st Leg., ch. 555, § 1, eff. June 14, 1989.

§ 380.002. Economic Development Grants by Certain Municipalities

(a) A home-rule municipality with a population of more than 100,000 may create programs for the grant of public money to any organization exempt from taxation under Section 601(a) of the Internal Revenue Code of 1986<sup>1</sup> as an organization described in Section 501(c)(3) of that code<sup>2</sup> for the public purpose of development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and development or expansion of commerce in the state. The grants must be in furtherance of those public

113

**§ 375.221**

**PLANNING AND DEVELOPMENT**  
Title 12  
Historical and Statutory Notes

**Prior Laws:**

Acta 1989, 71st Leg., ch. 1066.  
Vernon's Ann.Civ.St. art. 8280-15, § 13(a), (b).

**§ 375.222. Disadvantaged Businesses**

(a) A district shall attempt to stimulate the growth of disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for district contracts.

(b) A district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination.

(c) The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses.

(d) A program established by a district under this section must attempt to remedy any statistically significant disparities that are found to exist, and, because a program is remedial in nature, it continues only until its purposes and objectives are met as determined by the regular periodic review.

Added by Acta 1991, 72nd Leg., ch. 16, § 13.05(e), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acta 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 13(c).

Cross References

Disadvantaged businesses, public contracts, see  
Vernon's Ann.Civ.St. art. 801i.

**§ 375.223. Supersedes Other Law**

This chapter stakes the required procedures necessary for the district to award contracts and supersedes any law or other requirement with respect to award of contracts.

Added by Acta 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acta 1989, 71st Leg., ch. 1066.  
Vernon's Ann.Civ.St. art. 8280-15, § 13(d).

[Sections 375.224 to 375.240 reserved for expansion]

SUBCHAPTER L. ELECTIONS

**§ 375.241. Time of Election**

(a) A bond election, maintenance tax election, and any other election held in a district may be held at the same time and in conjunction with any other election.

110

**PLANNING AND DEVELOPMENT**

Title 12

(b) Elections shall be called and held as provided by the appropriate provisions of Chapter

64, Water Code.

Added by Acta 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acta 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 16(a), (b).

**§ 375.242. Election Called by Board**

The board may call an election for the purpose of voting on any measure.

Added by Acta 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acta 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 16(c).

**§ 375.243. Petition Required for Bond Election**

The board may not call a bond election unless a written petition has been filed with the board requesting an election signed by the owners of:

(1) 50 percent or more of the assessed value of the property in the district as determined from the most recent certified county property tax rolls; or

(2) 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment under Sections 375.161, 375.163, and 375.164 as determined from the most recent certified county property tax rolls.

Added by Acta 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acta 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 16(d).

**§ 375.244. Election to Approve Issuance of Bonds**

(a) Bonds payable in whole or in part from taxes may not be issued unless approved by a majority or any larger percentage if required by the constitution of the qualified voters in the district voting at an election held for that purpose.

(b) Bonds payable from sources other than taxes may be issued by the board, and assessments may be levied without approval at an election.

Added by Acta 1991, 72nd Leg., ch. 16, § 13.05(a), eff. Aug. 26, 1991.

Historical and Statutory Notes

**Prior Laws:**

Acta 1989, 71st Leg., ch. 1056.  
Vernon's Ann.Civ.St. art. 8280-15, § 16(e).

111

**§ 375.261**

**PLANNING AND DEVELOPMENT**  
**TITLE 12**

[Sections 375.245 to 375.260 reserved for expansion]

**SUBCHAPTER M. DISSOLUTION**

**§ 375.261. Dissolution by Board Vote**

Except as limited by Section 375.264, the board of a district by majority vote may dissolve the district at any time.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 20(a).

**§ 375.262. Dissolution by Petition by Owners**

Except as limited by Section 375.264, the board shall dissolve the district on written petition filed with the board by the owners of:

(1) 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls; or

(2) 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment under Sections 376.151, 376.163, and 376.164, according to the most recent certified county property tax rolls.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 20(b).

**§ 375.263. Dissolution by Municipal Ordinance**

(a) Except as limited by Section 375.264, the governing body of a municipality in which a district is located, by a vote of not less than two-thirds of its membership, may adopt an ordinance dissolving the district.

(b) On the adoption of the ordinance, the district is dissolved, and, in accordance with Section 43.075, the city succeeds to the property and assets of the district and assumes all bonds, debts, obligations, and liabilities of the district.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.

**Historical and Statutory Notes**

**Prior Laws:**

Acts 1989, 71st Leg., ch. 1056,  
Vernon's Ann.Civ.St. art. 8280-15, § 20(c).

**§ 375.264. Limitation**

A district may not be dissolved by its board or by a city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

Added by Acts 1991, 72nd Leg., ch. 16, § 13.06(a), eff. Aug. 26, 1991.