SENATE FILE 1062

By GRIFFIN, SR.

FILED JAN 27 1972

County Govt. 1-31-72, Pass 2-3-72
Cities and Towns 2-11-72

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

An Act relating to community improvement districts, and providing powers to issue bonds and levy taxes, with penalties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Amend Senate File 1062, page 4, by striking lines 15 through 17 inclusive and inserting in lieu thereof the following:

"Properties described in sections four hundred twenty-eight point twenty (428.20), four hundred twenty-eight point twenty-four (428.24), four hundred twenty-eight point twenty-five (428.25), four hundred twenty-eight point twenty-six (428.26), four hundred thirty-four point fifteen (434.15), four hundred thirty-eight point fourteen (438.14), and three hundred fifty-eight A point two (358A.2), Code, 1971, may not be included in a community improvement district, either initially or by later annexation thereto, without the written consent of the owner of said property."

Filed
February 10, 1972

By GRIFFIN

1 Section 1. As used in this Act, unless the context requires
2 otherwise:
3 1. "Owner" means a person who owns real property within
4 the limits of a proposed or established community improvement
5 district, or area proposed to be annexed to a community
6 improvement district, as shown by the transfer books in the
7 office of the county auditor of the county in which the real
8 property is located.
9 2. "Person" has the same meaning as provided in section
10 four point one (4.1), subsection thirteen (13), of the Code.
11 3. "Board" means the board of trustees of a community
12 improvement district, established as provided in this Act.
13 Sec. 2. PURPOSES. A community improvement district may
14 be formed as provided in this Act, including contiguous land
15 in one or more counties in this state but not including land
16 within a city or town, for the purpose of providing for the
17 establishment, improvement, maintenance, or operation of any
18 of the following:
19 1. A sanitary or storm sewer system.
20 2. A water supply system.
21 3. Streets, sidewalks, curbing, and gutters.
22 4. Parks and recreation facilities.
23 Sec. 3. ARTICLES OF ASSOCIATION. To establish a community
24 improvement district, a majority of the owners shall make
25 and sign articles of association which must include all of
26 the following:
27 1. The name of the proposed district.
28 2. That the proposed district will have perpetual
29 existence.
30 3. The territorial limits of the proposed district.
31 4. The names and places of residence of the owners.
32 5. A description of the real property in the proposed
33 district owned by those persons who sign the articles of
34 association.
35 6. The names of the owners and description of the real

CPA-34944 1/71

1 property in the proposed district owned by persons who do
2 not sign the articles of association but who will be benefited
3 by the proposed district. Unknown owners may also be set
4 out in the articles.
5 7. That the owners who sign the articles obligate them-
6 selves to pay the taxes which are levied against all taxable
7 property in the district, and to pay special assessments
8 against specially benefited property which are assessed against
9 them.
10 8. The names of five or more owners to serve as a board
11 until their successors are elected and qualify.
12 Sec. 4. PETITION IN DISTRICT COURT. The owners shall
13 file the signed articles, with a petition asking that the
14 community improvement district be established and declared
15 to be a public corporation, in the office of the clerk of
16 the district court for the county in which the proposed
17 community improvement district is located, or if the district
18 is composed of land in two or more counties, in the office
19 of the clerk of the district court for the county in which
20 the greater portion of the proposed district is located.
21 Sec. 5. NOTICE TO OWNERS. Immediately after the petition
22 and articles of association have been filed, the clerk of
23 the district court shall give original notice by personal
24 service as provided in the rules of civil procedure, directed
25 to the owners who have not signed the articles of association.
26 If any owners are unknown or are nonresidents, the clerk shall
27 give original notice to them by publication as provided in
28 the rules of civil procedure. The notice must state:
29 1. That a petition is on file asking that a community
30 improvement district be established and declared to be a
31 public corporation.
32 2. That the articles of association are on file.
33 3. The purpose of the proposed district.
34 4. A description of the real property in the proposed
35 district, and a statement that the property will be affected

and rendered liable to taxation and special assessment for the purpose of installing and maintaining improvements.

5. The names of the proposed trustees.

6. The time and place for filing an answer to the petition.

Sec. 6. OBJECTIONS. Owners who have not signed the articles of association and who object to the organization of the district, or to any of the proposed trustees, may file their objections in writing, on or before the time in which an answer is required, stating why the community improvement district should not be organized and declared a public corporation in this state, why their property will not be benefited by the proposed improvements, why their property should not be included within the limits of the proposed district, and their objections to any of the proposed trustees. A tract of twenty acres or more which is used primarily for industrial purposes may not be included in a community improvement district without the written consent of the owner.

Sec. 7. HEARING. The district court shall hear the petition and objections without unnecessary delay. If the court determines that formation of the community improvement district will be conducive to the public health, convenience, or welfare, the court shall declare the community improvement district a public corporation of this state and shall declare five of the trustees nominated, or in case of objection to the proposed trustees, may declare other suitable persons who are owners to serve as trustees until their successors are elected and qualify. If any owners satisfy the court that their property will not be benefited by the proposed district, the court may exclude the property which will not be benefited and declare the remainder of the district a public corporation.

Sec. 8. FILING AND RECORDING. Within twenty days after the community improvement district has been declared a public corporation by the district court, the clerk of the court shall transmit to the secretary of state a certified copy

CPA-34944 1/71

of the record which the secretary of state shall file in his office and in the office of the county recorder in the same manner as articles of incorporation are required to be filed under section four hundred ninety-six A point fifty (496A.50) of the Code. The clerk of the court shall also file a copy of the record, together with a plat of the district, in the office of the clerk of the district court of any other county in which any part of the district is situated.

Sec. 9. GENERAL POWERS. A community improvement district is a body corporate and politic and may take and hold real and personal property necessary for its use, make contracts with any person as necessary to carry out its purposes, sue and be sued, have and use a corporate seal, and exercise any and all other powers, as a corporation, necessary to carry out its corporate purposes. Any statement of specific powers of a community improvement district does not limit its general powers as stated in this section.

A community improvement district may acquire by purchase, condemnation, or otherwise, real or personal property, right-of-way, and privilege, within or without its corporate limits, as necessary for its corporate purposes.

When the board determines to make an improvement which requires that private property be taken or damaged, the district may exercise the power of condemnation. The power to condemn property must be exercised in the manner set forth in chapter four hundred seventy-two (472) of the Code.

When it is necessary in making an improvement to enter upon or cross any state or public lands, the district may acquire a right-of-way across the lands by the exercise of the power of condemnation.

Sec. 10. DUTIES AND POWERS OF BOARD. Within thirty days after the district court has declared the community improvement district to be a public corporation, the trustees appointed by the court shall meet and elect one of their number chairman and one of their number clerk of the board.

CPA-34965 1/77

The board shall keep a record of all of its proceedings, which must be open to inspection by all owners. The board may exercise all powers of the corporation necessary to carry out its purposes, including, but not limited to, the following:

1. Make all necessary orders, rules, and regulations for the conduct of its business and to carry into effect the purposes of the district.

2. Appoint, employ, and pay an engineer, or firm of engineers, an attorney, and clerical help as needed, each of whom are removable at the pleasure of the board.

3. Pay the clerk of the board a salary not to exceed six hundred dollars per year.

4. Pay each trustee three dollars for each meeting of the board which he attends.

Sec. 11. BOND OF TRUSTEES. Each trustee shall, prior to beginning his term of office, execute and file, with the clerk of the district court in which the district was established, his bond with one or more sureties to be approved by the clerk of the district court, running to the state of Iowa in the penal sum of one thousand dollars, conditioned for the faithful performance by the trustee of his official duties and the faithful accounting by him for all funds and property of the district that come into his possession or control during his term of office. The board may pay the premiums on trustees' bonds out of the funds of the district. Suit may be brought on the bonds of trustees by any person who has sustained loss or damage in consequent of a breach of duty by a trustee.

Sec. 12. ELECTION OF TRUSTEES. At a time designated by the board, which shall not be more than twelve months after the judgment of the district court creating the community improvement district, and each two years thereafter, the board shall hold an election in the district for the purpose of electing five owners to serve as the new board. The board shall conduct the election at a location within the boundaries

CPA-34944 1/71

of the district, unless there is no building within the district or all owners consent to the use of a location outside of the district, and the polling place must be open to the voters for not less than four consecutive hours between eight a.m. and eight p.m. on the date of the election. The clerk of the board shall give written notice of the election to each owner, mailed to the owner's last known post office address, at least fifteen days prior to the election. The notice shall state the time, place, and purpose of the election. An owner may cast one vote for each trustee, for each acre of unplatted land or fraction thereof, and one vote for each platted lot, which he owns in the district either entirely in his own right or jointly with others. The executor, administrator, guardian, or trustee of any owner may register the owner's vote. If two or more persons claim the right to vote on the same tract, the board shall determine the one entitled to vote. After the election, the board shall select one of its number chairman and one of its number clerk. In case of a vacancy on the board, the remaining trustees shall select a person to fill the vacancy until the next election.

Sec. 13. GENERAL OBLIGATION BONDS--TAXES. A community improvement district may borrow money for corporate purposes and issue its general obligation bonds, bearing not more than seven percent interest. If general obligation bonds are issued, the board shall annually certify a tax on all the taxable property in the district sufficient to pay the interest and principal on the bonds, all as provided in chapter seventy-six (76) of the Code. Bonds issued pursuant to this Act must be sold by the board at public sale in the manner prescribed by chapter seventy-five (75) of the Code, except that if the board finds it to be advantageous and in the public interest, the bonds may be sold at private sale without published notice of any kind and without regard to the requirements of chapter seventy-five (75) of the Code, in a manner and upon terms

CPA-34945 1/7

as prescribed by the resolution authorizing the bonds, but the bonds must be sold upon terms of not less than par plus accrued interest. A community improvement district may also certify taxes to pay other expenses of the district, subject to the budget requirements contained in chapter twenty-four (24) of the Code. On or before the first day of August each year, the clerk of the board shall certify the tax to the county auditors and boards of supervisors in the counties in which the district is located, and the county auditors and boards of supervisors shall levy the tax, all as provided in sections four hundred forty-four point one (444.1) through four hundred forty-four point eight (444.8) of the Code.

Sec. 14. TREASURER. The county treasurer of the county in which the greater portion of the area of the district is located shall serve as ex officio treasurer of a community improvement district and is responsible for all funds of the district coming into his hands. He shall collect all taxes and special assessments caused to be levied by the district and deposit them in a sinking fund for the payment of principal and interest on any outstanding bonds and for other purposes as specified by the board. The board may authorize the clerk of the board, or appoint an independent agent, to collect connection charges, service charges, and all items other than taxes and funds from sale of bonds and warrants, but all charges and other moneys collected must be remitted to the treasurer at least once each month, to be held in the general fund of the district. The treasurer is not responsible for funds until they are received by him. The treasurer shall disburse the funds of the district only on warrants authorized by the board and signed by the chairman and clerk of the board.

Sec. 15. CONTRACTS. A contract for construction work to be done, or materials or equipment to be purchased, the expense of which is more than five hundred dollars, must be let to the lowest responsible bidder upon notice as provided

CRA-34944 1/71

in this section.

Before such a contract may be let, the board shall pass a resolution establishing the necessity for the work, materials, or equipment. No work shall be done or contract let until notice to contractors has been published in a newspaper of general circulation in the county in which the greater portion of the area of the district is located. The notice must be published the same day each week for two consecutive weeks and must state the extent of the work proposed, the kinds of material to be bid upon, including all kinds of material mentioned in the resolution, the amount of the engineer's estimate of the cost of the improvement, the time not less than twenty days after the second publication when bids will be received, and the amount of the certified check required to accompany the bids. Each bid must be accompanied in a separate sealed envelope by certified check in the amount named in the notice, which must be not less than five percent of the engineer's total estimate of the cost, and must be made payable to the treasurer of the board as security that the bidder to whom the contract is awarded will enter into a contract to build the improvements in accordance with the notice to contractors and give bond in the sum named in the notice. Checks or bonds accompanying bids not accepted must be returned to the bidders. The work must be done under written contract with the lowest responsible bidder on the work and materials, selected after the bids are opened and in accordance with the requirements of the plans and specifications. The board may reject all bids received and advertise for new bids in accordance with this section, or may negotiate a contract if no bids are received in a public letting.

Sec. 16. SPECIAL ASSESSMENTS.

1. When the board deems it necessary to build, reconstruct, purchase, or otherwise acquire, or repair an improvement authorized by the purposes of the district, other than the

CPA-34945 1/77

1 purpose of parks and recreation facilities, it may determine
2 to assess the costs of the improvement, to the extent of
3 special benefits, upon the properties within the district
4 which are specially benefited. To initiate an improvement
5 which will be financed in whole or in part by special
6 assessments, the board shall prepare a resolution of necessity,
7 which states the type and location of the improvement and
8 refers to the plans and specifications for the improvement,
9 which must be made and filed by the engineer employed for
10 the purpose, before the publication of the resolution. The
11 engineer shall also make and file, prior to publication of
12 the resolution, an estimate of the total cost of the proposed
13 improvement. The resolution must also state the estimated
14 cost, the amount which is estimated to be assessed against
15 each lot, and the boundaries of the property which will be
16 specially benefited by the improvement.
17 2. The clerk of the board shall give notice by publication,
18 of a time and place in the county in which the greater portion
19 of the area of the district is located, when the resolution
20 is set for consideration before the board. The clerk shall
21 cause the notice to be published the same day each week for
22 two consecutive weeks in a newspaper of general circulation
23 in the county in which the greater portion of the area of
24 the district is located, and the publication must contain
25 the entire wording of the resolution. The second publication
26 must not be less than five days nor more than two weeks prior
27 to the time set for hearing on the resolution. The clerk
28 shall also send notice of the hearing by certified mail to
29 each owner whose property may be subject to assessment. At
30 the hearing the owners whose property may be subject to
31 assessment for the proposed improvement may appear and make
32 objections. Subject to the provisions of subsection three
33 (3) of this section the board, after hearing objections, may
34 pass the resolution as proposed or as amended.
35 After adoption of the resolution of necessity, the board

CPA-34944 1/71

1 may order the improvements authorized by the resolution.
2 3. If a petition opposing the resolution, signed by owners
3 representing a majority of the property subject to assessment
4 for the cost of an improvement, is filed with the clerk of
5 the board within three days before the date of the hearing
6 on the resolution, the board shall not pass the resolution.
7 4. After completion of the improvement the engineer shall
8 file with the clerk of the board a certificate of acceptance,
9 which is subject to approval by the board by resolution.
10 The board shall require the engineer to make a complete
11 statement of all costs of the improvement and to file a plat
12 of the specially benefited property in the district and a
13 schedule of the amount proposed to be assessed against each
14 separate piece of specially benefited property in the district,
15 which must be filed with the clerk of the board and with the
16 clerk of the county in which the greater portion of the
17 property to be specially benefited is located, within ten
18 days after date of acceptance of the improvement. The board
19 shall then order the clerk of the board to give notice that
20 the plat and schedule are on file in his office and in the
21 office of the county clerk and that all objections to the
22 plat and schedule or to prior proceedings on account of errors,
23 irregularities, or inequalities, not made in writing and filed
24 with the clerk of the board within twenty days after the
25 second publication of notice, shall be deemed to have been
26 waived. The clerk shall give notice by publication the same
27 day each week for two consecutive weeks in a newspaper of
28 general circulation in the county in which the greater portion
29 of the area of the district is located. The clerk shall also
30 send notice within five days of its first publication, by
31 certified mail to each owner of the specially benefited
32 property proposed to be assessed, stating the amount proposed
33 to be assessed against each lot or parcel of property, the
34 place where objections are to be filed, and the time and place
35 where objections will be considered by the board.

CPA-94945 1/71

5. The board, sitting as a board of adjustment and equalization, shall hold a hearing on the proposed assessment at the time and place specified in the notice, which must be not less than twenty days nor more than thirty days after the date of the second publication, unless the session is adjourned, with provisions for further notice of the adjournment. At the hearing the board shall adjust and equalize the proposed assessment with reference to special benefits resulting from the improvement and the assessment must not exceed the special benefits. Each owner of property specially benefited is entitled to be heard.

6. A person aggrieved by the final determination of the board may appeal to the district court within twenty days after the date of the final determination. The court shall hear the case by equitable proceedings, and may increase or reduce the assessments to provide that the assessments are to the full extent of but not in excess of the special benefits.

7. After the equalization of special assessments, the board may cause the assessments to be levied by resolution upon all lots or parcels of property within the district which are specially benefited by reason of the improvement. The board must certify the levy within six months after approval of the certificate of acceptance. The assessment must be certified, levied, spread and collected in the same manner as special assessments by cities. Payments must be credited to the person making them, and to the property which is assessed. An assessment may be recertified and relevied in the same amount if for any reason the original certification or levy is void or not enforceable.

8. A board shall not cause property by law not assessable, or property not included within the property defined in the preliminary resolution, to be assessed for any improvements, and shall not assess property which is not specially benefited. The cost of improvements at the intersection of streets and

CPA-34944 1/71

1 alleys and opposite property belonging to the United States
2 government, or other property not assessable, may be included
3 with the cost of the rest of the work and may be assessed
4 on the property specially benefited, if the property is
5 specially benefited by the improvement to that extent, or
6 may be paid from available moneys of the district. The cost
7 of the improvements shall draw interest at the rate of six
8 percent per annum from the date of the resolution approving
9 the certificate of acceptance.
10 9. Special assessments are due fifty days after the date
11 of the resolution causing the levy and may be paid within
12 that time without interest, but if not so paid they shall
13 bear interest at the rate of six percent per annum until
14 delinquent. The board shall set the delinquent date and shall
15 determine the number of equal annual installments, not to
16 exceed ten, which become delinquent successively at one-year
17 intervals on the delinquent date. Delinquent installments
18 are subject to the same penalties as general property taxes.
19 If at any time three annual installments of special assessments
20 against a single lot or parcel of property are delinquent
21 and unpaid, all remaining installments against that lot or
22 parcel are delinquent, and the county treasurer shall institute
23 proceedings to collect the total amount in the same manner
24 as general property taxes are collected.
25 Sec. 17. RATES AND CHARGES. The board may establish an
26 initial connection charge to be paid at the time of connection
27 by any person connecting to a sanitary or storm sewer system
28 or a water supply system, and may establish just and equitable
29 rates or charges to be paid to it for connections and the
30 use of any of its facilities by each person whose premises
31 are served. If the service charge is not paid when due, the
32 sum may be recovered by the district in a civil action, or
33 may be certified to the county auditor and county board of
34 supervisors and levied against the premises served, and
35 collected in the same manner as other district taxes are

CPA-34945 1/71

1 certified and collected. The board may refuse to sell water
2 to a water user who is delinquent over forty-five days in
3 the payment of a connection charge or service charge for sewer
4 or water. Notice of discontinuance of water service must
5 be given by registered mail to the water user.
6 Sec. 18. SEPTIC TANKS. When a sanitary sewer system has
7 been established in a community improvement district, all
8 owners in the district shall connect all dwellings to the
9 system, and shall discontinue the use of septic tanks. The
10 board may institute proceedings in the district court of the
11 county in which the district was established, to enforce the
12 provisions of this section.
13 Sec. 19. SINKING FUND. The treasurer of the board shall
14 hold special assessments and connection charges or service
15 charges collected as a sinking fund for the purpose of paying
16 the cost of the improvement with interest, and shall apply
17 such moneys solely to that purpose to the extent required,
18 but the board may transfer any excess moneys collected to
19 another fund, after fully discharging the purposes of the
20 sinking fund.
21 Sec. 20. IMPROVEMENT BONDS AND WARRANTS. For the purpose
22 of paying the cost of the improvements provided for in this
23 Act, the board, after the improvements have been completed
24 and accepted, may issue improvement bonds payable in not to
25 exceed thirty years and bearing interest at not to exceed
26 seven percent per annum, payable annually, which may either
27 be sold by the district or delivered to the contractor in
28 payment for the work, but in either case for not less than
29 their par value. For the purpose of making partial payments
30 as the work progresses, warrants may be issued by the board
31 upon certificates of the engineer in charge showing the amount
32 of work completed and materials necessarily purchased and
33 delivered for the orderly and proper continuation of the
34 project, in a sum not exceeding eighty-five percent of the
35 cost of the project, which warrants must be redeemed and paid

CPA-34044 1/71

upon the sale of the improvement bonds. Warrants draw interest at a rate fixed by the board and endorsed on the warrants, but not to exceed seven percent per annum from date of presentation for payment. Special assessments levied upon property specially benefited by improvements for which improvement bonds are issued shall, when collected, be set aside and constitute a sinking fund for the payment of the interest and principal of the bonds. The board shall cause to be levied annually upon all taxable property in the district a tax which, together with the sinking fund derived from special assessments, is sufficient to meet payments of interest and principal on improvement bonds as they become due.

Sec. 21. COURT CONFIRMATION OF IMPROVEMENT BONDS.

1. When the board proposes to issue improvement bonds under the provisions of section twenty (20) of this Act, the board shall file in the district court for the county in which the district was established, a petition asking that the proceedings for the issuance of bonds be examined, approved, and confirmed by the court. The petition must set forth the proceedings leading to the issuance and sale of the bonds, and must state generally that the community improvement district was duly organized and that the first board was duly elected. The petition need not state the facts showing the organization of the community improvement district or the appointment of the first board.

2. The district court shall fix a time for hearing the petition, and shall order the clerk of the district court to publish notice of the filing of the petition, as provided for publication of original notice in the rules of civil procedure. The notice shall state the time and place fixed for the hearing of the petition, not sooner than twenty days following the third publication, a brief statement of the purpose of the petition, and that any person interested in the organization of the district or in the proceedings for the issuance or sale of the bonds may, on or before the day

CPA-34945 1/71

1 fixed for the hearing of the petition, move to dismiss the
2 petition or file an answer. The rules of civil procedure
3 are applicable to all proceedings on the petition.
4 3. Upon the hearing on the petition, the district court
5 may examine and determine the legality and validity of, and
6 approve and confirm or disapprove and disaffirm each and all
7 of the proceedings for the organization of the district
8 including the petition for the organization of the district,
9 and all other proceedings which may affect the legality or
10 validity of the bonds and the order for sale and the sale
11 of the bonds. The court when inquiring into the regularity,
12 legality, or correctness of the proceedings, shall disregard
13 any error, irregularity, or omission which does not affect
14 the substantial rights of the parties to the special
15 proceedings. It may approve and confirm the proceedings in
16 part and disapprove and declare illegal or invalid other and
17 subsequent parts of the proceedings. The court shall find
18 and determine whether the notice of the filing of the petition
19 has been duly given and published for the time and in the
20 manner prescribed in subsection two (2) of this section.
21 The costs of the special proceedings may be allowed and
22 apportioned between the parties in the discretion of the
23 court. If the court determines that the proceedings for the
24 organization of the district and for the voting and issuing
25 of the bonds are legal and valid, the board shall prepare
26 a written statement beginning with the filing of the petition
27 for the organization of the district, including all subsequent
28 proceedings for the organization of the district and voting
29 and issuing of the bonds, and ending with the decree of the
30 court finding the proceedings for the organization of the
31 district and the proceedings for the voting and issuing of
32 the bonds legal and valid, and shall present the written
33 statement and the bonds to the auditor of state. The written
34 statement shall be certified under oath by the clerk of the
35 board, and the auditor of state shall examine the statements

CPA-34944 1/71

1 and the bonds submitted to him and if he is satisfied that
2 the bonds have been voted in conformity to law and are in
3 all respects in due form, he shall record the statement and
4 register the bonds in his office. The board shall not issue
5 bonds, and bonds are not valid unless they are registered
6 and have endorsed thereon a certificate of the auditor of
7 state showing that the bonds are issued pursuant to law, based
8 upon the data filed in the office of the auditor of state.
9 Sec. 22. ANNEXATION. If a community improvement district,
10 or any part of it, is annexed by a city or town, the city
11 or town shall assume and pay the bonds and other obligations
12 of the district, or the part of it which is annexed,
13 outstanding at the time of annexation, and the board shall
14 transfer to the city or town all assets of the district, or
15 of the part of it which is annexed. If an entire district
16 is annexed, the district is dissolved on the effective date
17 of the annexation, and the board shall file a statement of
18 the facts causing the dissolution with the secretary of state,
19 the auditor of state, and the county recorder of the county
20 where the district was established.
21 Sec. 23. CHANGE IN BOUNDARY.
22 1. The district may be enlarged and additional territory
23 annexed to the district by either of the following methods:
24 a. By petitions signed by the owners of all real property
25 to be annexed to the district. If a petition requesting
26 annexation is presented to the board and approved by it, the
27 clerk of the board shall certify the change in the boundaries
28 to include the additional area to the clerk of the district
29 court of the county in which the district was established
30 and the district shall then include the area annexed.
31 b. By a petition filed with the clerk of the board, signed
32 by the owners of not less than fifty percent of the real
33 property to be annexed, but not signed by all owners of real
34 property to be annexed. On the filing of the petition, the
35 board shall fix a time and place for a hearing and the clerk

CPA-34945 1/77

of the board shall give notice of the hearing by certified mail to all owners, not less than ten days prior to the date of the hearing, if the address of the owners is known or can be ascertained by reasonable diligence. The clerk shall also publish notice the same day each week for two consecutive weeks in a newspaper of general circulation in the area proposed to be annexed, the second publication to be not less than five days nor more than two weeks prior to the time set for the hearing. At the hearing, any owner within the area proposed to be annexed, or any person who is an owner or resides within the district, may appear and be heard. If, after the hearing, the board finds and determines that annexation of the additional area will be conducive to the public health, convenience, and welfare, and will not be an undue burden on the district, the board may, by resolution, annex the additional area and fix the boundary, not to include more than the area requested in the petition. The clerk of the board shall file a copy of the resolution with the clerk of the district court of the county in which the district was established and the district shall then include the area annexed.

2. All property annexed to the district is subject to all taxes and other burdens levied by the district after the date of filing the resolution of annexation, regardless of when the obligation for which the taxes or assessments are levied was incurred.

Sec. 24. AMENDMENT TO ARTICLES OF ASSOCIATION. When the board wishes to amend the articles of association of the district to include additional powers authorized by law, it shall first propose a resolution declaring the advisability of the amendment and setting out the proposed amendment, and also setting out the time and place when the board will meet to consider the adoption of the amendment. The clerk of the board shall publish notice of the hearing the same day each week for two consecutive weeks in a newspaper of general

CPA-34044 1/71

1 circulation in the county where the district was established,
2 which publication shall contain the entire wording of the
3 proposed amendment. The last publication shall be not less
4 than five days nor more than two weeks prior to the time set
5 for the hearing, at which hearing the owners may appear and
6 make objections to the proposed amendment. If the owners
7 representing a majority of the real property within the
8 district fail to sign and present to the board, on or prior
9 to the hearing date, a written petition opposing the
10 resolution, the board may pass the resolution and adopt the
11 proposed amendment to the articles, or amend and pass the
12 amended resolution, and adopt the amendment to the articles
13 as altered. The clerk of the board shall file a certificate
14 with the clerk of the district court of the county in which
15 the district was established and with the secretary of state
16 certifying the amendment to the articles, and upon filing
17 the district shall have all powers included within the articles
18 of association as amended. If, however, a petition opposing
19 the amendment is signed by owners representing a majority
20 of the real property within the district and is presented
21 to the board on or prior to the hearing date, then the board
22 may not adopt the amendments to the articles of association
23 until they have submitted the issue to and received the
24 approval of the district court which had formed the district,
25 in an equitable proceeding where the objecting parties are
26 named as defendants. At the hearing, the court may disapprove
27 the amendment if the court finds that the amendment will not
28 be conducive to the public health, convenience, or welfare,
29 or may approve the proposed amendment as originally submitted
30 or alter and approve it, if the court finds that the amendment
31 as proposed or altered will be conducive to the public health,
32 convenience, or welfare. The rules of civil procedure are
33 applicable to all proceedings on the amendment.
34 Sec. 25. ANNUAL AUDIT. The board shall cause the books
35 of account of the district to be audited by a certified public

CPA-J4945 1/...

accountant at the end of each fiscal year of the district, and shall file a copy of the audit with the auditor of state within six months after the end of each fiscal year. The audit shall show for the previous fiscal year all of the following:

1. Itemized receipts and expenditures.
2. Description of property purchased and repaired.
3. The number of employees, their salaries and expenses.
4. Total taxes caused to be levied by the district.
5. All other facts necessary to give an accurate and comprehensive statement of the cost of carrying on the activities of the district.

If the board of a district does not file its audit with the auditor of state within six months after the end of its fiscal year, the auditor of state shall, after notice to the board, cause the audit to be made and the board shall pay the cost of the audit.

EXPLANATION

This bill will permit landowners outside of cities and towns to create community improvement districts to provide water, sewer systems, and other improvements listed in section two.

The district will be a public corporation managed by a five-member board of trustees. The district may issue general obligation bonds and cause taxes to be levied for their payment.

Provisions for levying special assessments on sewer, water, or street projects, and for the issuance of improvement bonds, secured by special assessments, charges, and taxes, are included in the bill.

Also included are provisions for annexation of a district by a city or town, annexation of additional property to a district, and a requirement for annual audits.

CPA-34944 1/71