

BILL ANALYSIS

C.S.H.B. 4294
By: Holland
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that an area in the extraterritorial jurisdiction of City of Celina would benefit from the creation of a municipal management district. C.S.H.B. 4294 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. 4294 amends the Special District Local Laws Code to create the North Celina Municipal Management District No. 3, subject to municipal consent by ordinance or resolution, to provide certain improvements, projects, and services for public use and benefit. The bill provides for, among other provisions, the addition or removal of territory from the district, a limitation on the district's eminent domain power, the division of the district, and the dissolution of the district by the governing body of the City of Celina. The bill sets out the district's powers and duties, which include public improvement district powers and, subject to certain requirements, the authority to impose and collect assessments and issue obligations. The bill prohibits the district from providing retail water or sewer services and, if the bill does not receive a two-thirds vote of all the members elected to each house, from exercising the power of eminent domain.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4294 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	SECTION 1. Subtitle C, Title 4, Special

District Local Laws Code, is amended by adding Chapter 3959 to read as follows:

CHAPTER 3959. NORTH CELINA MUNICIPAL MANAGEMENT DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3959.001. DEFINITIONS.

Sec. 3959.002. CREATION AND NATURE OF DISTRICT.

Sec. 3959.003. PURPOSE; LEGISLATIVE FINDINGS.

Sec. 3959.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

Sec. 3959.005. INITIAL DISTRICT TERRITORY.

Sec. 3959.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICT LAW. (a) Except as provided by this chapter, Chapter 375, Local Government Code, applies to the district.

(b) The following provisions of Chapter 375, Local Government Code, do not apply to the district:

(1) Sections 375.161 and 375.164; and

(2) Subchapters B and O.

(c) This chapter prevails over any provision of Chapter 375, Local Government Code, that is in conflict or inconsistent with this chapter.

Sec. 3959.007. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED.

Sec. 3959.008. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. (a) All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code; or

(3) an enterprise zone created under

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Sec. 3959.001. DEFINITIONS.

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Sec. 3959.005. INITIAL DISTRICT TERRITORY.

Sec. 3959.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICT LAW. Except as provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3959.007. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED.

Sec. 3959.008. CONSENT OF MUNICIPALITY REQUIRED. The initial directors may not hold an election under Section 3959.007 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 3959.009. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. (a) All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code; or

(3) an enterprise zone created under

Chapter 2303, Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for:

- (1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code; and
- (2) any other district purpose, including the right to pledge the money as security for any bonds or other obligations issued by the district under Section 3959.251.

(c) If the city creates a tax increment reinvestment zone described by Subsection (a), the city may determine the percentage of the property in the zone that may be used for residential purposes and is not subject to the limitations provided by Section 311.006, Tax Code.

Sec. 3959.009. 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:

- (1) retains all of the district's outstanding debt and obligations;
- (2) is not dissolved; and
- (3) continues to operate under this chapter until the district is dissolved under Subchapter G.

Sec. 3959.010. CONSTRUCTION OF CHAPTER.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3959.051. GOVERNING BODY; TERMS.

Sec. 3959.053. REMOVAL OF DIRECTORS.

Sec. 3959.054. INITIAL DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	
<u>2</u>	
<u>3</u>	
<u>4</u>	
<u>5</u>	

- (b) Initial directors serve until the earlier of:
- (1) the date permanent directors are elected under Section 3959.007; or
- (2) the fourth anniversary of the effective

Chapter 2303, Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for:

- (1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code; and
- (2) any other district purpose, including the right to pledge the money as security for any bonds or other obligations issued by the district under Section 3959.201.

(c) If the city creates a tax increment reinvestment zone described by Subsection (a), the city may determine the percentage of the property in the zone that may be used for residential purposes and is not subject to the limitations provided by Section 311.006, Tax Code.

Sec. 3959.010. 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:

- (1) retains all of the district's outstanding debt and obligations;
- (2) is not dissolved; and
- (3) continues to operate under this chapter until the district is dissolved under Subchapter F.

Sec. 3959.011. CONSTRUCTION OF CHAPTER.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3959.051. GOVERNING BODY; TERMS.

Sec. 3959.053. REMOVAL OF DIRECTORS.

Sec. 3959.054. INITIAL DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>John Peavy</u>
<u>2</u>	<u>Charles Taylor</u>
<u>3</u>	<u>Steve Cook</u>
<u>4</u>	<u>Paul Schlosberg</u>
<u>5</u>	<u>Russell Miller</u>

- (b) Initial directors serve until the earlier of:
- (1) the date permanent directors are elected under Section 3959.007; or
- (2) the fourth anniversary of the effective

date of the Act enacting this chapter.

(c) If permanent directors have not been elected under Section 3959.007 and the terms of the initial directors have expired, successor initial directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 3959.007; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district according to the most recent certified tax appraisal rolls for the county may submit a petition to the commission requesting that the commission appoint as successor initial directors the five persons named in the petition. The commission shall appoint as successor initial directors the five persons named in the petition.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3959.101. GENERAL POWERS AND DUTIES.

Sec. 3959.102. PUBLIC IMPROVEMENT DISTRICT POWERS.

Sec. 3959.103. IMPROVEMENT PROJECTS AND SERVICES.

Sec. 3959.104. LOCATION OF IMPROVEMENT PROJECT.

Sec. 3959.105. OWNERSHIP OF IMPROVEMENT PROJECTS.

Sec. 3959.106. RETAIL WATER AND SEWER SERVICES PROHIBITED.

Sec. 3959.107. 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.

date of the Act enacting this chapter.

(c) If permanent directors have not been elected under Section 3959.007 and the terms of the initial directors have expired, successor initial directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 3959.007; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district according to the most recent certified tax appraisal rolls for the county may submit a petition to the commission requesting that the commission appoint as successor initial directors the five persons named in the petition. The commission shall appoint as successor initial directors the five persons named in the petition.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3959.101. GENERAL POWERS AND DUTIES.

Sec. 3959.102. PUBLIC IMPROVEMENT DISTRICT POWERS.

Sec. 3959.103. IMPROVEMENT PROJECTS AND SERVICES.

Sec. 3959.104. LOCATION OF IMPROVEMENT PROJECT.

Sec. 3959.105. OWNERSHIP OF IMPROVEMENT PROJECTS.

Sec. 3959.106. RETAIL WATER AND SEWER SERVICES PROHIBITED.

Sec. 3959.107. 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 Section 3959.108 may not add a total area of more than 100 acres.

Sec. 3959.108. LIMITED EMINENT DOMAIN POWER.

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 3959.151. DIVISION OF DISTRICT; PREREQUISITES. The district, including territory added to the district under Section 3959.107, may be divided into two or more new districts only if the district has no outstanding bonded debt. Territory previously added to the district under Section 3959.107 may be included in a new district.

Sec. 3959.152. LAW APPLICABLE TO NEW DISTRICT. This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

Sec. 3959.153. DIVISION PROCEDURES.

(a) The board, on its own motion or on receipt of a petition signed by an owner of real property in the district, may adopt an order proposing to divide the district.

(b) If the board decides to divide the district, the board shall:

(1) set the terms of the division, including

names for the new districts and a plan for the payment or performance of any outstanding district obligations;

(2) prepare a metes and bounds description for each proposed district; and

(3) appoint four initial directors for each new district.

(c) The governing body of the city shall appoint one director for each new district.

Sec. 3959.154. CONTRACT AUTHORITY OF NEW DISTRICTS. The new districts may contract with each other for any matter the boards of the new districts consider appropriate, including the joint construction or financing of an improvement authorized under this chapter or the joint financing of water services, wastewater services, or a maintenance obligation.

Sec. 3959.109. LIMITED EMINENT DOMAIN POWER.

Sec. 3959.108. DIVISION OF DISTRICT.

(a) The district may be divided into two or more new districts only if the district:

- (1) has no outstanding bonded debt; and
- (2) is not imposing ad valorem taxes.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act enacting this chapter.

(d) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 3959.007 to confirm the creation of the district.

(f) An order dividing the district must:

(1) name each new district;

(2) include the metes and bounds description of the territory of each new district;

(3) appoint initial directors for each new district; and

(4) provide for the division of assets and liabilities between or among the new districts.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3959.201. DISBURSEMENTS AND TRANSFERS OF MONEY.

Sec. 3959.202. MONEY USED FOR IMPROVEMENTS OR SERVICES.

Sec. 3959.203. METHOD OF NOTICE FOR HEARING.

Sec. 3959.204. ASSESSMENTS; LIENS FOR ASSESSMENTS.

Sec. 3959.205. NOTICE OF ASSESSMENTS.

SUBCHAPTER F. TAXES AND BONDS

Sec. 3959.251. 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

directors' election as required by Section 3959.007.

(i) Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 3959.008 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

(j) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(k) If the creation of the new district is confirmed, the new district shall provide the election date and results to the commission.

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Sec. 3959.153. METHOD OF NOTICE FOR HEARING.

Sec. 3959.154. ASSESSMENTS; LIENS FOR ASSESSMENTS.

Sec. 3959.155. NOTICE OF ASSESSMENTS.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3959.201. 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:

(1) Subchapter J, Chapter 375, Local Government Code; or

(2) Subchapter A, Chapter 372, Local Government Code, if the improvements financed by an obligation issued under this section will be conveyed to or operated and maintained by a municipality or other retail utility provider pursuant to an agreement with the district entered into before the issuance of the obligation.

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. 3959.301. DISSOLUTION BY CITY ORDINANCE.

Sec. 3959.302. COLLECTION OF ASSESSMENTS AND OTHER REVENUE.

Sec. 3959.303. ASSUMPTION OF ASSETS AND LIABILITIES.

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

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(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 F. DISSOLUTION

Sec. 3959.251. DISSOLUTION BY CITY ORDINANCE.

Sec. 3959.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE.

Sec. 3959.253. ASSUMPTION OF ASSETS AND LIABILITIES.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

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 3959.108, 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 3959, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 3959.108 to read as follows:

Sec. 3959.108. 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 4. Substantially the same as introduced version.

SECTION 5. Same as introduced version.