

**BILL ANALYSIS**

C.S.H.B. 4286  
By: Faircloth  
Special Purpose Districts  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Interested parties contend that an area within Galveston County would benefit from the creation of a management district. C.S.H.B. 4286 seeks to provide for the creation of the Bolivar Management 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. 4286 amends the Special District Local Laws Code to create the Bolivar Management District to provide certain improvements, projects, and services for public use and benefit, including certain road projects. The bill provides for, among other provisions, the applicability of certain competitive bidding requirements to the district and for the dissolution of the district. The bill sets out the district's powers and duties, which include certain powers given to a Type B development corporation and a municipal management district; certain infrastructure-related powers; certain navigation district powers; and, subject to certain requirements, the authority to issue obligations and impose operation and maintenance taxes, assessments, and property taxes. The bill prohibits the district from imposing an impact fee or assessment on certain utility property and establishes that Galveston County is not required to pay a district obligation.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 4286 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 3942 to read as follows:  
CHAPTER 3942. BOLIVAR  
MANAGEMENT DISTRICT  
SUBCHAPTER A. GENERAL  
PROVISIONS  
Sec. 3942.001. DEFINITIONS.

Sec. 3942.002. BOLIVAR  
MANAGEMENT DISTRICT.

Sec. 3942.003. PURPOSE;  
DECLARATION OF INTENT.

Sec. 3942.004. FINDINGS OF BENEFIT  
AND PUBLIC PURPOSE.

Sec. 3942.005. 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:

(1) Subchapter J, Chapter 49, Water Code;  
or

(2) other law.

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

(1) organization, existence, or validity;

(2) authority to issue any type of bond for a  
purpose for which the district is created or  
to pay the principal of and interest on a  
bond;

(3) right to impose or collect an assessment  
or tax; or

(4) legality or operation.

Sec. 3942.006. ELIGIBILITY FOR  
INCLUSION IN SPECIAL ZONES.

Sec. 3942.007. APPLICABILITY OF  
COUNTY DEVELOPMENT DISTRICTS  
LAW. Except as otherwise provided by this  
chapter, Chapter 383, Local Government  
Code, applies to the district.

Sec. 3942.008. LIBERAL  
CONSTRUCTION OF CHAPTER.

SUBCHAPTER B. BOARD OF  
DIRECTORS

adding Chapter 3796 to read as follows:  
CHAPTER 3796. BOLIVAR  
MANAGEMENT DISTRICT  
SUBCHAPTER A. GENERAL  
PROVISIONS  
Sec. 3796.001. DEFINITIONS.

Sec. 3796.002. BOLIVAR  
MANAGEMENT DISTRICT.

Sec. 3796.003. PURPOSE;  
DECLARATION OF INTENT.

Sec. 3796.004. FINDINGS OF BENEFIT  
AND PUBLIC PURPOSE.

Sec. 3796.005. DISTRICT TERRITORY.  
(a) The district is initially composed of the  
territory described by Section 2 of the Act  
enacting this chapter.

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

(1) organization, existence, or validity;

(2) right to issue any type of bonds, notes,  
or other obligations for a purpose for which  
the district is created or to pay the principal  
of and interest on the bonds, notes, or other  
obligations;

(3) right to impose or collect an assessment  
or tax; or

(4) legality or operation.

Sec. 3796.006. ELIGIBILITY FOR  
INCLUSION IN SPECIAL ZONES.

Sec. 3796.007. APPLICABILITY OF  
MUNICIPAL MANAGEMENT  
DISTRICTS LAW. Except as otherwise  
provided by this chapter, Chapter 375, Local  
Government Code, applies to the district.

Sec. 3796.008. LIBERAL  
CONSTRUCTION OF CHAPTER.

SUBCHAPTER B. BOARD OF  
DIRECTORS

Sec. 3942.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (c), the district is governed by a board of five directors appointed under Section 3942.052.

(b) Voting directors serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(c) The board by resolution may increase or decrease the number of directors on the board if the board finds it is in the best interest of the district. The board may not consist of fewer than 5 or more than 15 directors.

Sec. 3942.052. APPOINTMENT OF DIRECTORS.

Sec. 3942.053. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Except as provided by this section:

(1) a director may participate in all board votes and decisions; and

(2) Chapter 171, Local Government Code, governs conflicts of interest for directors.

(b) Section 171.004, Local Government Code, does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:

(1) a majority of the directors have a similar interest in the same entity; or

(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that public entity.

(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002, Local Government Code.

Sec. 3942.054. INITIAL DIRECTORS. (a) The initial board consists of the following

Sec. 3796.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (c), the district is governed by a board of five directors appointed under Section 3796.052.

(b) Voting directors serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(c) The board by resolution may increase or decrease the number of directors on the board if the board finds it is in the best interest of the district. The board may not consist of fewer than 5 or more than 15 directors.

Sec. 3796.052. APPOINTMENT OF DIRECTORS.

Sec. 3796.053. CONFLICTS OF INTEREST. (a) Except as provided by this section:

(1) a director may participate in all board votes and decisions; and

(2) Chapter 171, Local Government Code, governs conflicts of interest for directors.

(b) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that public entity.

Sec. 3796.054. INITIAL DIRECTORS. (a) The initial board consists of the following

directors:  
Pos. No. Name of Director  
1 Robert Morgan  
2 Justin Thompson  
3 Tom Harrison  
4 Brad Ballard  
5 Ross Harrison  
(b) Of the initial directors, the terms of  
directors appointed for positions one and  
two expire June 1, 2019, and the terms of  
directors appointed for positions three  
through five expire June 1, 2021.  
(c) Section 3942.052 does not apply to this  
section.

SUBCHAPTER C. POWERS AND  
DUTIES

directors:  
Pos. No. Name of Director  
1 Robert Morgan  
2 Justin Thompson  
3 Tom Harrison  
4 Brad Ballard  
5 Ross Harrison  
(b) Of the initial directors, the terms of  
directors appointed for positions one and  
two expire June 1, 2019, and the terms of  
directors appointed for positions three  
through five expire June 1, 2021.  
(c) Section 3796.052 does not apply to this  
section.

SUBCHAPTER C. POWERS AND  
DUTIES

Sec. 3796.101. GENERAL POWERS AND  
DUTIES. The district has the powers and  
duties necessary to accomplish the purposes  
for which the district is created.  
Sec. 3796.102. IMPROVEMENT  
PROJECTS AND SERVICES. (a) 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  
under Chapter 375, Local Government  
Code.  
(b) An improvement project described by  
Subsection (a) may be located inside or  
outside the district.  
Sec. 3796.103. AUTHORITY FOR ROAD  
PROJECTS. Under Section 52, Article III,  
Texas Constitution, the district may own,  
operate, maintain, design, acquire, construct,  
finance, issue bonds, notes, or other  
obligations for, improve, and convey to this  
state, a county, or a municipality for  
ownership, operation, and maintenance  
macadamized, graveled, or paved roads or  
improvements, including storm drainage, in  
aid of those roads.  
Sec. 3796.104. CONVEYANCE AND  
APPROVAL OF ROAD PROJECT. (a)  
The district may convey a road project  
authorized by Section 3796.103 to:  
(1) a municipality or county that will  
operate and maintain the road if the  
municipality or county has approved the

Sec. 3942.101. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to:

(1) a corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, and maintain projects described by that chapter;

(2) a housing finance corporation under Chapter 394, Local Government Code, to provide housing or residential development projects in the district;

(3) a county under Chapter 383, Local Government Code;

(4) an entity described in Chapters 284 and 441, Transportation Code; and

(5) a district governed by Subchapters E and M, Chapter 60, Water Code, and Section 61.116, Water Code.

Sec. 3942.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

plans and specifications of the road project; or

(2) the state if the state will operate and maintain the road and the Texas Transportation Commission has approved the plans and specifications of the road project.

(b) Except as provided by Subsection (c), the district shall operate and maintain a road project authorized by Section 3796.103 that the district implements and does not convey to a municipality, a county, or this state under Subsection (a).

(c) The district may agree in writing with a municipality, a county, or this state to assign operation and maintenance duties to the district, the municipality, the county, or this state in a manner other than the manner described in Subsections (a) and (b).

Sec. 3796.105. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3796.106. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to

a district governed by Subchapters E and M, Chapter 60, Water Code, and Section 61.116, Water Code.

Sec. 3796.107. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and  
(2) may implement any project and provide any service authorized by this chapter.  
(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

Sec. 3942.103. AGREEMENTS; GRANTS.

Sec. 3942.104. LAW ENFORCEMENT SERVICES.

Sec. 3942.105. COMPETITIVE BIDDING.

Sec. 3942.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. (a) The district may join and pay dues to an organization that:

(1) enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986, as amended; and

(2) performs a service or provides an activity consistent with the furtherance of a district purpose.

(b) An expenditure of public money for membership in the organization is considered to further a district purpose and to be for a public purpose.

Sec. 3942.107. ECONOMIC DEVELOPMENT PROGRAMS.

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3942.151. DISBURSEMENTS OR TRANSFERS OF MONEY.

Sec. 3942.152. TAX AND BOND ELECTIONS.

Sec. 3942.153. MAINTENANCE AND OPERATION TAX. (a) If authorized at an election held in accordance with Section 3942.152, the district may impose an annual ad valorem tax on taxable property in the

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and  
(2) may implement any project and provide any service authorized by this chapter.  
(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3796.108. AGREEMENTS; GRANTS.

Sec. 3796.109. LAW ENFORCEMENT SERVICES.

Sec. 3796.110. COMPETITIVE BIDDING.

Sec. 3796.111. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that

performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3796.112. ECONOMIC DEVELOPMENT PROGRAMS.

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3796.151. DISBURSEMENTS OR TRANSFERS OF MONEY.

Sec. 3796.152. TAX AND BOND ELECTIONS.

Sec. 3796.153. MAINTENANCE AND OPERATION TAX. (a) If authorized at an election held in accordance with Section 3796.152, the district may impose an annual ad valorem tax on taxable property in the

district for the:  
(1) maintenance and operation of the  
district and the improvements constructed or  
acquired by the district; or  
(2) provision of a service.  
(b) The board shall determine the tax rate.

Sec. 3942.154. ASSESSMENTS; LIENS  
FOR ASSESSMENTS.

Sec. 3942.155. PETITION REQUIRED  
FOR FINANCING SERVICES AND  
IMPROVEMENTS.

Sec. 3942.156. UTILITY PROPERTY  
EXEMPT FROM IMPACT FEES AND  
ASSESSMENTS.

Sec. 3942.157. BONDS AND OTHER  
OBLIGATIONS.

Sec. 3942.158. COUNTY NOT  
REQUIRED TO PAY DISTRICT  
OBLIGATIONS.

Sec. 3942.159. TAX AND ASSESSMENT  
ABATEMENTS.

SUBCHAPTER E. DISSOLUTION  
Sec. 3942.201. DISSOLUTION OF  
DISTRICT WITH OUTSTANDING DEBT.  
(a) The board may vote to dissolve a district  
that has debt. If the vote is in favor of  
dissolution, the district shall remain in  
existence solely for the limited purpose of  
discharging its debts. The dissolution is  
effective when all debts have been  
discharged.  
(b) Section 383.121, Local Government  
Code, does not apply to the district.

SECTION 2. The Bolivar Management District initially includes all the territory contained in the following area:  
Land lying and being situated in Galveston County, Texas, out of the Port Bolivar Townsite, Samuel Parr Survey, Abstract No. 162, Galveston County, Texas as follows:  
Block    Lot(s)  
320      1-33  
345      13-24  
346      1-34

district for the:  
(1) maintenance and operation of the  
district and the improvements constructed or  
acquired by the district; or  
(2) provision of a service.  
(b) The board shall determine the tax rate.  
The rate may not exceed the rate approved  
at the election.

Sec. 3796.154. ASSESSMENTS; LIENS  
FOR ASSESSMENTS.

Sec. 3796.155. PETITION REQUIRED  
FOR FINANCING SERVICES AND  
IMPROVEMENTS.

Sec. 3796.156. UTILITY PROPERTY  
EXEMPT FROM IMPACT FEES AND  
ASSESSMENTS.

Sec. 3796.157. BONDS AND OTHER  
OBLIGATIONS.

Sec. 3796.158. COUNTY NOT  
REQUIRED TO PAY DISTRICT  
OBLIGATIONS.

Sec. 3796.159. TAX AND ASSESSMENT  
ABATEMENTS.

SUBCHAPTER E. DISSOLUTION  
Sec. 3796.201. DISSOLUTION OF  
DISTRICT WITH OUTSTANDING DEBT.  
(a) The board may vote to dissolve a district  
that has debt. If the vote is in favor of  
dissolution, the district shall remain in  
existence solely for the limited purpose of  
discharging its debts. The dissolution is  
effective when all debts have been  
discharged.  
(b) Section 375.264, Local Government  
Code, does not apply to the district.

SECTION 2. Same as introduced version.

Water Lots # 33 - 55 Lying North of Intracoastal Waterway.

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) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) 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 immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.