

House Bill 4590
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3793 to read as follows:

CHAPTER 3793. TRR 243 MUNICIPAL MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3793.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the City of Celina, Texas.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Director" means a board member.

(5) "District" means the TRR 243 Municipal Management District.

Sec. 3793.0102. CREATION AND NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3793.0103. PURPOSE; LEGISLATIVE FINDINGS.

(a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

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(c) This chapter and the creation of the district may not be interpreted to relieve the city from providing the level of services provided to the area in the district as of the effective date of the Act enacting this chapter. The district is created to supplement and not to supplant the city services provided in the district.

Sec. 3793.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The district is created to accomplish the purposes of a municipal management district as provided by general law and Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

(d) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment;

(3) develop or expand transportation and commerce; and

(4) provide quality residential housing.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

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(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3793.0105. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under other law.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to contract;

(3) authority to borrow money or issue bonds or other obligations described by Section 3793.0501 or to pay the principal and interest of the bonds or other obligations;

(4) right to impose or collect an assessment, or collect other revenue; or

(5) legality or operation.

Sec. 3793.0106. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise

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provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3793.0107. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

Sec. 3793.0108. CONFLICTS OF LAW. This chapter prevails over any provision of Chapter 375, Local Government Code, that is in conflict or inconsistent with this chapter.

Sec. 3793.0109. CONSENT OF MUNICIPALITY AND DEVELOPMENT AGREEMENT REQUIRED. (a) The board may not hold an election to authorize the issuance of bonds until:

(1) 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; and

(2) the governing body of the city has entered into a development agreement with the owner of a majority of the land in the district.

(b) 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.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3793.0201. 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 Sections 3793.0202 and 3793.0203, respectively.

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Sec. 3793.0202. APPOINTMENT AND REMOVAL OF DIRECTOR APPOINTED BY CITY. (a) The governing body of the city shall appoint one director who must be:

- (1) at least 18 years of age; and
- (2) a resident of the city.

(b) At any time the governing body of the city may remove the director appointed by the city and appoint a director to serve the remainder of the removed director's term.

Sec. 3793.0203. APPOINTMENT BY COMMISSION. (a) Before the term of a director other than a director appointed under Section 3793.0202 expires, the board shall recommend to the commission the appropriate number of persons to serve as successor directors. The commission shall appoint as directors the persons recommended by the board.

(b) A person recommended by the board under Subsection (a) must be:

- (1) at least 18 years of age;
- (2) an owner of property in the district;
- (3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;
- (4) an owner of a beneficial interest in a trust that owns property in the district; or
- (5) an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).

Sec. 3793.0204. VACANCY. If a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

Sec. 3793.0205. DIRECTOR'S OATH OR AFFIRMATION. (a) A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

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(b) A director shall file a copy of the director's oath or affirmation with the secretary of the city.

Sec. 3793.0206. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary. The offices of chair and secretary may not be held by the same person.

Sec. 3793.0207. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$150 for each board meeting. The total amount of compensation a director may receive each year may not exceed \$7,200.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 3793.0208. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures a director against personal liability and from all claims relating to:

(1) actions taken by the director in the director's capacity as a member of the board;

(2) actions and activities taken by the district; or

(3) the actions of others acting on behalf of the district.

Sec. 3793.0209. NO EXECUTIVE COMMITTEE. The board may not create an executive committee to exercise the powers of the board.

Sec. 3793.0210. INITIAL DIRECTORS. (a) On or after September 1, 2021, 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 initial directors the four persons

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named in the petition. The commission shall appoint as initial directors the four persons named in the petition.

(b) The governing body of the city shall appoint one initial director.

(c) The initial directors shall determine by lot which three positions expire June 1, 2023, and which two positions expire June 1, 2025.

(d) This section expires September 1, 2023.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3793.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3793.0302. 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, 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.

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Sec. 3793.0303. LOCATION OF IMPROVEMENT PROJECT. A district improvement project may be located inside or outside of the district.

Sec. 3793.0304. OWNERSHIP OF IMPROVEMENT PROJECTS. (a) Before a district improvement project may be put into operation, the district must transfer ownership of the project to the city.

(b) The transfer of ownership is complete on the city's acceptance of ownership.

Sec. 3793.0305. RETAIL WATER AND SEWER SERVICES PROHIBITED. The district may not provide retail water or sewer services.

Sec. 3793.0306. ADDING OR REMOVING TERRITORY. (a) Subject to Subsection (b), 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.

Sec. 3793.0307. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3793.0401. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3793.0402. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, or finance an improvement project or service authorized by this

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chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3793.0403. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

Sec. 3793.0404. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district are:

(1) a first and prior lien against the property assessed;

(2) superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice

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(e) The district may not impose an assessment on a municipality, county, or other political subdivision.

Sec. 3793.0405. NOTICE OF ASSESSMENTS. Annually, the board shall file with the secretary of the city written notice that specifies the assessments the district will impose in the district's next fiscal year in sufficient clarity to describe the assessments for the operation and maintenance of the district and the assessments for the payment of debt service of obligations issued or incurred by the district.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3793.0501. 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.

(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.

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Sec. 3793.0502. CITY APPROVAL NOT REQUIRED.
Section 375.207, Local Government Code, does not apply to the district.

SUBCHAPTER F. DISSOLUTION

Sec. 3793.0601. DISSOLUTION BY CITY ORDINANCE.

(a) The governing body of the city may dissolve the district by ordinance.

(b) The governing body may not dissolve the district until:

(1) water, sanitary, sewer, and drainage improvements and roads have been constructed to serve at least 90 percent of the developable territory of the district; and

(2) the district has reimbursed each party that has an agreement with the district for all costs advanced to or on behalf of the district.

(c) Until the district is dissolved, the district is responsible for all bonds and other obligations of the district.

Sec. 3793.0602. COLLECTION OF ASSESSMENTS AND OTHER REVENUE.

(a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than revenue from ad valorem taxes, the city shall succeed to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3793.0603. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the

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(a) The governing body of the city may dissolve the district by ordinance.

(b) The governing body may not dissolve the district until:

(1) water, sanitary, sewer, and drainage improvements and roads have been constructed to serve at least 90 percent of the developable territory of the district; and

(2) the district has reimbursed each party that has an agreement with the district for all costs advanced to or on behalf of the district.

(c) Until the district is dissolved, the district is responsible for all bonds and other obligations of the district.

Sec. 3793.0602. COLLECTION OF ASSESSMENTS AND OTHER REVENUE.

(a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than revenue from ad valorem taxes, the city shall succeed to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3793.0603. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the

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city assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SUBCHAPTER G. SPECIAL BOND PROVISIONS

Sec. 3793.0701. APPLICABILITY. This subchapter applies only to bonds payable wholly or partly from revenue derived from assessments on real property in the district.

Sec. 3793.0702. CONFLICT OF LAWS. In the event of a conflict between this subchapter and any other law, this subchapter prevails.

Sec. 3793.0703. 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. 3793.0704. 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

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city assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

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other buildings, that are liable for district assessments and necessary to support the district bonds.

Sec. 3793.0705. 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. 3793.0706. 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

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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. The TRR 243 Municipal Management District initially includes all the territory contained in the following area:

BEING that certain tract of land situated in the Collin County School Land Survey, Abstract No. 168, Collin County, Texas, and being all of that certain called 243.820 acre tract of land as conveyed to Laura Latham Shinker, Elizabeth Brent and David Brent, as recorded in Volume 967, Page 705 of the Deed Records of Collin County, Texas, and also being all of that certain called 243.859 acre tract of land as conveyed to Godwin Family Investments, Ltd., by deed recorded in Volume 5634, Page 3372, said Deed Records,

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and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found for the southeast corner of said Godwin Family Investments tract, same being the southwest corner of that certain tract of land to Carol J. King or Julia King Needum, and their Successors, as Trustee of the King Family Trust, as recorded in Instrument no. 2012102200134910, Official Public Records, Collin County, Texas, same being in the north right-of-way line of F.M. Highway 428 (a 105' public right-of-way at this point); THENCE Sough 89 deg. 59 min. 43 sec. West, along the common line of said Godwin Family Investments tract, and the north right-of-way line of said F. M. Highway No. 428, a distance of 2602.61 feet to a 1/2 inch iron pipe found for the most southerly southwest corner of said Godwin Family Investments tract;

THENCE North 45 deg. 11 min. 54 sec. West, continuing along the common line of said Godwin Family Investments tract, and the north right-of-way line of said F. M. Highway 428, a distance of 42.50 feet to a point;

THENCE South 89 deg. 59 min. 06 sec. West, continuing along the common line of said Godwin Family Investments tract, and the north right-of-way line of said F. M. Highway No. 428, a distance of 17.50 feet to a 1/2 inch iron rod found in the approximate center of County Road No. 54 (a gravel paved prescriptive right-of-way);

THENCE North 00 deg. 02 min. 21 sec. West, along the west line of said Godwin Family Investments tract, and generally along the centerline of said County Road No. 54, a distance of 3965.31 feet to a 3/8 inch rod found for the northwest corner of said Godwin Family Investments tract, same being the southwest corner of that certain tract of land to Michael

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C. Hollifield and wife, Deborah Baker Hollifield, husband and wife, by deed recorded in Volume 5696, Page 1982, aforesaid Deed Records;

THENCE South 89 deg. 57 min. 51 sec. East, along the common line of said Godwin Family Investments tract, and said Hollifield tract, passing the southeast corner of said Hollifield tract, same being the southwest corner of that certain tract of land to the Pollard Family Living Trust, by deed recorded in County Clerk's File No. 20120608000680240, aforesaid Official Public Records, and continuing along the common line of said Godwin Family Investments tract, and said Pollard tract, a total distance of 2669.06 feet to a 3/4 inch iron rod found for the northeast corner of said Godwin Family Investments tract, same being the southeast corner of said Pollard tract, same being in the west line of that certain tract of land to Douglas J. Barker and wife, Sandra Barker, by deed recorded in Volume 1159, Page 423, said Deed Records;

THENCE South 00 deg. 14 min. 32 sec. West, along common line of said Godwin Family Investments tract, and said Pollard tract, passing the southwest corner of said Pollard tract, same being the most northerly northwest corner of that certain tract of land to Old Celina, Ltd., by deed recorded in Volume 5208, Page 3376, said Deed Records, and continuing along the common line of said Godwin Family Investments tract, and said Old Celina tract, a total distance of 1400.08 feet to a Bois d' Arc Fence found for the most westerly southwest corner of said Old Celina tract, same being the northwest corner of aforesaid King tract;

THENCE South 00 deg. 13 min. 28 sec. West, along the common line of said Godwin Family Investments tract, and said King tract, a distance of 2593.32 feet to the POINT OF

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BEGINNING and containing 243.846 acres of computed land, more or less.

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. This Act takes effect September 1, 2021.

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SECTION 3. Same as House version.

SECTION 4. Same as House version.

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