

**BILL ANALYSIS**

C.S.H.B. 4268  
By: Sanford  
Special Purpose Districts  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Interested parties contend that an area located within the City of Celina would benefit from the creation of a municipal management district. C.S.H.B. 4268 seeks to provide for the creation of such a district.

**CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

**RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

**ANALYSIS**

C.S.H.B. 4268 amends the Special District Local Laws Code to create the Celina Municipal Management District No. 2 to provide certain improvements, projects, and services for public use and benefit. The bill provides for, among other provisions, the location and ownership of district improvement projects, the division of the district into multiple districts, the addition of land to or removal of land from the district, and the dissolution of the district by ordinance of the City of Celina. The bill sets out the district's powers and duties, which include, subject to certain requirements, the authority to issue obligations and impose and collect assessments. The bill prohibits the district from providing retail water or sewer services. The bill grants the district limited eminent domain power, contingent on the bill receiving a two-thirds vote of all members elected to each house.

**EFFECTIVE DATE**

September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 4268 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by	SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by

adding Chapter 3947 to read as follows:  
CHAPTER 3947. CELINA MUNICIPAL  
MANAGEMENT DISTRICT NO. 2

SUBCHAPTER A. GENERAL  
PROVISIONS

Sec. 3947.001. DEFINITIONS.

Sec. 3947.002. CREATION AND  
NATURE OF DISTRICT.

Sec. 3947.003. PURPOSE; LEGISLATIVE  
FINDINGS.

Sec. 3947.004. FINDINGS OF BENEFIT  
AND PUBLIC PURPOSE.

Sec. 3947.005. DISTRICT TERRITORY.

Sec. 3947.006. APPLICABILITY OF  
MUNICIPAL MANAGEMENT  
DISTRICTS LAW.

Sec. 3947.007. CONSTRUCTION OF  
CHAPTER.

Sec. 3947.008. CONFLICTS OF LAW.

Sec. 3947.009. CONSENT OF  
MUNICIPALITY REQUIRED. The board  
may not hold an election to authorize the  
issuance of bonds until the city has  
consented by ordinance or resolution to the  
creation of the district and to the inclusion  
of land in the district. The city's consent  
must be granted in the manner provided by  
Section 54.016, Water Code, for including  
land within the corporate limits or  
extraterritorial jurisdiction of a city.

Sec. 3947.010. EFFECT OF  
ANNEXATION. Notwithstanding any  
other law, if all of the territory of the district  
is annexed by the city into the city's  
corporate limits, the district retains all of the  
district's outstanding debt and obligations  
and continues to operate under this chapter  
until the district is dissolved under  
Subchapter G.

SUBCHAPTER B. BOARD OF  
DIRECTORS

Sec. 3947.051. GOVERNING BODY;

adding Chapter 3798 to read as follows:  
CHAPTER 3798. CELINA MUNICIPAL  
MANAGEMENT DISTRICT NO. 2

SUBCHAPTER A. GENERAL  
PROVISIONS

Sec. 3798.001. DEFINITIONS.

Sec. 3798.002. CREATION AND  
NATURE OF DISTRICT.

Sec. 3798.003. PURPOSE; LEGISLATIVE  
FINDINGS.

Sec. 3798.004. FINDINGS OF BENEFIT  
AND PUBLIC PURPOSE.

Sec. 3798.005. DISTRICT TERRITORY.

Sec. 3798.006. APPLICABILITY OF  
MUNICIPAL MANAGEMENT  
DISTRICTS LAW.

Sec. 3798.007. CONSTRUCTION OF  
CHAPTER.

Sec. 3798.008. CONFLICTS OF LAW.

Sec. 3798.009. CONSENT OF  
MUNICIPALITY REQUIRED. The board  
may not hold an election to authorize the  
issuance of bonds until the governing body  
of the city by ordinance or resolution  
consents to the creation of the district and to  
the inclusion of land in the district. The  
city's consent must be granted in the manner  
provided by Section 54.016, Water Code,  
for including land within the corporate  
limits or extraterritorial jurisdiction of a  
city.

Sec. 3798.010. EFFECT OF  
ANNEXATION. Notwithstanding any  
other law, if all or any part of the territory of  
the district is annexed by the city into the  
city's corporate limits, the district retains all  
of the district's outstanding debt and  
obligations and continues to operate under  
this chapter until the district is dissolved  
under Subchapter G.

SUBCHAPTER B. BOARD OF  
DIRECTORS

Sec. 3798.051. GOVERNING BODY;

TERMS. The district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each even-numbered year. One director is appointed by the city, and four directors are appointed by the commission as provided by Section 3947.052.

Sec. 3947.052. APPOINTMENT AND REMOVAL OF DIRECTOR APPOINTED BY CITY.

Sec. 3947.053. APPOINTMENT BY COMMISSION.

Sec. 3947.054. VACANCY.

Sec. 3947.055. DIRECTOR'S OATH OR AFFIRMATION.

Sec. 3947.056. OFFICERS.

Sec. 3947.057. COMPENSATION; EXPENSES.

Sec. 3947.058. LIABILITY INSURANCE.

Sec. 3947.059. NO EXECUTIVE COMMITTEE.

Sec. 3947.060. BOARD MEETINGS.

Sec. 3947.061. INITIAL DIRECTORS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3947.101. GENERAL POWERS AND DUTIES.

Sec. 3947.102. IMPROVEMENT PROJECTS AND SERVICES. (a) Subject to Subsection (b), the district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

TERMS. The district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each even-numbered year. One director is appointed by the city, and four directors are appointed by the commission as provided by Sections 3798.052 and 3798.053, respectively.

Sec. 3798.052. APPOINTMENT AND REMOVAL OF DIRECTOR APPOINTED BY CITY.

Sec. 3798.053. APPOINTMENT BY COMMISSION.

Sec. 3798.054. VACANCY.

Sec. 3798.055. DIRECTOR'S OATH OR AFFIRMATION.

Sec. 3798.056. OFFICERS.

Sec. 3798.057. COMPENSATION; EXPENSES.

Sec. 3798.058. LIABILITY INSURANCE.

Sec. 3798.059. NO EXECUTIVE COMMITTEE.

Sec. 3798.060. BOARD MEETINGS.

Sec. 3798.061. INITIAL DIRECTORS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3798.101. GENERAL POWERS AND DUTIES.

Sec. 3798.102. IMPROVEMENT PROJECTS AND SERVICES. (a) Subject to Subsection (b), the district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

(b) The district may not construct or finance an improvement project, other than a water, sewer, or drainage facility or road, without obtaining the written consent of the city's governing body.

*(See Sec. 3947.251(e) below.)*

Sec. 3947.103. LOCATION OF IMPROVEMENT PROJECT.

Sec. 3947.104. OWNERSHIP OF IMPROVEMENT PROJECTS.

Sec. 3947.105. RETAIL WATER AND SEWER SERVICES PROHIBITED.

Sec. 3947.106. ADDING OR REMOVING TERRITORY. (a) Subject to Subsections (b) and (c), the board may add or remove territory as provided by Subchapter J, Chapter 49, Water Code.  
(b) The district may add territory as described by Subsection (a) only if the district obtains written consent from the governing body of the city.  
(c) The district and any district created under Subchapter D may not add a total area of more than 100 acres.

Sec. 3947.107. LIMITED EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain unless the district obtains written consent from the governing body of the city.

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 3947.151. DIVISION OF DISTRICT; PREREQUISITES.

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3947.201. DISBURSEMENTS AND TRANSFERS OF MONEY.

(b) The district may not construct or finance an improvement project, other than a water, sewer, or drainage facility or road, unless the governing body of the city by ordinance or resolution consents to the construction or financing.

(c) The district may issue bonds, notes, or other obligations to maintain or repair an existing improvement project only if the governing body of the city by ordinance or resolution consents to the issuance.

Sec. 3798.103. LOCATION OF IMPROVEMENT PROJECT.

Sec. 3798.104. OWNERSHIP OF IMPROVEMENT PROJECTS.

Sec. 3798.105. RETAIL WATER AND SEWER SERVICES PROHIBITED.

Sec. 3798.106. ADDING OR REMOVING TERRITORY. (a) Subject to Subsections (b), (c), and (d), the board may add or remove territory as provided by Subchapter J, Chapter 49, Water Code.  
(b) The district may add territory as described by Subsection (a) only if the governing body of the city by ordinance or resolution consents to the addition.  
(c) The district and all districts created under Subchapter D collectively may add a total area of not more than 100 acres.  
(d) Territory added under Subsection (a) must be contiguous to the district at the time of the addition.

Sec. 3798.107. LIMITED EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain unless the governing body of the city by ordinance or resolution consents to the exercise.

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 3798.151. DIVISION OF DISTRICT; PREREQUISITES.

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3798.201. DISBURSEMENTS AND TRANSFERS OF MONEY.

Sec. 3947.202. MONEY USED FOR IMPROVEMENTS OR SERVICES.

Sec. 3947.203. METHOD OF NOTICE FOR HEARING.

Sec. 3947.204. ASSESSMENTS; LIENS FOR ASSESSMENTS.

Sec. 3947.205. NOTICE OF ASSESSMENTS.

#### SUBCHAPTER F. TAXES AND BONDS

Sec. 3947.251. BONDS AND OTHER OBLIGATIONS. (a) The district may issue, by public or private sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code. Sections 375.207(a) and (b), Local Government Code, do not apply to the district.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from improvement revenue or from any other source.

(d) Not later than the 30th day before the date the district holds a bond sale, the district shall provide the governing body of the city written notice of the sale.

(e) The district may issue bonds, notes, or other obligations to maintain or repair an existing improvement project only if the district obtains written consent from the governing body of the city.

#### SUBCHAPTER G. DISSOLUTION

Sec. 3947.301. DISSOLUTION BY CITY ORDINANCE.

Sec. 3798.202. MONEY USED FOR IMPROVEMENTS OR SERVICES.

Sec. 3798.203. METHOD OF NOTICE FOR HEARING.

Sec. 3798.204. ASSESSMENTS; LIENS FOR ASSESSMENTS.

Sec. 3798.205. NOTICE OF ASSESSMENTS.

#### SUBCHAPTER F. TAXES AND BONDS

Sec. 3798.251. BONDS AND OTHER OBLIGATIONS. (a) The district may issue, by public or private sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code. Sections 375.207(a) and (b), Local Government Code, do not apply to the district.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from improvement revenue or from any other source.

(d) Not later than the 30th day before the date the district holds a bond sale, the district shall provide the governing body of the city written notice of the sale.

*(See Sec. 3798.102(c) above.)*

#### SUBCHAPTER G. DISSOLUTION

Sec. 3798.301. DISSOLUTION BY CITY ORDINANCE.

Sec. 3947.302. COLLECTION OF ASSESSMENTS AND OTHER REVENUE.

Sec. 3947.303. ASSUMPTION OF ASSETS AND LIABILITIES.

Sec. 3798.302. COLLECTION OF ASSESSMENTS AND OTHER REVENUE.

Sec. 3798.303. ASSUMPTION OF ASSETS AND LIABILITIES.

SUBCHAPTER Z. SPECIAL BOND PROVISIONS

Sec. 3798.901. APPLICABILITY. This subchapter applies only to bonds payable wholly or partly from revenue derived from assessments on real property in the district.

Sec. 3798.902. CONFLICT OF LAWS. In the event of a conflict between this subchapter and any other law, this subchapter prevails.

Sec. 3798.903. WRITTEN AGREEMENT REGARDING SPECIAL APPRAISALS. Before the district may issue bonds, the district and any person to whom the board intends that proceeds of the bonds be distributed, including the developer, another owner of land in the district, and any entity acting as a lender to the developer or other landowner for the purpose of a project relating to the district, must enter into a written agreement that:

(1) waives for the term of the agreement the right to a special appraisal with respect to taxation by the district under Subchapters B, C, D, E, F, and H, Chapter 23, Tax Code; and

(2) remains in effect for 30 years and is binding on the parties, on entities related to or affiliated with the parties, and on their successors and assignees.

Sec. 3798.904. REQUIREMENTS FOR ADVERTISING BOND ISSUE. A district may not advertise for an issuance of bonds until the completion of at least 25 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds.

Sec. 3798.905. REQUIREMENTS FOR BOND ISSUE. The district may not issue bonds until:

(1) the district submits to the commission:

(A) an engineer's report describing the project for which the bonds will provide funding, including data, profiles, maps, plans, and specifications related to the project; and

(B) a cash flow analysis to determine the projected rate of assessment, which includes the following assumptions:

(i) each ending balance for debt service in the analysis is not less than 25 percent of the following year's debt service requirement;

(ii) interest income is only shown on the ending balance for debt service for the first two years; and

(iii) the projected rate of assessment is level or decreasing for the life of the bonds issued by the district;

(2) the completion of at least 75 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds; and

(3) the district has obtained an independent market study from a firm recognized in the area of real estate market analysis supporting the development projects for the real property that is liable for district assessments and necessary to support the district bonds.

Sec. 3798.906. REQUIREMENTS FOR COLLECTION OF REVENUE TO PAY BONDS. The district may not collect an assessment to be used for the payment of bonds until:

(1) the completion of at least 95 percent of the underground water, wastewater, and drainage facilities financed from bond proceeds that are necessary to serve the projected build-out, as certified by the district's engineer;

(2) the district or other appropriate party has secured the groundwater, surface water, and water discharge permits that are necessary to secure capacity to support the projected build-out;

(3) the completion of at least 95 percent of lift station, water plant, and sewage treatment plant capacity sufficient to serve the connections constructed in the project for a period of not less than 18 months, as certified by the district's engineer; and

(4) the completion of at least 95 percent of the streets and roads that are necessary to provide access to the areas served by utilities and financed by the proceeds of bonds issued by the district, as certified by the district's engineer and constructed in accordance with municipal or county standards.

SECTION 2. Sets out the metes and bounds of the district.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. (a) Section 3947.107, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 3947, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 3947.107 to read as follows:

Sec. 3947.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION 5. This Act takes effect September 1, 2017.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Substantially the same as introduced version.

SECTION 5. Same as introduced version.