



# Local Government in Texas: Special Districts Part I

Special districts grow like weeds in Texas.

Deena Winter



# Special Districts in Texas

- **special districts:** independent, special purpose governmental units that exist as separate entities with substantial administrative and fiscal independence from general-purpose local governments
- tend to service areas that cross county and/or municipal boundaries to serve a single or multiple purposes
- provide important governmental services to millions of Texans
- largely invisible layers of government with the power to charge property and sales taxes
- Texas has the third most special districts in the nation, trailing only California and Illinois.
  - the most numerous Texas governmental organization



# Special Districts in Texas

- over 3,350 (including school districts) and growing
  - The number of non-school special districts more than doubled between 1967 and 1992.
  - Since 2011, the number of special districts in Texas has increased 20%.
  - Lawmakers approved 50 more special districts in 19 counties in the 2017 legislative session.
- Invisible Government: Special Purpose Districts in Texas
- Special Districts: Last Week Tonight with John Oliver (HBO) (15:19) ... caution: language

Special Districts in Texas, 1952-2012

1952	1962	1972	1982	1992	2002	2007	2012
491	733	1215	1681	2266	2245	2291	2309



# Special Districts in Texas

## Constitutional Special District

road district  
school district  
junior college district  
hospital district  
airport authority  
tax appraisal district  
conservation and reclamation district

## Example

Travis County Rural District No. 1  
Lubbock Independent School District  
Tyler Junior College District  
Tarrant County Hospital District  
Dallas-Fort Worth Airport Authority  
Erath County Appraisal District  
SE Texas Agricultural Development District

## Statutory Special District

sports facility district  
crime control and prevention district  
municipal utility district (MUD)  
metropolitan transit authority  
soil conservation district  
waste disposal authority  
municipal power agency  
groundwater subsidence district  
river authority  
underground water district  
water conservation & improvement district (WCID)  
flood control district

## Example

Nueces County Sports Facility District  
FW Crime Control and Prevention District  
Circle C MUD No. 3  
Dallas Area Rapid Transit Authority  
Webb Co. Soil and Water Conservation District  
Gulf Coast Waste Disposal Authority  
Texas Municipal Power Agency  
Harris-Galveston Coastal Subsidence District  
Brazos River Authority  
High Plains Underground Water Conserv. District  
Harris County WCID No. 91  
Harris County Flood Control District



# Reasons for Special Districts

- **inadequacy of established governments:** Because of the inability or unwillingness of local government to provide the wide range of necessary services to meet public needs, a corresponding wide range of special district governments has evolved.
  - Certain problems, for example flood control, can seldom be solved within a single city or county. Special districts provide an approach to solving problems that transcend the boundaries of existing units of local government
  - Cities and counties may find it difficult to finance needed projects.
  - Poor organization, lack of personnel and other problems make local governments incapable of dealing with some problems.





# Reasons for Special Districts

- **ease of organization and operation:** Local political leaders may promote a special district as a solution to a problem they don't want to become their own and the legislature is willing to go along. Creating a special district may spread the costs over several cities or counties included in the special district.
- **financial gain:** The developers who create special districts are largely able to determine the size and issuer of bonds needed to reimburse their infrastructure costs in unincorporated areas, with virtually no government scrutiny.
- Economic development districts created by counties have the ability to collect taxes that are used mainly for private benefit.



# Reasons for Special Districts

- **flexibility**: offer great flexibility and rarely conflict with existing units of government
- **apolitical**: provide a means, where a technical problem is involved, to "get it out of politics"
- **political expediency**: With banks hesitant to invest in long-term projects and municipalities unable or unwilling to provide extensions of existing infrastructure, developers often use special districts to help fund roads, water and sewer lines, and other infrastructure improvements in support of new community development.

- The principal tool for financing community infrastructure in Texas is the Municipal Utility District (MUD), with Public Improvement Districts (PID) playing a similar but relatively new role.





# Types of Special Districts

- Texas has more than 40 types of special purpose districts, some of which have the power to impose property and sales taxes and condemn property through eminent domain.
- **utility district**: special district that provides utilities such as water and sewer service to residents living in unincorporated urban areas
- **agricultural district**: established under the same constitutional provisions as conservation and reclamation districts ... promotes and encourages the conservation of soil and water in the area along with noxious weed control and wind erosion





# Types of Special Districts

- **municipal utility district (MUD)**: The basic purpose of a MUD is to provide services such as sewer, water and drainage to areas where city and county services are not available. A MUD can also fund parks, street lighting, some roads and fire prevention facilities.
  - Each phase of infrastructure in a MUD is initially funded by the developer, but the developer is reimbursed for these expenditures from the sale of tax-exempt bonds, which are serviced through a property tax on property owners utilizing the newly constructed infrastructure.
  - As subsequent phases are built out, more bonds are sold, the proceeds of which are used in part to reimburse the developer. This cycle continues until the MUD is completely built out.



# Types of Special Districts

## ● MUD

- Property owners also pay monthly water and sewer user fees, which are used to maintain the system.
- A MUD typically lasts for 20 to 30 years, after which the district is usually annexed by the county or an adjacent municipality.
- MUDs are the main mechanism for infrastructure financing and have been used in almost every large community in Houston.
- The MUD and closely related WCID, have powers of eminent domain, can sell bonds and impose taxes to pay for them.





# Types of Special Districts

## Where the MUD districts are

Sixty-five percent of the 949 municipal utility districts in Texas are in Harris, Fort Bend, and Montgomery Counties.

Harris  
County **389**

Fort Bend  
County **146**

Montgomery  
County **85**

2016

Source: Texas Commission on Environmental Quality

Houston Chronicle



# Types of Special Districts

- **water control and improvement district (WCID)**: similar to MUDs but limited to water control and improvement
  - example: North Texas Municipal Water Utility District, a 1,600-square-mile area north and east of Dallas
  - types: water, water improvement, water control and improvement, fresh water supply, underground water management, water quality control, water development, groundwater management, groundwater conservation, public utilities, municipal water services, county water services, municipal-owned utilities, levee improvement, irrigation, drainage, special utility, municipal utility, regional water, storm water control, storm water management, solid waste, regional solid waste disposal



# Types of Special Districts

- **public improvement district (PID):** a public/private financing mechanism for land development ... relatively uncommon in Texas, though it is increasing in popularity
  - PIDs are governed by a city or county, whereas MUDs are governed by an elected board of directors.
  - Unlike MUDs, PID funding can occur before development takes place by issuing bonds to fund up-front costs like engineering and road construction.
  - A PID has a longer list of eligible improvements in addition to those allowed for MUDs, including mass transit, libraries, pedestrian malls and affordable housing.





# Types of Special Districts

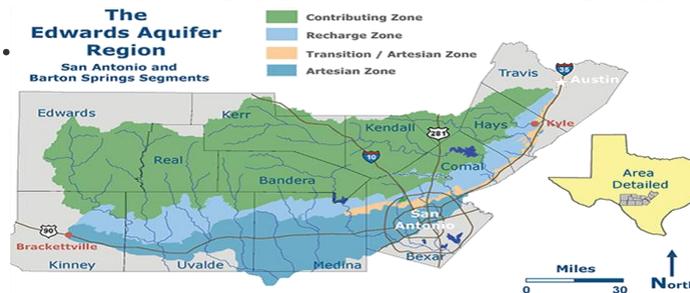
## ● PID

- PID bonds are serviced through a **special assessment**, rather than property taxes, on homes within the district. Unlike property taxes, which are calculated based on a percentage of the assessed value of the property, a special assessment is a fixed amount, the homeowner's monthly payment of the assessment remains constant until it is paid off.
- While a MUD can simply increase the MUD tax rate on other homeowners (up to a certain point) if a homeowner defaults, a PID may only seek payment from the defaulting property owner if he/she does not pay the assessment.



# Types of Special Districts

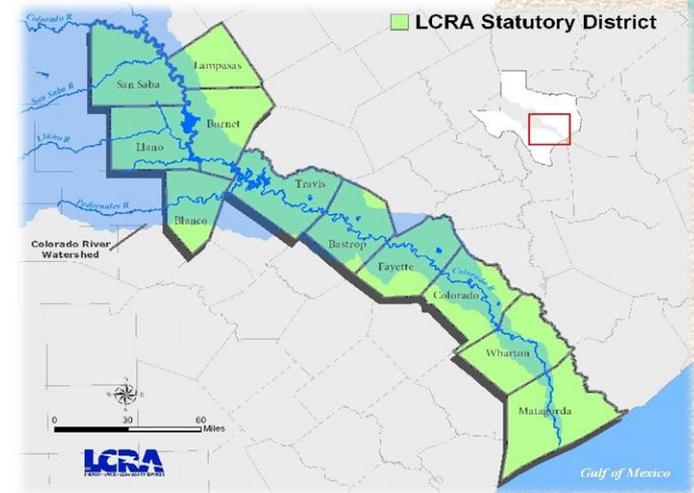
- **environmental district:** generally conservancy districts ... may offer recreational as well as environmental, water development, water control, flood control and energy production
  - examples: Lower Colorado, Guadalupe-Blanco and Brazos Valley river authorities, Edwards Aquifer in central Texas (8-county underground water conservation district)
  - types: conservation and reclamation, soil and water conservation, river and flood control
  - River authorities are the best-known example of environmental districts.





# Types of Special Districts

- **river authority**: an extended, multi-county water district authorized under the same constitutional provision which authorizes water conservation districts
  - control a large portion of the state's water rights
  - The primary difference between river authorities and water districts is that river authorities have taken on the status of a quasi-government as the vacancies on some boards may be filled by the governor.





# Types of Special Districts

- **health and safety district:** Large county hospitals such as Harris and Central Healths are not hospital districts. Dewitt Medical and Moore County are. Williamson County has Emergency Services Districts 1 and 7. The City of Fort Worth and most of North Texas have crime control districts.



● types: hospitals, health services, mental health and mental retardation, mosquito control, emergency communications, emergency services, crime control, jails and navigation security

- **hospital district:** special district that provides emergency medical, indigent health and community health services

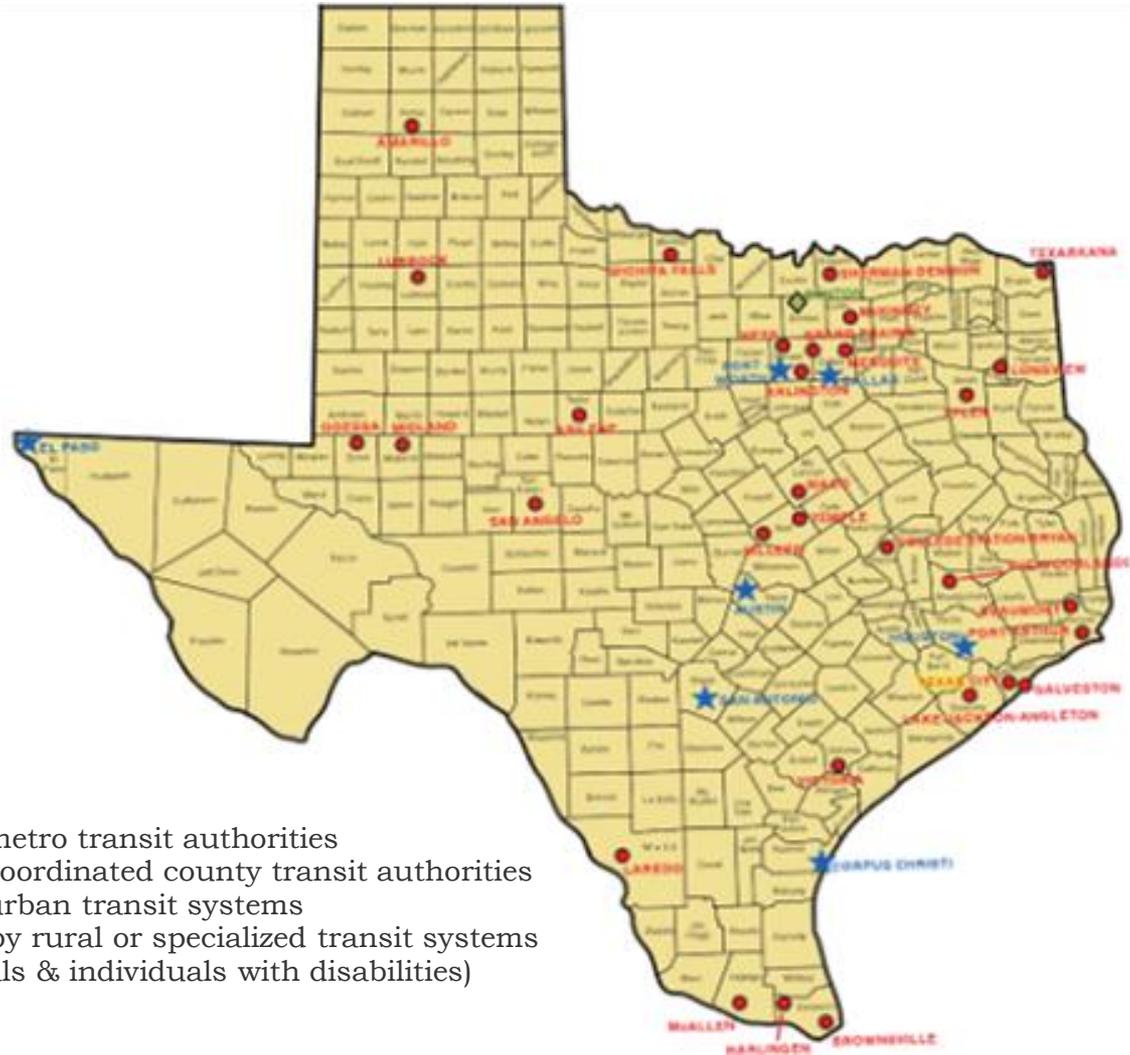


# Types of Special Districts

- **transportation authority:** Numerous alternatives to the motor fuel tax for providing funding for transportation facilities have been in Texas for 40 years as exemplified by the Harris County Toll and Metropolitan Transit Authorities. Southwest Parkway in Austin was built by a road utility district. Since 1960, local governments have not been able to keep pace with urban growth rates.
- **coordinated county transportation authority:** may only be established in a county that is adjacent to a county with a population of more than 1 million
- **types:** transportation reinvestment zones, roads, road utility, toll, regional mobility, rural rail, rail, port, navigation, metropolitan rapid transit, rural and urban transportation



# Cities and Counties Served by Public Transportation Systems





# Types of Special Districts

- **economic development district:** facilitate the provision of specific opportunities ... Liberty Hill has a library district and Houston has Houston 1st to manage the community professional soccer, football, baseball and basketball venues.
- types: municipal management, municipal development, county development, sports, sports and community venues, libraries, county assistance, community improvement, homestead reinvestment and preservation, housing and housing finance





# Types of Special Districts

- **education:** 1,041 independent school districts, 1 municipal school district and 50 junior/community college districts and technical training schools
  - Within the ISDs are charter, home-rule, university and military schools.
  - School board members are elected and have high visibility in the community.
  - ISDs will be discussed in more detail later in this presentation.
  - Junior/community college districts were discussed in the *Texas Budget Policy, Part III* presentation.



# Creation of Special Districts

- Special districts are created through a variety of procedures.
  - constitutional special districts: created by the state constitution and through constitutional amendment
  - statutory special districts: authorized by the Texas legislature
    - When developers turn to state lawmakers for legislation creating MUDs, those bills can become a source of campaign contributions.
    - Districts go through the House Special Purpose District Committee (42:42)





# Creation of Special Districts

- Special districts are created through a variety of procedures.
  - authorization through the **Texas Commission on Environmental Quality TCEQ**
    - When a developer successfully petitions the state to create a MUD, TCEQ appoints a temporary governing board, usually chosen by that same developer. The board then chooses law firms and other consultants recommended by the developer, instead of competitive bidding.
  - creation by county **commissioners court**
- Generally, most districts require **voter approval of area residents** (assuming there are any) before they can go into operation.



# Creation of Special Districts

## A developer, a deal, a debt

Here's how a 519-acre retirement community near Richmond came into existence thanks to two temporary residents in a mobile home, millions of dollars in special district bond sales and a Houston-area law firm.



**1** In 2008, developer **CW Richmond** owns 519 acres of empty fields in rural Fort Bend County.



**4** **Joe and Clarie Williams** are moved onto the property so they can vote for the MUD.



**5** The Williamses' vote is successful, and **MUD 187** is created.



**7** The MUD sells **\$24 million in bonds** to pay for roads, water and sewer lines and other improvements.



**8** As a result, the owner of a \$130,000 home in Del Webb Sweetgrass now pays **\$1,260** in property taxes annually for debt service on the bonds.



**10** The LID sells **\$10.8 million in bonds** raising property taxes another **\$650** per year.

**3** Creation of a MUD requires a favorable vote by residents. The law firm recruits two new residents.

**6** The law firm is hired to represent the MUD.

**9** The law firm is hired to represent a separate Levee Improvement District as well.

**2** The developer hires a law firm to help it set up a municipal utility district, or MUD.



The law firm of **Allen Boone Humphries Robinson**



# Organization and Operation of Special Districts

- Legislation provides governance for the special districts.
  - Usually the water, wastewater and environmental special districts are within the TCEQ's jurisdiction.
  - Supervision of special districts is handled by different agencies according to the type of district involved.
  - Most other districts are in the county commissioners court's jurisdiction.
- A board of directors, usually consisting of 5 members, is the governing body for most special districts.
  - The board may be appointed or elected.
  - The board sets basic policy, but leaves the day-to-day operation to a professional staff.



# Organization and Operation of Special Districts

- Most special districts can levy property taxes, sell bonds, sue and be sued.
- Others have additional powers relating to implementation of sales taxes and fees, and eminent domain.

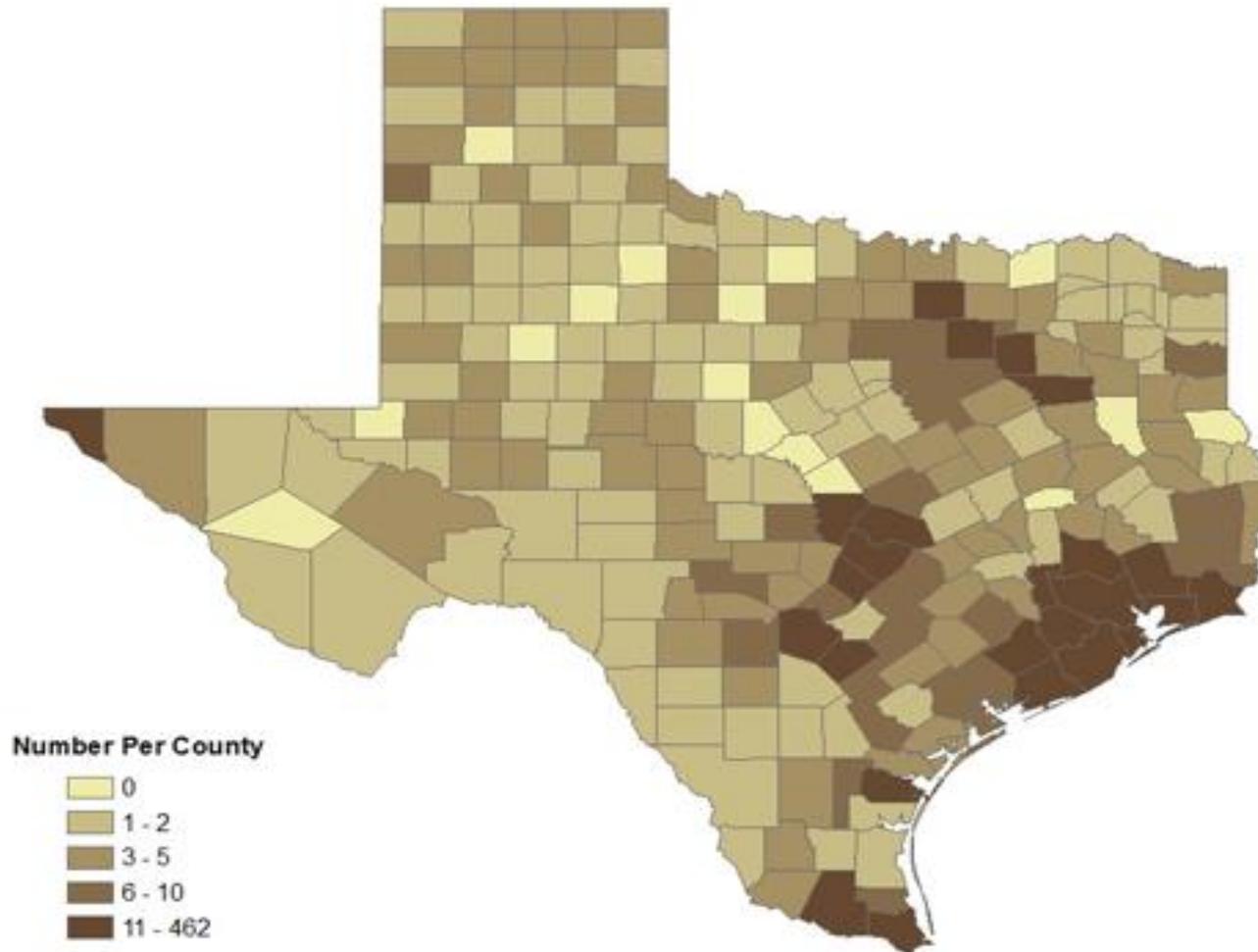




# Funding Special Districts

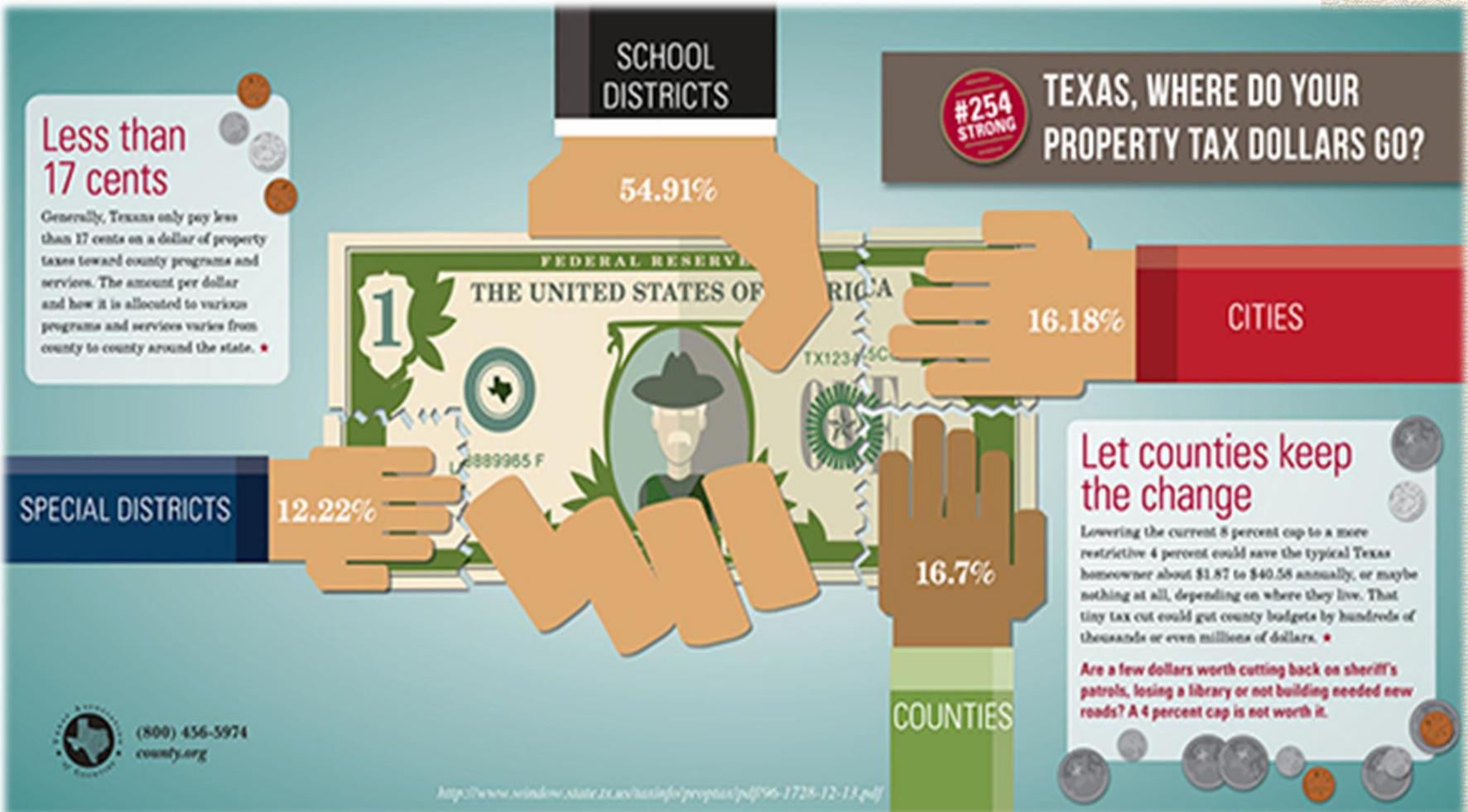
- Special districts receive funding from a variety of taxing sources.
  - assessing and levying property taxes
  - levying sales taxes
  - charging hotel/motel occupancy taxes
- Special districts raise revenue from service charges.
  - water and sewer usage fees
  - garbage pickup fees
  - tuition payments
  - toll road fees

# Special Districts Levying a Property Tax, 2014





# Funding Special Districts





# Funding Special Districts

- **bonds:** Water district debt makes up at least 15% of Texas' debt. It's also the fastest-growing debt. Unlike other governments in Texas, MUDs are not restrained by the state constitution or laws in the amount of debt they can incur.
- Special districts receive funding from **other units of government**.
- funding examples
  - Comal County emergency services recipients pay 1¢ per \$100 valuation.
  - Richwood Crime Control collects 2.5¢ per \$100 valuation.



# Funding Special Districts

- funding examples

- Las Damas Management District levies 1.5¢ per \$100 valuation.
- Cibolo Canyon Special Improvement District assesses 1.5¢ and Leon Valley Crime Control costs an additional 1.5¢ per \$100 valuation.
- If you live in the unincorporated areas near the Harris and Montgomery county border you may be paying library, improvement district, waste disposal, emergency and parkway development fees in addition to independent school and community college taxes.





# Evaluating Special Districts: Advantages

- Supporters argue that special districts provide services that otherwise would not be available.
- Special districts are flexible and can move rapidly to address community challenges. Most tax payers attribute property taxes to the municipality in which they live.
- The use of special districts clearly is the state's preferred method to meet the challenges of rapid growth. They have broad political support throughout the legislature.
- In 2017, measures requiring people voting in special districts to live in those districts for at least a year and determining how to fold a district after it has served its purpose failed.



# Evaluating Special Districts: Advantages

- MUDs serve as an efficient and low-cost mechanism for financing infrastructure development and have allowed various areas in Texas, particularly Houston, to accommodate substantial household growth in recent years while maintaining relatively affordable home prices.
- Homeowners pay over time for a community's infrastructure in lieu of paying for the infrastructure upfront in the form of a higher home price.





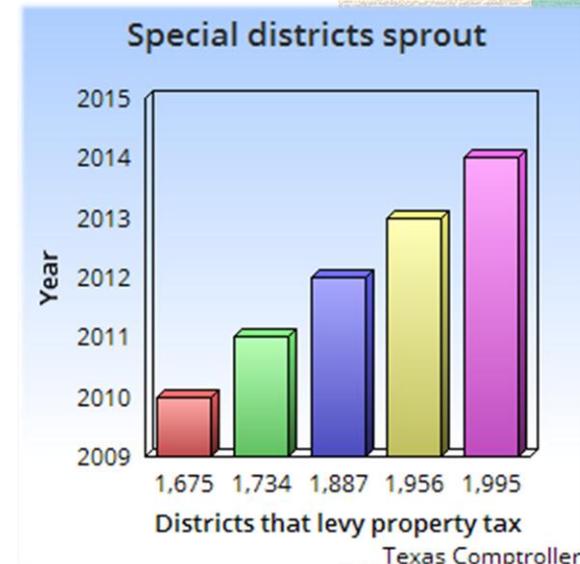
# Evaluating Special Districts: Disadvantages

- Special districts operate in the shadows with very little state supervision and public participation.
- Special districts generally operate less efficiently than general-purpose units of local governments such as cities and counties.
- There is no comprehensive review process for special districts.
- Special districts can become large, difficult to oversee, and may not represent the community as a whole.
- Special districts can, and do, grow. As they grow, these districts can change into other types of special districts. As they grow, some special districts can exercise annexation powers. Special districts can spawn other districts that can impose and collect a tax.



# Evaluating Special Districts: Disadvantages

- Special districts are often **outposts of undeveloped land that are owned by developers**, who in turn create mini-governments that tax new residents to cover the costs of development.
- Most special districts are **duplicative** of the mission of cities and counties and constitute nothing more than **another layer of government and another revenue stream**.
- Special district **property taxes** have increased by over 263% since 1992, greatly in excess of increases in population and inflation, and special district **sales taxes** have increased by more than 1,723% over the same period.





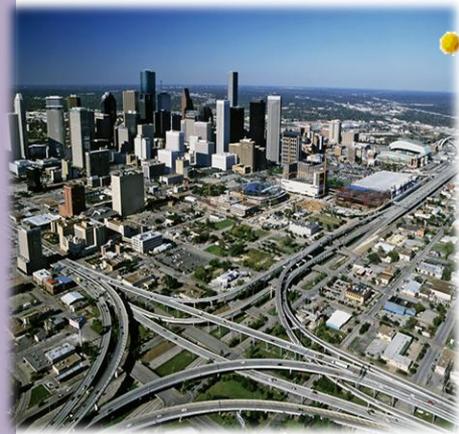
# Evaluating Special Districts: Disadvantages

- The multiplicity of special districts in Texas complicates the problems of urban government.
- Many special districts are created purely to funnel more revenue into the coffers of local government.
- The growth of special districts has created fragmented service provision and eroded local governments' tax bases.
- The general lack of coordination between local entities and the state may inadvertently lead to duplicative services or overlapping jurisdictions.
- Special districts, in particular the water districts, can serve to marginalize local government.



# Evaluating Special Districts: Disadvantages

- Limited groundwater availability once was a barrier to high density development. Special districts have become problematic in trying to manage local development consistent with the characteristic low density and the corresponding low impact to natural resources. They can pose a **significant negative environmental impact**.
- The proposal to create a water district most often occurs after local government declines to alter subdivision development rules to accommodate the developer.
- Districts bypass and undermine these rules, rules used to limit density to protect natural resources, specifically intended to ensure sustained groundwater availability and protection of recharge from being degraded.





# Evaluating Special Districts: Disadvantages

- By pitting general against specialized government, the effectiveness of both is reduced. This can result in **less efficient local government**.
- Special districts can be **created in spite of local opposition**, with minimal inhabitants.
- As hidden governments, special districts are profoundly **undemocratic**.
- Because most are small in size and scope, special districts are **uneconomical**.
- Special Districts Run Amok
- Most Special Districts Lag in the Transparency Department



# Special District Recommendations

- Require special districts to adhere to basic financial transparency standards, such as the public posting of budgets, financial statements and a check register online.
  - [Special District Sales and Use Tax Comparison Summary](#)
- Create a comprehensive review process for special districts to undergo a periodic assessment of its roles and responsibilities.
- Require special districts to hold an election to approve a tax rate that increases annual property tax revenue by more than 4% or population growth plus inflation, whichever is less.





# Special District Recommendations

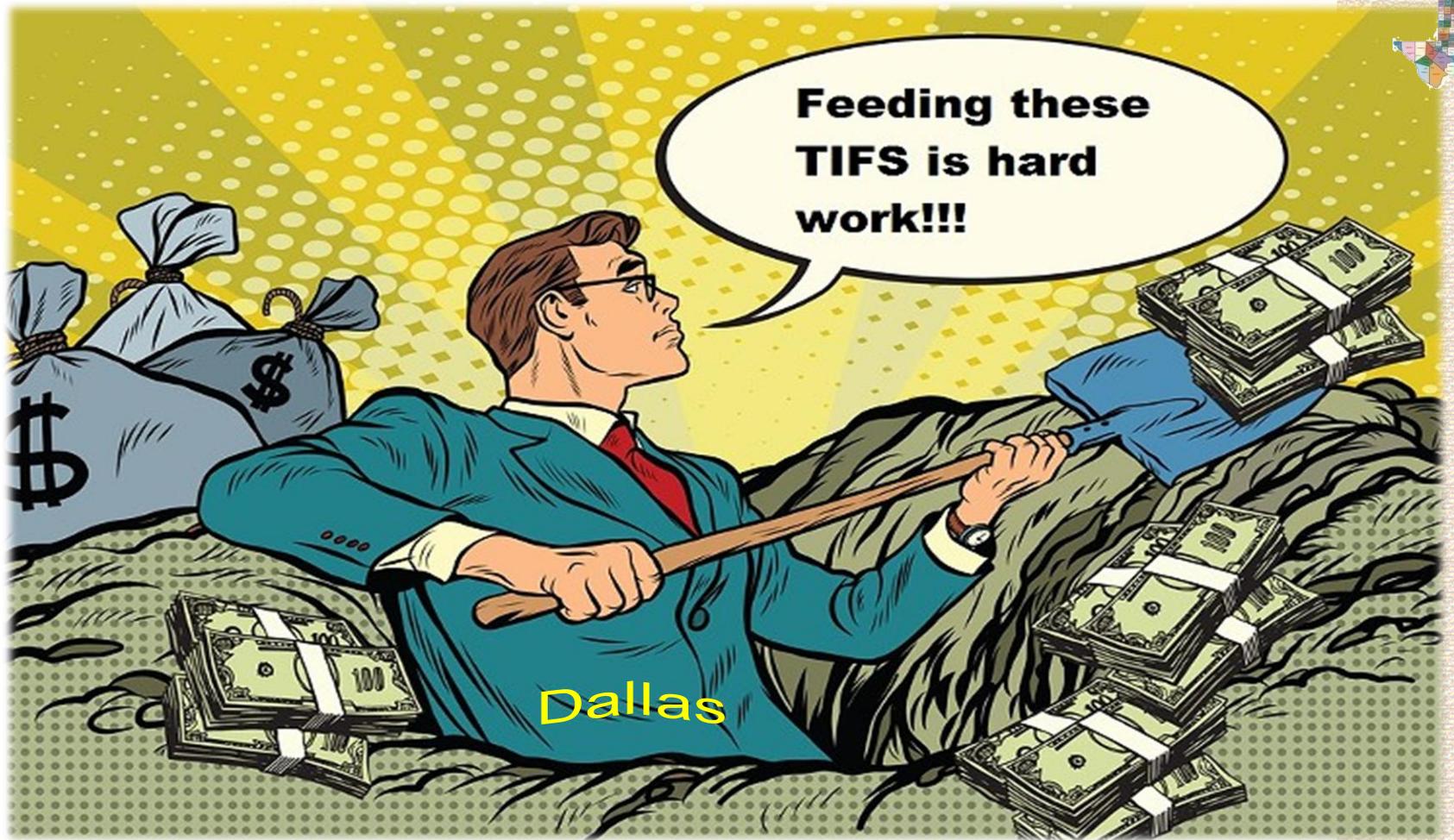
- Resolving tough issues such as mobility, development patterns, air quality, flooding and water supply should require the involvement and consent of more than one governmental entity in the region.
- At the state level, legislators should enact a moratorium on the creation of any new special districts that duplicate the core functions of existing taxing entities. This moratorium should be instigated with a view to permanently repealing the authority to create certain types of special taxing entities, and creating new mechanisms to make it more difficult to create such districts and to facilitate their dissolution.



# Special District Recommendations

- Municipal and county governments should **prioritize their spending** so that essential expenditures such as law enforcement and transportation infrastructure are fully funded from their existing tax base and budget.
- For certain districts, include a **sunset provision** that automatically expires the district unless a public vote affirms its continuance.





continued in  
Local Government in Texas:  
Special Districts Part II