

VII. Economic Development Through Infrastructural Improvements

Public Improvement Districts

Municipal Management Districts

Public Improvement Districts

Cities often need to make certain improvements to their infrastructure to facilitate economic growth within an area. New businesses may choose not to locate where there are inadequate streets, substandard utility service, or other public facilities or services that are inferior. It is also difficult for existing businesses to prosper in areas that have poor public infrastructure. Texas law provides a number of ways to finance needed public improvements, including the use of special assessments. Public Improvement Districts (PIDs) offer cities a means for undertaking such a project.

The Public Improvement District Assessment Act allows any city to levy and collect special assessments on property that is within the city or within the city's extraterritorial jurisdiction (ETJ).⁽⁵²⁵⁾ The statute authorizing the creation of PIDs is found in Chapter 372 of the Local Government Code. The public improvement district may be formed to accomplish any of the following improvements:⁽⁵²⁶⁾

- water, wastewater, health and sanitation, or drainage improvements (including acquisition, construction, or improvements of water, wastewater, or drainage improvements);
- street and sidewalk improvements (acquiring, constructing, improving, widening, narrowing, closing, or rerouting sidewalks, streets, or any other roadways or their rights-of-way);
- mass transit improvements (acquisition, construction, improvement, or rerouting of mass transportation facilities);
- parking improvements (acquisition, construction, or improvement of off-street

parking facilities);

- library improvements (acquisition, construction, or improvement of libraries);
- park, recreation, and cultural improvements (the establishment or improvement of parks);
- landscaping and other aesthetic improvements (erection of fountains, distinctive lighting, and signs);
- art installation (acquisition and installation of pieces of art);
- creation of pedestrian malls (construction or improvement of pedestrian malls);
- similar improvements (projects similar to those listed above);
- supplemental safety services (supplemental safety services for the improvement of the district, including public safety and security services); or
- supplemental business-related services (supplemental business-related services for the improvement of the district, including advertising and business recruitment and development).

The nine steps involved in creating a public improvement district are as follows:

Step 1. The city or a group of the affected property owners must initiate a petition that calls for a defined area of the city to be declared a public improvement district.⁽⁵²⁷⁾

The petition must state:⁽⁵²⁸⁾

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

body of the municipality.

The petition is sufficient if it meets two conditions. First, it must be signed by owners of more than 50 percent of the taxable real property value that is subject to assessment under the proposal. Second, the petition must also include signatures from more than 50 percent of the number of taxable property owners who would be assessed, or include signatures from owners of more than 50 percent of the surface area to be assessed under the proposal.

Step 2. After receiving a petition to establish a public improvement district, the governing body of the city may appoint an advisory board to develop an improvement plan for the PID.⁽⁵²⁹⁾

Texas statutes do not provide a set number of members for the advisory board. The membership on the board, however, must be sufficient to meet two criteria. First, it must be composed of taxable real property owners who represent more than 50 percent of the appraised value of taxable real property that is subject to assessment. Second, this board must include representation by more than 50 percent of the property owners who would be liable for assessment, or include more than 50 percent of the owners of taxable surface area under the proposed plan.

Upon initiation of the PID by petition, the governing body of the city should prepare a report on whether the improvements are feasible and whether the plan should be augmented by other authorized improvements.⁽⁵³⁰⁾ The feasibility report may be conducted using the services of municipal employees or outside consultants. The purpose of the report is to determine whether an improvement should be made as proposed by the petition, or in combination with other improvements authorized under Chapter 372 of the Local Government Code.

Step 3. A public hearing on the advisability of the improvements must be conducted after meeting statutory notice requirements.⁽⁵³¹⁾

After the feasibility study is completed, a public hearing must be held by the governing body of the city to determine the advisability of the proposed improvements. Notice of the public hearing must be published in a newspaper of general circulation in the municipality more than 15 days prior to the date of the hearing. Additionally, notice of the PID must be mailed more than 15 days prior to the date of the hearing to the owners of property within the proposed PID. The notice must contain the following information:

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

The municipality must make findings regarding items 2) through 6) by resolution from

information gathered at the public hearing. Additionally, the municipality must make findings (by resolution) regarding the advisability of the proposed improvements.

Step 4. The governing body of the city must adopt a resolution by majority vote authorizing the creation of a PID.⁽⁵³²⁾

The authorization of the PID must be done within six months of the public hearing on the PID. The authorization is effective once notice of the resolution is published in a newspaper of general circulation in the municipality. If any part of the improvement district is located in the extraterritorial jurisdiction (ETJ) of the municipality, the notice must also be published once in a newspaper of general circulation in the city's ETJ.

Step 5. Twenty days after authorization of the PID, the city may begin construction of the improvements.⁽⁵³³⁾

Construction may not begin, however, if within the 20 day-period a protest petition is filed. Such a petition must be signed by owners representing at least two-thirds of the taxable surface area of the district or by two-thirds of all the land owners in the district. In response, the governing body of the city may choose to assess only part or none of the area of the district.⁽⁵³⁴⁾ The area to be assessed may not, in any case, be increased beyond the boundaries described in the original notices unless an additional notice and public hearing are provided.⁽⁵³⁵⁾

Step 6. A five-year on-going service and assessment plan must be developed.⁽⁵³⁶⁾

The service and assessment plan must define the annual indebtedness and projected costs of the improvements for the PID. The plan must also be reviewed and updated annually for purposes of determining an annual budget for the PID. The plan may be prepared by the municipality or by the PID advisory board, if one is appointed.

In addition, the governing body of the city must prepare an assessment plan.⁽⁵³⁷⁾ The assessment plan must provide that at least ten percent of the cost of the improvements is covered by assessments against taxable property within the PID. Assessments must be based upon the special benefits that accrue to the property because of an improvement.⁽⁵³⁸⁾ Costs may be assessed in any manner that results in equal shares of the cost being absorbed by similarly benefitted properties within the PID. Assessments may be adjusted annually upon review of the service plan. The city is responsible for payment of assessments against exempt municipal property within the district.⁽⁵³⁹⁾ Payment of assessments by other tax exempt jurisdictions must be established by contract.

Step 7. The city must provide notice and a hearing to determine the total cost of the improvements and to prepare an assessment roll.⁽⁵⁴⁰⁾

A copy of the proposed assessment roll must be filed with the city secretary. Notice of the public hearing on the roll must be mailed to affected property owners. The notice must also be published in the newspaper in the same manner that notice was given for the creation of the PID, except that at least ten days' notice must be provided. An additional statement must be included in this notice that written or oral objections will be considered at the public hearing. At the public hearing, the governing body must hear and rule on any objections that are raised.⁽⁵⁴¹⁾

Step 8. After all the objections have been heard and considered, the governing body may levy, by ordinance the special assessment against the taxable properties within the district.
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The ordinance must include the method of payment and may provide for installment payments to meet annual costs and retire any indebtedness for the improvements within the district. The assessment is a first and prior lien against the property, superior to all other liens and claims except liens for state, county, school district, or city ad valorem taxes.⁽⁵⁴³⁾

The costs of the improvements called for under the district may be paid from available general funds of the municipality, any special assessments levied, and from proceeds of the sale of general obligation bonds and related revenue bonds, temporary notes, and time warrants.⁽⁵⁴⁴⁾

Step 9. The governing body may make additional assessments against property within the district to correct omissions or mistakes regarding the costs of the improvements.⁽⁵⁴⁵⁾

Before such an additional assessment may be assessed, the city must provide the same type of notice and public hearing that was required for the original assessment.

A public improvement district may also be dissolved after public notice and a public hearing has been held.⁽⁵⁴⁶⁾ The notice and hearing requirements are the same as those required to create a PID. A petition requesting dissolution must be filed with the city secretary and must contain the signatures of at least the same number of property owners required to create the PID. If the district is dissolved, it stays in effect until it has paid off any indebtedness that remains for the improvements.

Municipal Management Districts

Municipal management districts are a relatively new statutory vehicle that allows commercial property owners to enhance a defined business area. The districts, also called downtown management districts, are created within an existing commercial area to finance facilities, infrastructure, and services beyond those already provided by individual property owners or by the municipality. The improvements may be paid for by a combination of self-imposed property taxes, special assessments, and impact fees, or by other charges against property owners within the district. The creation of such a district does not relieve a city from providing basic services to an area included within the district. A district is created to supplement, not to supplant, the municipal services available to the area. A number of Texas cities have used municipal management districts to provide much-needed funding to enhance the economic vitality of the business centers within the municipality.

The statutes governing municipal management districts are located in Chapter 375 of the Local Government Code. An area is eligible for designation as a municipal management district if it is devoted primarily to commercial development or business activity.⁽⁵⁴⁷⁾ A district may include the extraterritorial jurisdiction of a city, if the city has a population of at least 25,000 and if the area has an assessed valuation of \$500 million or more according to the appraisal district. A municipal management district is considered a governmental agency and a political subdivision of the state.
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