

1-1 By: Keffer, Workman (Senate Sponsor - Lucio) H.B. No. 3187  
 1-2 (In the Senate - Received from the House May 4, 2015;  
 1-3 May 5, 2015, read first time and referred to Committee on  
 1-4 Intergovernmental Relations; May 13, 2015, reported favorably by  
 1-5 the following vote: Yeas 6, Nays 0; May 13, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Lucio	X			
1-8 Bettencourt	X			
1-9 Campbell	X			
1-10 Garcia	X			
1-11 Menéndez	X			
1-12 Nichols			X	
1-13 Taylor of Galveston	X			

1-15 A BILL TO BE ENTITLED  
 1-16 AN ACT

1-17 relating to assessments for water and energy improvements in  
 1-18 municipalities and counties; changing a fee.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 399.003, Local Government Code, is  
 1-21 amended to read as follows:

1-22 Sec. 399.003. EXERCISE OF POWERS. (a) In addition to the  
 1-23 authority provided by Chapter 376 for municipalities, the governing  
 1-24 body of a local government that establishes a program in accordance  
 1-25 with the requirements provided by Section 399.008 may exercise  
 1-26 powers granted under this chapter.

1-27 (b) The establishment and operation of a program under this  
 1-28 chapter by a local government is a governmental function for all  
 1-29 purposes.

1-30 SECTION 2. Sections 399.006(b) and (c), Local Government  
 1-31 Code, are amended to read as follows:

1-32 (b) An authorized representative ~~[official]~~ of the local  
 1-33 government that establishes a program may enter into a written  
 1-34 contract with a record owner of real property in a region designated  
 1-35 under this chapter to impose an assessment to repay the owner's  
 1-36 financing of a qualified project on the owner's property. The  
 1-37 financing to be repaid through assessments may be provided by a  
 1-38 third party or, if authorized by the program, by the local  
 1-39 government.

1-40 (c) If the program provides for third-party financing, the  
 1-41 authorized representative ~~[official]~~ of the local government that  
 1-42 enters into a written contract with a property owner under  
 1-43 Subsection (b) must also enter into a written contract with the  
 1-44 party that provides financing for a qualified project under the  
 1-45 program to service the debt through assessments.

1-46 SECTION 3. Section 399.007(a), Local Government Code, is  
 1-47 amended to read as follows:

1-48 (a) The governing body of a local government may determine  
 1-49 that it is convenient and advantageous to designate an area of the  
 1-50 local government as a region within which the authorized  
 1-51 representative of the local government ~~[officials]~~ and record  
 1-52 owners of real property may enter into written contracts to impose  
 1-53 assessments to repay the financing by owners of qualified projects  
 1-54 on the owners' property and, if authorized by the local government  
 1-55 program, finance the qualified project.

1-56 SECTION 4. Sections 399.008(a) and (e), Local Government  
 1-57 Code, are amended to read as follows:

1-58 (a) To establish a program under this chapter, the governing  
 1-59 body of a local government must take the following actions in the  
 1-60 following order:

1-61 (1) adopt a resolution of intent that includes:

2-1 (A) a finding that, if appropriate, financing  
2-2 qualified projects through contractual assessments is a valid  
2-3 public purpose;  
2-4 (B) a statement that the local government intends  
2-5 to make contractual assessments to repay financing for qualified  
2-6 projects available to property owners;  
2-7 (C) a description of the types of qualified  
2-8 projects that may be subject to contractual assessments;  
2-9 (D) a description of the boundaries of the  
2-10 region;  
2-11 (E) a description of any proposed arrangements  
2-12 for third-party financing to be available or any local government  
2-13 financing to be provided for qualified projects;  
2-14 (F) a description of local government debt  
2-15 servicing procedures if third-party financing will be provided and  
2-16 assessments will be collected to service a third-party debt;  
2-17 (G) a reference to the report on the proposed  
2-18 program prepared as provided by Section 399.009 and a statement  
2-19 identifying the location where the report is available for public  
2-20 inspection;  
2-21 (H) a statement of the time and place for a public  
2-22 hearing on the proposed program; and  
2-23 (I) a statement identifying the appropriate  
2-24 representative of the local government ~~[official]~~ and the  
2-25 appropriate assessor-collector for purposes of consulting  
2-26 regarding collecting the proposed contractual assessments ~~[with~~  
2-27 ~~property taxes]~~ imposed on the assessed property;  
2-28 (2) hold a public hearing at which the public may  
2-29 comment on the proposed program, including the report required by  
2-30 Section 399.009; and  
2-31 (3) adopt a resolution establishing the program and  
2-32 the terms of the program, including:  
2-33 (A) each item included in the report under  
2-34 Section 399.009; and  
2-35 (B) a description of each aspect of the program  
2-36 that may be amended only after another public hearing is held.  
2-37 (e) A local government may impose fees to offset the costs  
2-38 of administering a program. The fees authorized by this subsection  
2-39 may be assessed as:  
2-40 (1) a program application fee paid by the property  
2-41 owner requesting to participate in the program expressed as a set  
2-42 amount, a percentage of the amount of the assessment, or in any  
2-43 other manner;  
2-44 (2) a component of the interest rate on the assessment  
2-45 in the written contract between the local government and the  
2-46 property owner; or  
2-47 (3) a combination of Subdivisions (1) and (2).  
2-48 SECTION 5. Sections 399.009(a) and (c), Local Government  
2-49 Code, are amended to read as follows:  
2-50 (a) The report for a proposed program required by Section  
2-51 399.008 must include:  
2-52 (1) a map showing the boundaries of the proposed  
2-53 region;  
2-54 (2) a form contract between the local government and  
2-55 the property owner specifying the terms of:  
2-56 (A) assessment under the program; and  
2-57 (B) financing provided by a third party or the  
2-58 local government, as appropriate;  
2-59 (3) if the proposed program provides for third-party  
2-60 financing, a form contract between the local government and the  
2-61 third party regarding the servicing of the debt through  
2-62 assessments;  
2-63 (4) a description of types of qualified projects that  
2-64 may be subject to contractual assessments;  
2-65 (5) a statement identifying a local government  
2-66 representative ~~[official]~~ authorized to enter into written  
2-67 contracts on behalf of the local government;  
2-68 (6) a plan for ensuring sufficient capital for  
2-69 third-party financing and, if appropriate, raising capital for

3-1 local government financing for qualified projects;  
 3-2 (7) if bonds will be issued to provide capital to  
 3-3 finance qualified projects as part of the program as provided by  
 3-4 Section 399.016:  
 3-5 (A) a maximum aggregate annual dollar amount for  
 3-6 financing through contractual assessments to be provided by the  
 3-7 local government under the program;  
 3-8 (B) a method for ranking requests from property  
 3-9 owners for financing through contractual assessments in priority  
 3-10 order if requests appear likely to exceed the authorization amount;  
 3-11 and  
 3-12 (C) a method for determining:  
 3-13 (i) the interest rate and period during  
 3-14 which contracting owners would pay an assessment; and  
 3-15 (ii) the maximum amount of an assessment;  
 3-16 (8) a method for ensuring that the period of the  
 3-17 contractual assessment does not exceed the useful life of the  
 3-18 qualified project that is the basis for the assessment;  
 3-19 (9) a description of the application process and  
 3-20 eligibility requirements for financing qualified projects to be  
 3-21 repaid through contractual assessments under the program;  
 3-22 (10) a method as prescribed by Subsection (b) for  
 3-23 ensuring that property owners requesting to participate in the  
 3-24 program demonstrate the financial ability to fulfill financial  
 3-25 obligations to be repaid through contractual assessments;  
 3-26 (11) a statement explaining the manner in which  
 3-27 property will be assessed and assessments will be collected;  
 3-28 (12) a statement explaining the lender notice  
 3-29 requirement provided by Section 399.010;  
 3-30 (13) a statement explaining the review requirement  
 3-31 provided by Section 399.011;  
 3-32 (14) a description of marketing and participant  
 3-33 education services to be provided for the program;  
 3-34 (15) a description of quality assurance and antifraud  
 3-35 measures to be instituted for the program; and  
 3-36 (16) the procedures for collecting the proposed  
 3-37 contractual assessments.  
 3-38 (c) The local government shall make the report available for  
 3-39 public inspection:  
 3-40 (1) on the local government's Internet website; and  
 3-41 (2) at the office of the representative ~~[official]~~  
 3-42 designated to enter into written contracts on behalf of the local  
 3-43 government under the program.  
 3-44 SECTION 6. Section 399.011, Local Government Code, is  
 3-45 amended by amending Subsections (a) and (b) and adding Subsection  
 3-46 (a-1) to read as follows:  
 3-47 (a) A program established under this chapter must require  
 3-48 for each proposed qualified project:  
 3-49 (1) a review of water or energy baseline conditions  
 3-50 and the projected water or energy savings to establish the  
 3-51 projected water or energy savings; and  
 3-52 (2) a verification that a proposed qualified  
 3-53 improvement meets the requirements of a qualified project.  
 3-54 (a-1) A verification provided as required under Subsection  
 3-55 (a)(2) conclusively establishes that the improvement is a qualified  
 3-56 improvement and the project is a qualified project.  
 3-57 (b) After a qualified project is completed, the local  
 3-58 government shall require written ~~[obtain]~~ verification that the  
 3-59 qualified project was properly completed and is operating as  
 3-60 intended.  
 3-61 SECTION 7. Section 399.014, Local Government Code, is  
 3-62 amended by adding Subsection (a-1) to read as follows:  
 3-63 (a-1) After the notice of a contractual assessment is  
 3-64 recorded as provided under Section 399.013, the lien may not be  
 3-65 contested on the basis that the improvement is not a qualified  
 3-66 improvement or the project is not a qualified project.  
 3-67 SECTION 8. Sections 399.017(a) and (c), Local Government  
 3-68 Code, are amended to read as follows:  
 3-69 (a) Any combination of local governments may agree to

4-1 jointly implement or administer a program under this chapter,  
4-2 including entering into an interlocal contract under Chapter 791,  
4-3 Government Code, to jointly implement or administer a program.

4-4 (c) One or more local governments may contract with a third  
4-5 party, including another local government, to administer a program.  
4-6 Local governments that are parties to an interlocal contract  
4-7 described by Subsection (a) may contract with an entity listed in  
4-8 Section 791.013, Government Code, for program administration.

4-9 SECTION 9. Chapter 399, Local Government Code, is amended  
4-10 by adding Section 399.019 to read as follows:

4-11 Sec. 399.019. NO PERSONAL LIABILITY. The members of the  
4-12 governing body of a local government, employees of a local  
4-13 government, and board members, executives, employees, and  
4-14 contractors of a third party who enter into a contract with a local  
4-15 government to provide administrative services for a program under  
4-16 this chapter are not personally liable as a result of exercising any  
4-17 rights or responsibilities granted under this chapter.

4-18 SECTION 10. This Act takes effect immediately if it  
4-19 receives a vote of two-thirds of all the members elected to each  
4-20 house, as provided by Section 39, Article III, Texas Constitution.  
4-21 If this Act does not receive the vote necessary for immediate  
4-22 effect, this Act takes effect September 1, 2015.

4-23

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