

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1254
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Natural Resources
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the Texas Water Code allows property to be leased to a company for less than ten years without a bid process. Some perceive the code as putting Texas ports at a disadvantage with other ports around the nation. Individual maritime companies at times will guarantee significant capital investment into properties at public ports but only with a long-term lease to give the company enough time to recover the expenditure. Many Texas airports already have provisions allowing leases of property for up to 30 years without a bid. C.S.S.B. 1254 brings Texas ports in line with competing states and Texas airports. C.S.S.B. 1254 also provides for certain emergency purchases to meet security needs.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 60.039, Water Code, as follows:

Sec. 60.039. New heading: SURFACE LEASE FOR NOT MORE THAN 30 YEARS. Authorizes the navigation and canal commission (commission) to lease the surface of land for not more than 30, rather than 10, years by the entry of an order on the minutes of the commission and the execution of a lease in the manner provided by the original order. Makes a conforming change.

SECTION 2. Amends Section 60.040, Water Code, to make conforming changes.

SECTION 3. Amends Section 60.041, Water Code, to make conforming changes.

SECTION 4. Amends the heading to Section 60.042, Water Code, to make a conforming change.

SECTION 5. Amends Section 60.151, Water Code, as follows:

Sec. 60.151. PURPOSE. Provides that it is the purpose and intent of this subchapter to confer on districts individually, jointly, or mutually interested in a navigation project, including a project relating to improvements and facilities described in Sections 60.032 and 60.101 of this code, the fullest possible power of contract with regard to navigation or other projects of individual or common interest.

SECTION 6. Amends Subsection (a), Section 60.152, Water Code, to authorize one, rather than two, or more districts, which are interested in or may, in the judgment of the commission, be benefitted by a navigation or other project, to enter into contracts with the United States or with another district, rather than each other, or both, to consummate navigation or other projects of common interest.

SECTION 7. Amends Section 60.403, Water Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Authorizes a port commission, authorized designated officer of the port commission, or authorized designated employee of a port authority or district to make routine purchases or contracts in an amount not to exceed \$25,000.

(e) Authorizes a port commission to authorize its executive director, or any officer of the port commission specified in writing by the executive director, to make emergency purchases of more than \$25,000 when necessary to preserve or protect the public health or the safety of the residents within the boundaries of the port authority or the district, when necessary in the case of public calamity to relieve the necessity of residents or to preserve the property of the port authority or the district, when necessary because of unforeseen damage to the property of the port authority or the district, or when made necessary by security directives from the United States Homeland Security Department, the United States Coast Guard, the United States Transportation Security Administration, the United States Maritime Administration, or another state or federal agency responsible for homeland security. Requires the executive director or the executive director's designee to notify the port commissioners of a purchase not later than 48 hours after making the purchase under this authorization.

SECTION 8. Amends Subchapter N, Chapter 60, Water Code, by adding Section 60.4115, as follows:

Sec. 60.4115. NOTIFICATION OF SAFETY AND ENVIRONMENTAL RECORD OF CONTRACTOR. (a) Requires a person that enters into a contract with a district or port authority to provide, at the request of the district or port authority, notice to the district or authority of any citation, notice of violation or penalty, or other similar document, regarding a serious safety or environmental violation that the person received from an agency or department of this state or of the federal government. Requires the notice to include certain information.

(b) Authorizes a district or port authority to terminate a contract with a person if the district or authority determines that the person failed to give notice as required by Subsection (a) or misrepresented conduct that resulted in a citation, notice of violation or penalty, or similar sanction. Requires the district or port authority to compensate the person for services performed before the termination of the contract.

(c) Provides that this section applies to all purchasing methods available to a district or port authority.

SECTION 9. Amends Subsection (a), Section 60.412, Water Code, to provide that a contract for a purchase is exempt from the requirements of Sections 60.404 and 60.405 of this code if a contract is for the purchase of certain items.

SECTION 10. (a) Effective date: upon passage or September 1, 2003.

(b) Provides that Section 60.4115, Water Code, as added by this Act applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect at the time the contract was entered into, and the former law is continued in effect for that purpose.

(c) Provides that the changes in law made to Sections 60.039, 60.040, 60.041, and 60.042, Water Code, by this Act apply only to a lease entered into on or after the effective date of this Act. Provides that a lease entered into before the effective date of this Act is governed by the law in effect at the time the lease was entered into, and the former law is continued in effect for that purpose.