

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3987 to read as follows:

CHAPTER 3987. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 28

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3987.0101. DEFINITIONS. In this chapter:

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

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

(3) "County" means Harris County.

(4) "Director" means a board member.

(5) "District" means the Harris County Improvement District No. 28.

Sec. 3987.0102. NATURE OF DISTRICT. The Harris County Improvement District No. 28 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3987.0103. 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.

(b) 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.

(c) 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.

(d) This chapter and the creation of the district may not be interpreted to relieve the city from providing the level of

SENATE VERSION (IE)

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant city services provided in the district.

Sec. 3987.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) 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.

(b) The district is created to serve a public use and benefit.

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

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(d) 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;

(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; and

(4) provide for water, wastewater, drainage, road, and recreational facilities for the district.

SENATE VERSION (IE)

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(e) 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.

(f) 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. 3987.0105. INITIAL 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 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 issue any type of bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

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

(4) legality or operation.

Sec. 3987.0106. 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; or

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

Sec. 3987.0107. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

SENATE VERSION (IE)

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Sec. 3987.0108. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3987.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five voting directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board if the board determines that the change is in the best interest of the district. The board may not consist of fewer than 5 or more than 15 voting directors.

Sec. 3987.0202. APPOINTMENT OF VOTING DIRECTORS. The mayor and members of the governing body of the city shall appoint voting directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

Sec. 3987.0203. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3987.0204. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

Sec. 3987.0205. COMPENSATION. A director is entitled to receive fees of office and reimbursement for actual expenses as provided by Section 49.060, Water Code.

SENATE VERSION (IE)

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Sections 375.069 and 375.070, Local Government Code, do not apply to the board.

Sec. 3987.0206. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

Pos. No. Name of Director

<u>1</u>	
<u>2</u>	
<u>3</u>	
<u>4</u>	
<u>5</u>	

(b) Of the initial directors, the terms of directors appointed for positions one through three expire June 1, 2021, and the terms of directors appointed for positions four and five expire June 1, 2023.

(c) Section 3987.0202 does not apply to this section.

(d) This section expires September 1, 2023.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3987.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3987.0302. IMPROVEMENT PROJECTS AND SERVICES. (a) The district, using any money available to the district for the purpose, may 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 contract with a governmental or private entity to carry out an action under Subsection (a).

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

SENATE VERSION (IE)

Sections 375.069 and 375.070, Local Government Code, do not apply to the board.

Sec. 3987.0206. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

Pos. No. Name of Director

<u>1</u>	<u>Robert Tautenhahn</u>
<u>2</u>	<u>Juan Carlos Herrera</u>
<u>3</u>	<u>Jack Chaluh</u>
<u>4</u>	<u>Maewel Ghebremichael</u>
<u>5</u>	<u>Jarret Ewing</u>

(b) Of the initial directors, the terms of directors appointed for positions one through three expire June 1, 2021, and the terms of directors appointed for positions four and five expire June 1, 2023.

(c) Section 3987.0202 does not apply to this section.

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Sec. 3987.0303. 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 to be a local government corporation created under Subchapter D, 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. 3987.0304. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including the city, to provide law enforcement services in the district for a fee.

Sec. 3987.0305. 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. 3987.0306. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or

SENATE VERSION (IE)

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

local economic development and to stimulate business and commercial activity in the district, including programs to:

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

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

(1) Chapter 380, Local Government Code; and

(2) Subchapter A, Chapter 1509, Government Code.

Sec. 3987.0307. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 3987.0308. ADDING OR EXCLUDING LAND. The district may add or exclude land in the manner provided by Subchapter J, Chapter 49, Water Code, or by Subchapter H, Chapter 54, Water Code.

Sec. 3987.0309. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the

SENATE VERSION (IE)

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(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Sec. 3987.0310. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

SUBCHAPTER D. ASSESSMENTS

Sec. 3987.0401. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 3987.0402. 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:

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

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

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

SENATE VERSION (IE)

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(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 and holding a hearing in the manner required for additional assessments.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3987.0501. TAX ELECTION REQUIRED. The district must hold an election in the manner provided by Chapter 49, Water Code, or, if applicable, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax.

Sec. 3987.0502. OPERATION AND MAINTENANCE TAX. (a) If authorized by a majority of the district voters voting at an election under Section 3987.0501, the district may impose an operation and maintenance tax on taxable property in the district in the manner provided by Section 49.107, Water Code, for any district purpose, including to:

- (1) maintain and operate the district;
- (2) construct or acquire improvements; or
- (3) provide a service.

(b) The board shall determine the operation and maintenance tax rate. The rate may not exceed the rate approved at the election.

(c) Section 49.107(h), Water Code, does not apply to the district.

Sec. 3987.0503. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS.

SENATE VERSION (IE)

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(a) The district may borrow money on terms determined by the board.
(b) The district may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources of money, to pay for any authorized district purpose.
(c) The limitation on the outstanding principal amount of bonds, notes, or other obligations provided by Section 49.4645, Water Code, does not apply to the district.
Sec. 3987.0504. BONDS SECURED BY REVENUE OR CONTRACT PAYMENTS. The district may issue, without an election, bonds secured by:
(1) revenue other than ad valorem taxes, including contract revenues; or
(2) contract payments, provided that the requirements of Section 49.108, Water Code, have been met.
Sec. 3987.0505. BONDS SECURED BY AD VALOREM TAXES; ELECTIONS. (a) If authorized at an election under Section 3987.0501, the district may issue bonds payable from ad valorem taxes.

SENATE VERSION (IE)

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Sec. 3987.0505. BONDS SECURED BY AD VALOREM TAXES; ELECTIONS. (a) If authorized at an election under Section 3987.0501, the district may issue bonds payable from ad valorem taxes only to purchase, construct, acquire, own, operate, repair, improve, or extend facilities and improvements for and in support of:
(1) parking as described by Section 3987.0307;
(2) parks and recreational facilities, including:
(A) parks, landscaping, and greenbelts;
(B) sidewalks and trails;
(C) pedestrian crosswalks, bridges, and tunnels;
(D) public right-of-way beautification projects;
(E) plazas, pedestrian malls, and places of public assembly;
(F) lighting, banners, and signs;
(G) works of art; and

CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(b) Section 375.243, Local Government Code, does not apply to the district.

(c) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

(d) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 3987.0506. CONSENT OF MUNICIPALITY REQUIRED. (a) The board may not issue bonds 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.

(b) This section applies only to the district's first issuance of bonds payable from ad valorem taxes.

Sec. 3987.0507. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

SENATE VERSION (IE)

(H) recreational equipment and facilities; and

(3) water, sewer, drainage, and road facilities and improvements in aid of a facility or improvement described by Subdivision (1) or (2). [FA1]

(b) Section 375.243, Local Government Code, does not apply to the district.

(c) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

(d) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 3987.0506. CONSENT OF MUNICIPALITY REQUIRED. (a) The board may not issue bonds 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.

(b) This section applies only to the district's first issuance of bonds payable from ad valorem taxes.

Sec. 3987.0507. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

Sec. 3987.0508. CONFIRMATION ELECTION REQUIRED. The district must hold an election to confirm the creation of the district before the district may impose an

CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SUBCHAPTER I. DISSOLUTION

Sec. 3987.0901. DISSOLUTION. (a) The board shall dissolve the district on written petition filed with the board by the owners of:

(1) 66 percent or more of the assessed value of the property subject to assessment by the district based on the most recent certified county property tax rolls; or

(2) 66 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment by the district according to the most recent certified county property tax rolls.

(b) The board by majority vote may dissolve the district at any time.

(c) The district may not be dissolved by its board under Subsection (a) or (b) if the district:

(1) has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds;

(2) has a contractual obligation to pay money until that obligation has been fully paid in accordance with the contract; or

(3) owns, operates, or maintains public works, facilities, or improvements unless the district contracts with another person for the ownership, operation, or maintenance of the public works, facilities, or improvements.

(d) Sections 375.261, 375.262, and 375.264, Local Government Code, do not apply to the district.

SENATE VERSION (IE)

ad valorem tax or issue bonds payable from ad valorem taxes.

SUBCHAPTER I. DISSOLUTION

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CONFERENCE

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<p>SECTION 2. The Harris County Improvement District No. 28 initially includes all territory contained in the following area:</p> <p>Being a tract or parcel, containing 6.011 acres (261,835 square feet) of land, situated in the John Austin Two League Grant, Abstract Number 1, City of Houston, Harris County, Texas, and being all of Unrestricted Reserve "A" and part of and out of Unrestricted Reserve "B", Block 1, CWA GILLETTE STREET, a plat of subdivision recorded under Film Code Number 657260, Map Records of Harris County, Texas (M.R.H.C.); also being all that certain called 6.011 acres described in deed to Westcreek HTX Real Estate Partners-D, L.P. (herein referred to as the "Westcreek Tract"), as recorded under County Clerk's File (C.C.F.) Number 20150175209, Official Public Records of Real Property of Harris County, Texas (O.P.R.R.P.H.C.); the herein described 6.011 acre tract being more particularly described by metes and bounds as follows (bearings herein are grid bearings based on the Texas State Plane Coordinate System, South Central Zone, NAD 83, as evidenced on said subdivision plat of CWA GILLETTE STREET; distances are surface distances based on the U.S. Survey Foot and may be converted to grid by multiplying by a combined scale factor of 0.999890843):</p> <p>BEGINNING at a 5/8-inch iron rod with plastic cap, stamped "TERRA SURVEYING", set marking the intersection of the south right-of-way (R.O.W.) line of Allen Parkway (public), based on a 195-foot width, with the east R.O.W. line of Gillette Street (public), based on a 60-foot width; both street rights-of-way being part of and out of the remainder of that certain called 48.78 acres described in deed to City of Houston, as recorded in Volume 372, Page 235, Deed</p>	<p>SECTION 2. Same as House version.</p>	

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<p>Records of Harris County, Texas; also, the alignment of said street rights-of-way are depicted on City File Room Drawings 6064 and 9387 for Allen Parkway, and 8064 and 36778 for Gillette Street; said iron rod also marking the northwest corner of said Westcreek Tract, said Unrestricted Reserve "A", and the herein described tract;</p> <p>THENCE, North 87°38'58" East, with the south R.O.W. line of said Allen Parkway, a distance of 387.79 feet to a 3/4-inch iron rod found marking the northwest corner of Reserve "A", Block 1, ALLEN PARKWAY VILLAGE, a plat of subdivision recorded under Film Code Number 428006, M.R.H.C.; said iron rod also marking the northeast corner of said Westcreek Tract, said Unrestricted Reserve "A", and the herein described tract, from which a 5/8-inch iron rod found for reference bears South 84°04' West, 2.40 feet;</p> <p>THENCE, South 02°19'25" East, departing said south R.O.W. line with the west line of said Reserve "A", and the east line of said Westcreek Tract and said Unrestricted Reserve "A", at 373.40 feet pass a 3/4-inch iron rod found marking the most easterly common corner of the aforesaid Unrestricted Reserves "A" and "B"; continuing, with said west line, and the east line of said Westcreek Tract and said Unrestricted Reserve "B", a total distance of 675.57 feet to a 5/8-inch iron rod with plastic cap, stamped "TERRA SURVEYING", set marking the southeast corner of said Westcreek Tract and the herein described tract;</p> <p>THENCE, South 87°38'09" West, across said Unrestricted Reserve "B" with the south line of said Westcreek Tract, a distance of 387.31 feet to a 5/8-inch iron rod with plastic cap, stamped "TERRA SURVEYING", set in the east R.O.W. line of the aforesaid Gillette Street and marking the</p>		

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<p>southwest corner of said Westcreek Tract and the herein described tract;</p> <p>THENCE, North 02°21'51" West, with the east R.O.W. line of said Gillette Street, at 418.66 feet pass the most westerly common corner of the aforesaid Unrestricted Reserves "A" and "B", from which a 3/4-inch iron rod found for reference bears South 87°38'58" West, 0.13 feet; continuing, a total distance of 675.66 feet to the POINT OF BEGINNING and containing 6.011 acres (261,835 square feet) of land.</p>		
<p>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.</p> <p>(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.</p> <p>(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.</p> <p>(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.</p>	<p>SECTION 3. Same as House version.</p>	

House Bill 4703
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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, 2019.

SENATE VERSION (IE)

SECTION 4. Same as House version.

CONFERENCE