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**DEVELOPMENT DISTRICTS AND ZONES:
The Growth and Use of Special Purpose District,
PID, and TIRZ Financing in Texas**

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DEVELOPMENT DISTRICTS AND ZONES: The Growth and Use of Special Purpose District, PID, and TIRZ Financing in Texas

1. Introduction – Why Does This Matter to Me?

In the State of Texas, special districts, PIDs, TIRZs, and other public/private partnerships are mechanisms used by cities, counties, and developers to obtain relatively low-cost capital or receive reimbursement for dollars spent funding development of certain projects. As the population of the State continues to expand drastically, the need for development of housing and associated commercial developments likewise continues to expand. Developers are moving into the outer echelons of metropolitan areas, where public infrastructure sufficient to provide their projects with necessary public services may not yet exist. Conversely, within highly populated metropolitan areas, the infill projects remaining are often undeveloped because the property's location, topography, or jurisdiction make them incredibly difficult to provide with public facilities and services.

Accordingly, developers are turning with increasing frequency to the world of public-private partnerships and its associated, endless acronyms—MUD, PID, TIRZ, FWSD, and so on—as a source of up-front funding or reimbursement of expenses related to providing the costly infrastructure necessary for the continued development of property within the State. This paper seeks to provide guidance regarding three of the most popular funding mechanisms available: special purpose districts, public improvement districts, and tax increment reinvestment zones.

2. Special Purpose Districts

History. Special purpose districts were created in Texas in 1904, when an amendment to the State Constitution authorized the legislature to provide for defined districts for navigation, water maintenance, roadway, and similar purposes. *See* Tex. Const. Art. III, § 52. Thereafter, in 1917, the concept was expanded by another constitutional amendment, which broadened the powers of the special districts and granted those districts the ability to levy ad valorem taxes and issue bonds in furtherance of their purposes. *See id.* Art. XVI, § 59. These special purpose districts are now governed by Chapter 49, Texas Water Code, as well as other chapters of such code, depending upon the type of district at-hand, and serve to provide developers state-wide an opportunity to recuperate a portion of their expenses in the establishment of public infrastructure. Since that time, over 2,500 special districts have been created in the State. *Water District Database*, Tex. Comm'n on Env't. Quality, <https://www14.tceq.texas.gov/iwud/index.cfm> (last visited March 16, 2023).

Governing Law. Special purpose districts are independent political subdivisions of the State of Texas and are governed by an elected board of directors. Tex. Const. Art. XVI, § 59(b). A “general law” district is created by act of the Texas Commission on Environmental Quality (“TCEQ”) or the Commissioners Court in whose county the proposed district lies. *See* Tex. Water Code § 53.011 *et seq.* (providing for the creation of fresh water supply districts by act of a County Commissioners Court) and § 54.014 *et seq.* (providing for creation of a municipal utility district by act of the TCEQ). Such a district is governed by the underlying statutes applicable to its type.

For example, a municipal utility district, or MUD, created by the TCEQ is governed by Chapters 49 and 54 of the Texas Water Code without alteration. Conversely, a “special law” district is created by special act of the Texas legislature and will be governed by its specific enabling legislation in addition to any underlying legislation specific to the district type.

Chapter 49, Texas Water Code governs all districts created by authority of Section 52, Article III or Section 59, Article XVI of the Texas Constitution. Tex. Water Code §§ 49.001(a) and 49.002. Additional chapters of the Texas Water Code also govern such districts, depending on the type of district. For example, a general-law municipal utility district, or MUD, is subject to Chapters 49 and 54 of the Texas Water Code; a general-law fresh water supply district is subject to Chapters 49 and 53. In addition to the Texas Water Code, the Texas Local Government Code also governs certain special purpose districts, as municipal management districts fall under Chapter 375 of that code. Accordingly, different types of districts may have different powers or duties specific to their underlying legislation. A general summary of the powers of certain types of special purpose districts is depicted in the chart below. Note, however, this paper will be published during the 88th regular session of the Texas State Legislature, and these powers may be altered during such session.

Type of District	Water	Sewer	Drainage	Road Powers	Irrigation	Recreation Facilities***	Tax Bond Authority
Fresh Water Supply District	yes	yes	no	yes*	no	yes	yes
Water Control and Improvement District	yes	yes**	yes	no	yes	yes	yes
Municipal Utility District	yes	yes	yes	yes	yes	yes	yes
Municipal Management District	yes	yes	yes	yes	no	yes	yes

*Certain FWSDs may assume the functions of a road district. These limited road powers allow a district to finance and construct thoroughfares, arterials and collector roads serving a district. Many special law districts have broader road powers.

**A WC&ID can be created under the constitutional authority of Article 16, Section 59 or Article 3, Section 52 of the Texas Constitution. A WC&ID that was created under Article 3, Section 52 will not have sewer powers.

***All districts may construct, maintain, and operate public recreational facilities, but only those in certain counties may issue bonds for such purpose.

Special-law districts are typically subject to underlying provisions of the Texas Water Code or Texas Local Government Code, but they often have powers or duties different from general-

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