

By: Faircloth

H.B. No. 4286

Substitute the following for H.B. No. 4286:

By: Bell

C.S.H.B. No. 4286

A BILL TO BE ENTITLED

AN ACT

relating to creation of the Bolivar Management District; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3796 to read as follows:

CHAPTER 3796. BOLIVAR MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3796.001. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Galveston.

(3) "County" means Galveston County.

(4) "District" means the Bolivar Management District.

Sec. 3796.002. BOLIVAR MANAGEMENT DISTRICT. The Bolivar Management District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3796.003. PURPOSE; DECLARATION OF INTENT. (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 county and other political subdivisions to contract with the district, the

1 legislature has established a program to accomplish the public
2 purposes set out in Section 52-a, Article III, Texas Constitution.

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

8 (c) This chapter and the creation of the district may not be
9 interpreted to relieve the county from providing the level of
10 services provided, as of the effective date of the Act enacting this
11 chapter, to the area in the district. The district is created to
12 supplement and not to supplant the county services provided in the
13 area in the district.

14 Sec. 3796.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
15 The district is created to serve a public use and benefit.

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

21 (c) The creation of the district is in the public interest
22 and is essential to:

23 (1) further the public purposes of development and
24 diversification of the economy of the state;

25 (2) eliminate unemployment and underemployment; and

26 (3) develop or expand transportation and commerce.

27 (d) The district will:

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

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

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

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

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

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

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

26 (1) organization, existence, or validity;

27 (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.

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.

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. This chapter shall be construed liberally in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

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.

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

5 Sec. 3796.052. APPOINTMENT OF DIRECTORS. The governing
6 body of the county shall appoint the directors.

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

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

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

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

16 Sec. 3796.054. INITIAL DIRECTORS. (a) The initial board
17 consists of the following directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Robert Morgan</u>
<u>2</u>	<u>Justin Thompson</u>
<u>3</u>	<u>Tom Harrison</u>
<u>4</u>	<u>Brad Ballard</u>
<u>5</u>	<u>Ross Harrison</u>

24 (b) Of the initial directors, the terms of directors
25 appointed for positions one and two expire June 1, 2019, and the
26 terms of directors appointed for positions three through five
27 expire June 1, 2021.

1 (c) Section 3796.052 does not apply to this section.

2 SUBCHAPTER C. POWERS AND DUTIES

3 Sec. 3796.101. GENERAL POWERS AND DUTIES. The district has
4 the powers and duties necessary to accomplish the purposes for
5 which the district is created.

6 Sec. 3796.102. IMPROVEMENT PROJECTS AND SERVICES. (a) The
7 district may provide, design, construct, acquire, improve,
8 relocate, operate, maintain, or finance an improvement project or
9 service using money available to the district, or contract with a
10 governmental or private entity to provide, design, construct,
11 acquire, improve, relocate, operate, maintain, or finance an
12 improvement project or service authorized under this chapter or
13 under Chapter 375, Local Government Code.

14 (b) An improvement project described by Subsection (a) may
15 be located inside or outside the district.

16 Sec. 3796.103. AUTHORITY FOR ROAD PROJECTS. Under Section
17 52, Article III, Texas Constitution, the district may own, operate,
18 maintain, design, acquire, construct, finance, issue bonds, notes,
19 or other obligations for, improve, and convey to this state, a
20 county, or a municipality for ownership, operation, and maintenance
21 macadamized, graveled, or paved roads or improvements, including
22 storm drainage, in aid of those roads.

23 Sec. 3796.104. CONVEYANCE AND APPROVAL OF ROAD PROJECT.

24 (a) The district may convey a road project authorized by Section
25 3796.103 to:

26 (1) a municipality or county that will operate and
27 maintain the road if the municipality or county has approved the

1 plans and specifications of the road project; or

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

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

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

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

19 Sec. 3796.106. ADDITIONAL POWERS OF DISTRICT. The district
20 may exercise the powers given to a district governed by Subchapters
21 E and M, Chapter 60, Water Code, and Section 61.116, Water Code.

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

26 (b) The nonprofit corporation:

27 (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. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3796.109. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with the county or the city to provide law enforcement services in the district for a fee.

Sec. 3796.110. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district, but only for a contract that has a value greater than \$15,000.

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. The district

1 may establish and provide for the administration of one or more
2 programs to promote state or local economic development and to
3 stimulate business and commercial activity in the district,
4 including programs to:

5 (1) make loans and grants of public money; and

6 (2) provide district personnel and services.

7 SUBCHAPTER D. FINANCIAL PROVISIONS

8 Sec. 3796.151. DISBURSEMENTS OR TRANSFERS OF MONEY. The
9 board by resolution shall establish the number of directors'
10 signatures and the procedure required for a disbursement or
11 transfer of the district's money.

12 Sec. 3796.152. TAX AND BOND ELECTIONS. (a) The district
13 shall hold an election in the manner provided by Subchapter L,
14 Chapter 375, Local Government Code, to obtain voter approval before
15 the district imposes a maintenance tax or issues bonds payable from
16 ad valorem taxes.

17 (b) The board may not include more than one purpose in a
18 single proposition at an election.

19 (c) Section 375.243, Local Government Code, does not apply
20 to the district.

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

25 (1) maintenance and operation of the district and the
26 improvements constructed or acquired by the district; or

27 (2) provision of a service.

1 (b) The board shall determine the tax rate. The rate may not
2 exceed the rate approved at the election.

3 Sec. 3796.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
4 The board by resolution may impose an assessment for any purpose
5 authorized by this chapter.

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

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

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

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

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

23 (d) The board may make a correction to or deletion from the
24 assessment roll that does not increase the amount of assessment of
25 any parcel of land without providing notice and holding a hearing in
26 the manner required for additional assessments.

27 Sec. 3796.155. PETITION REQUIRED FOR FINANCING SERVICES AND

1 IMPROVEMENTS. (a) The board may not finance a service or
2 improvement project with assessments under this chapter unless a
3 written petition requesting that service or improvement has been
4 filed with the board.

5 (b) The petition must be signed by the owners of a majority
6 of the assessed value of real property in the district subject to
7 assessment according to the most recent certified tax appraisal
8 roll for the county.

9 Sec. 3796.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
10 ASSESSMENTS. The district may not impose an impact fee or
11 assessment on the property, including the equipment,
12 rights-of-way, facilities, or improvements, of:

13 (1) an electric utility or a power generation company
14 as defined by Section 31.002, Utilities Code;

15 (2) a gas utility as defined by Section 101.003 or
16 121.001, Utilities Code;

17 (3) a telecommunications provider as defined by
18 Section 51.002, Utilities Code; or

19 (4) a person who provides to the public cable
20 television or advanced telecommunications services.

21 Sec. 3796.157. BONDS AND OTHER OBLIGATIONS. (a) The
22 district may issue bonds or other obligations payable wholly or
23 partly from ad valorem taxes, assessments, impact fees, revenue,
24 grants, or other money of the district, or any combination of those
25 sources of money, to pay for any authorized purpose of the district.

26 (b) In exercising the district's power to borrow, the
27 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.

Sec. 3796.158. COUNTY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. The county is not required to pay a bond, note, or other obligation of the district.

Sec. 3796.159. TAX AND ASSESSMENT ABATEMENTS. Without further authorization or other procedural requirement, the district may grant, consistent with Chapter 312, Tax Code, an abatement for a tax or assessment owed to the district.

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. 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

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

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

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

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

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

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

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2017.