

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1642
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Administration
5/6/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Port of Houston Authority (authority) is a nearly 100-year-old organization, with a dual mission it must constantly balance. As a public governmental agency, it acts as the federally designated local sponsor of the 52-mile Houston Ship Channel, working with the United States Army Corps of Engineers to maintain the channel and performing other regulatory roles. It also operates a handful of the more than 150 public and privately owned terminals and industrial facilities along the channel, including major container and general cargo facilities. The scope of the authority's responsibilities and the channel is immense, with impacts reaching far beyond the Houston region.

The 82nd Legislature directed a special review of the authority by the Sunset Advisory Commission to evaluate concerns about its oversight and management, but did not subject the authority to abolishment. As a result of its review, the Sunset Advisory Commission recommended several statutory changes that are contained in this legislation.

C.S.H.B. 1642 amends current law relating to the Port of Houston Authority.

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 Subtitle A, Title 5, Special District Local Laws Code, by adding Chapter 5007, Special District Local Laws Code, as follows:

CHAPTER 5007. PORT OF HOUSTON AUTHORITY OF HARRIS COUNTY, TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 5007.001. DEFINITIONS. Defines in this chapter:

- (1) "authority" to mean the Port of Houston Authority of Harris County, Texas (authority);
- (2) "executive director" to mean the executive director of the authority (executive director);
- (3) "port commission" to mean the navigation and canal commission of the authority (port commission); and
- (4) "port commissioner" to mean a member of the port commission (port commissioner).

SECTION 2. Transfers Sections 1 and 7, Chapter 97, Acts of the 40th Legislature, 1st Called Session, 1927, to Subchapter A, Chapter 5007, Special District Local Laws Code, as added by

this Act, redesignates them as Sections 5007.002 and 5007.003, Special District Local Laws Code, and amends them as follows:

Sec. 5007.002. New heading: CREATION OF DISTRICT; VALIDATION; TERRITORY. Redesignates existing Section 1 as Section 5007.002. (a) Creates this subsection from existing text. Creates the Harris County Houston Ship Channel Navigation District of Harris County, Texas, in Harris County (District), as hereinafter described by metes and bounds, hereby and establishes it under authority of Article 3 (Legislative Department), Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), of the Constitution of the State of Texas, for the purpose of the development of deep water navigation and the improvement of rivers, bays, creeks, streams, and canals within or adjacent to the authority, rather than to such District, and to construct and maintain canals or waterways to permit navigation or in aid thereof and for the purpose of and authority to acquire, purchase, undertake, construct, maintain, operate, develop, and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, lands, towing facilities, and all other facilities or aids incident to or necessary to the operation or development of ports or waterways within the authority, rather than within said District, and extending to the Gulf of Mexico, as provided in Chapter 9 of the Revised Statutes of 1925; and provides that all orders of the Commissioners' Court of Harris County, Texas, and of the Navigation Commissioners, heretofore made in respect to the creation of such authority, rather than of such District, and the authorization and issuance of the bonds of said authority, rather than of said District and particularly an issue of One Million Five Hundred Thousand (\$1,500,000.00) Dollars of bonds voted at an election under date of December 4, 1926, are hereby in all things ratified, confirmed, and validated. Makes nonsubstantive changes.

(b) Creates this subsection from existing text and makes a conforming change.

Sec. 5007.003. New heading: AUTHORITY TO ISSUE BONDS. Redesignates existing Section 7 as Section 5007.003. Provides that the authority is authorized and empowered to issue in direct conformity with the Constitution and the laws of this State as and when necessary such bonds as may be voted from time to time by the voters voting at any election, rather than by the requisite two-thirds majority of the resident property tax paying voters voting at any election, when called and conducted in direct conformity with the Constitution and laws of Texas and to issue and sell the same subject to such provisions of the Constitution and laws of this State as may be in effect at the time, and subject to the approval of the Attorney General. Makes a conforming change.

SECTION 3. Transfers Sections 1 through 8, Chapter 292, Acts of the 40th Legislature, Regular Session, 1927, to Subchapter A, Chapter 5007, Special District Local Laws Code, as added by this Act, redesignates them as Sections 5007.004 and 5007.005, Special District Local Laws Code, and amends them as follows:

Sec. 5007.004. New heading: GRANT OF TITLE TO CERTAIN ISLANDS AND OTHER LAND; RELATED POWERS AND DUTIES; RIPARIAN LANDOWNERS; RESERVATION OF CERTAIN STATE RIGHTS AND POWERS. Redesignates existing Section 1 as Section 5007.004. (a) Creates this subsection from existing text. Changes a reference to Act to section and references to District to authority. Makes nonsubstantive changes.

(b) Redesignates existing Section 2 as Subsection (b). Changes a reference to Act to chapter.

(c) Redesignates existing Section 3 as Subsection (c) and makes conforming changes.

(d) Redesignates existing Section 4 as Subsection (d). Requires that the purposes and provisions of this section, and the grants, rights and privileges, thereunder to the authority, not affect, curtail or abridge the rights or privileges of riparian

owners of lands abutting upon the islands and lands subject to overflow, and lands lying under the streams, bays and lakes herein described or referred to, as the same existed under the Common Law or the Constitution or Statutes of Texas as of June 14, 1927, rather than under the Common Law or the Constitution or Statutes of Texas at the time this Act is required to become in force and effect, or to deprive riparian land owners of access to such streams, channels or waters. Makes conforming changes.

(e) Redesignates existing Section 5 as Subsection (e). Authorizes the State of Texas, to at any time, place the operation of the facilities under Subsection (b) under the supervision of the Railroad Commission of Texas, to insure reasonable wharfage and storage charges.

(f) Redesignates existing Section 6 as Subsection (f) and makes no further change to this subsection.

(g) Redesignates existing Section 7 as Subsection (g) and makes a conforming change.

Sec. 5007.005. New heading: RIGHTS OF WAY; EASEMENTS. Redesignates existing Section 8 as Section 5007.005. Makes conforming changes.

SECTION 4. Transfers Sections 1, 2, 3, 4, and 5A, Chapter 117, Acts of the 55th Legislature, Regular Session, 1957, to Subchapter A, Chapter 5007, Special District Local Laws Code, as added by this Act, redesignates them as Sections 5007.006, 5007.007, 5007.008, 5007.009, and 5007.010, Special District Local Laws Code, and amends them as follows:

Sec. 5007.006. New heading: REVENUE OBLIGATIONS; CERTAIN POWERS; FEES AND CHARGES; GRAIN ELEVATORS; TAXATION EXEMPTION; REFUNDING BONDS; CERTAIN BOND PROVISIONS. Redesignates existing Section 1 as Section 5007.006. (a) Changes references to District to authority.

(b) Authorizes the port commission, rather than the Board of Navigation and Canal Commissioners of said District (board), to covenant to and requires the port commission to prescribe fees and charges to be collected for the use of those improvements and facilities of the authority (the net revenues of which improvements and facilities are pledged, as hereinafter provided), which fees and charges are required to be reasonable and equitable and fully sufficient to produce revenues adequate to pay, and requires said port commissioner, rather than said board, to cause to be paid certain financial obligations. Makes a conforming change.

(b-1) Creates this subsection from existing text. Authorizes revenues which may be received in excess of those required for the purposes listed in the above Subsection (b) (relating to certain fees and charges as set forth to be collected for certain improvements and facilities), rather than subparagraphs (1), (2), (3), and (4), to be used by port commission, to pay the cost of any other authority improvements or for any other lawful purpose. Makes conforming changes.

(c) Makes conforming and nonsubstantive changes.

(d) Changes a reference to the Secretary of the board to the executive director of the port commission. Requires that all obligations issued hereunder be in registered or coupon form, and if in coupon form may be registerable as to principal only, or as to both principal and interest, to bear interest at a rate not to exceed the amount allowed by law, rather than a rate not to exceed six per cent (6%) per annum, payable annually or semiannually, and to be in such denominations and to mature serially or at one time not more than forty (40) years from their date in such manner as may be provided by the port commission. Requires that such obligations be sold in such manner and at such times as the

port commission is required to determine to be expedient and necessary to the interests of the authority, provided, that in no event shall such obligations be sold for a price which will result in an interest yield therefrom of more than the amount allowed by law, rather than more than six percent, computed to maturity according to standard bond tables in general use by banks and insurance companies. Requires that all obligations issued hereunder constitute negotiable instruments under Chapter 3 (Negotiable Instruments), Business & Commerce Code, rather than negotiable instruments within the meaning of the Negotiable Instruments Law of the State of Texas. Makes conforming and nonsubstantive changes.

(e)-(f) Makes conforming changes.

(g) Changes references to governing body of the District to port commission.

(h) Makes no change to this subsection.

(i) Changes a reference to Act to chapter and makes conforming changes.

(j) Prohibits the provisions of Sections 61.164 (Franchises), 61.165 (Franchise Election), and 61.168 (Petition Protesting Franchise), Water Code, rather than Articles 8240, 8241, 8243, V.T.C.S., 1925, and Chapter 134 (Conferring Additional Powers Upon on Navigation Districts), Acts 1935, 44th Legislature, Regular Session, as amended, and any other Statutes relating to the authorization or execution of mortgages and encumbrances or the granting of franchises or leases from being applicable to the authorization or execution of any mortgage or encumbrance entered into pursuant to the provisions of this chapter, nor to the granting of any franchise hereunder. Makes conforming and nonsubstantive changes.

(k)-(m) Makes conforming and nonsubstantive changes.

(n) Changes a reference to Act to section.

(o) Makes conforming changes.

(o-1) Creates this subsection from existing text and makes conforming and nonsubstantive changes.

(p) Makes a conforming change.

(q) Requires that all bonds issued hereunder be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under Chapter 3, Business & Commerce Code, rather than under the Negotiable Instruments Law of the State of Texas, and requires that all such bonds be and are hereby declared to be legal and authorized investments for certain entities and funds.

(r) Makes a nonsubstantive change.

Sec. 5007.007. New heading: CONVERSION OF AUTHORITY AND TAX SUPPORTED OBLIGATIONS; CERTAIN POWERS AND DUTIES; ELECTIONS; REFUNDING BONDS; MAINTENANCE TAX; ASSESSMENT OF TAXES. Redesignates existing Section 2 as Section 5007.007. (a) Provides that the authority, effective and operative January 1, 1958, is hereby converted to a navigation district operating under the provisions of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts) of Article XVI, Constitution of Texas, and after that date the authority will operate under Section 59 of Article XVI, rather than under Section 59 of Article XVI and this Section 2 of this Act. Deletes existing text prohibiting said Constitutional Provision

or this Section 2 from applying to said Authority until said effective date. Makes conforming and nonsubstantive changes.

(a-1) Creates this subsection from existing text. Provides that the authority is empowered and authorized to exercise, in addition to all powers conferred by this section, all powers conferred upon the authority by the law or laws under which it was organized, and, in addition, requires the authority to have all of the powers and jurisdiction conferred upon Districts originally organized under certain law or laws. Deletes Chapter 90 (Navigation Districts—Governing Boards), Acts, 1945, Forty-ninth Legislature, Regular Session, Page 130, as amended, from the list of law or laws of powers and jurisdiction conferred upon Districts that the authority is granted. Makes conforming and nonsubstantive changes.

(a-2) Creates this subsection from existing text and makes conforming and nonsubstantive changes. Deletes existing text setting forth the composition and appointment of the board of the Port Commission of the Port of Houston Authority of Harris County, Texas. Deletes existing text authorizing any act or thing authorized to be done by said Port Commission by provisions of this Act or by provision of any of the aforementioned laws and legislative acts to be done and performed by the General Manager of said Authority (or other person authorized to act in his place and stead) when so authorized by general or special rule, regulation, order, resolution or other direction of the Port Commission. Deletes existing text providing that the Navigation Board of said Authority is hereby defined and is required to be composed of the County Judge and County Commissioners of Harris County, Texas, the Mayor and Council members of the City of Houston, Texas, and the members of the Harris County Mayors' and Councils' Association.

(b) Requires that the ballots for an election to vote on the proposition of the issuance of bonds and the levy of taxes substantially contain certain words. Sets forth the language to be included on the ballot; and requires that said ballot conform to the requirements of the provisions of the Constitution of Texas and all other Statutes of Texas applicable thereto, rather than to the requirements of the provisions of the Constitution of Texas, Chapter 9 (Navigation Districts) of Title 128 (Water), Revised Civil Statutes, 1925, and all other Statutes of Texas applicable thereto. Makes conforming and nonsubstantive changes.

(c) Makes conforming changes.

(d) Deletes existing text of Subsection (d) requiring only duly qualified resident electors of said District who own taxable property within said District and who have duly rendered the same for taxation to be entitled to vote at said elections. Deletes existing text requiring every person who offers to vote in any such election who is not known by the election officials to possess said qualifications to take a certain oath before the Presiding Judge of the polling place where he offers to vote, and the Presiding Judge is authorized to administer the same. Deletes existing text of Subsection (d) setting forth the language to be included in the oath. Deletes existing Subsection (e) designation.

(e) Redesignates existing Subsection (f) as Subsection (e) and makes conforming changes.

(f) Redesignates existing Subsection (g) as Subsection (f). Requires that all tax bonds of the authority be issued in such denominations, be payable at such time or times not exceeding forty (40) years from their date or dates, and bear interest at a rate or rates not to exceed the amount allowed by law, rather than not to exceed six percent (6%) per annum, all as are authorized to be determined by said Commissioners Court. Makes conforming changes.

(g) Redesignates existing Subsection (h) as Subsection (g) and makes conforming changes.

(h)-(i) Redesignates existing Subsections (i)-(j) as Subsections (h)-(i) and makes no further change to these subsections.

(j)-(n) Redesignates existing Subsections (k)-(o) as Subsections (j)-(n) and makes conforming and nonsubstantive changes.

(o) Requires that the depository of the authority on April 29, 1957, rather than at the effective date of this Act, continue to be the depository of the authority until its successor is selected and qualified as herein provided. Makes conforming changes.

(p) Requires the authority to promulgate and enforce ordinances, rules and regulations for the promotion of the safety of life and property on or adjacent to the waterways, channels and turning basins within its jurisdiction from damages by fire and explosion thereon in the manner provided by Subchapter D (Regulatory Powers), Chapter 60 (Navigation Districts—General Provisions), Water Code, rather than by Chapter 486, Acts of the 57th Legislature, Regular Session, 1961, as amended.

(q) Makes conforming changes.

Sec. 5007.008. REFUNDING OF BONDS HERETOFORE VOTED. Redesignates existing Section 3 as Section 5007.009 and makes conforming changes.

Sec. 5007.009. New heading: CONSTRUCTION OF CHAPTER. Redesignates existing Section 4 as Section 5007.010 and makes conforming changes.

Sec. 5007.010. New heading: NAME AND TITLE CHANGES. Redesignates existing Section 5A as Section 5007.010 and makes no further change to this section.

SECTION 5. Amends Chapter 5007, Special District Local Laws Code, as added by this Act, by adding Subchapter B, as follows:

SUBCHAPTER B. ADMINISTRATION AND PLANNING

Sec. 5007.201. CONFLICT OF LAWS. Provides that, to the extent of a conflict between this subchapter and any other law, including Subchapter A, this subchapter prevails.

Sec. 5007.202. PROVISIONS NOT APPLICABLE TO AUTHORITY. Provides that Chapter 90, Acts of the 49th Legislature, Regular Session, 1945, and Chapter 211 (Navigation Districts—Governing Boards—Contracts), Acts of the 54th Legislature, Regular Session, 1955, do not apply to the authority.

Sec. 5007.203. SUNSET REVIEW. (a) Provides that the authority is subject to review under Chapter 325 (Sunset Law), Government Code (Texas Sunset Act), as if it were a state agency but is prohibited from being abolished under that chapter. Requires that the review be conducted as if the authority were scheduled to be abolished September 1, 2017.

(b) Requires that the review assess the authority's governance, management, and operating structure, and the authority's compliance with legislative requirements.

(c) Requires that the authority pay the cost incurred by the Sunset Advisory Commission (Sunset) in performing a review of the authority under this section. Requires Sunset to determine the cost, and requires the authority to pay the amount promptly on receipt of a statement from Sunset detailing the cost.

(d) Provides that this section expires September 1, 2019.

Sec. 5007.204. GOVERNING BODY; APPOINTMENT; TERMS; VACANCY. (a) Provides that the authority is governed by a port commission of seven port commissioners appointed as follows:

- (1) two port commissioners appointed by a majority of the city council of the City of Houston;
- (2) two port commissioners appointed by a majority of the Harris County Commissioners Court;
- (3) one port commissioner appointed by the city council of the City of Pasadena, who must reside in the city of Pasadena;
- (4) one port commissioner appointed by a majority of the Harris County Mayors' and Councils' Association, who must be a resident of a municipality in Harris County that is located adjacent to the Houston Ship Channel and has a population of less than 100,000; and
- (5) the chair of the port commission, appointed as described by Section 5007.205.

(b) Provides that Sections 61.159(a) (relating to setting the term limits for the port commission of the authority) and (d) (relating to filling a vacancy of a member of the port commission) and 61.160 (Qualifications; Compensation; Authority), Water Code, apply to the authority.

(c) Provides that the port commissioners serve staggered two-year terms that expire on February 1.

(d) Provides that a person is not eligible for appointment to the port commission if the person has previously served the equivalent of at least 12 full years on the port commission.

(e) Provides that of the two port commissioners each appointed under Subsections (a)(1) and (2), one serves a term expiring in an even-numbered year and one serves a term expiring in an odd-numbered year. Provides that the port commissioner appointed under Subsection (a)(3) serves a term expiring in an odd-numbered year. Provides that the port commissioner appointed under Subsection (a)(4) serves a term expiring in an even-numbered year.

(f) Requires the appointing entity, not later than the 45th day after the date on which a term expires or on which a vacancy begins, to appoint a new port commissioner. Provides that if the appointing entity fails to make the appointment before the 45th day, the office is considered an open position and the person serving in that position is ineligible for reappointment to fill the position, and:

- (1) if the appointing entity is the city council of the City of Houston, the city council of the City of Pasadena, or the Harris County Mayors' and Councils' Association, the Harris County Commissioners Court is required to appoint a port commissioner to fill the position; or
- (2) if the appointing entity is the Harris County Commissioners Court, the city council of the City of Houston is required to appoint a port commissioner to fill the position.

(g) Provides that if a second appointing entity under Subsection (f)(1) or (2) fails to make an appointment before the 90th day after the date on which the term expires or the vacancy begins:

(1) the office is considered an open position and the person serving in that position is ineligible for reappointment to fill the position; and

(2) the governor is required to appoint a port commissioner to fill the position with the advice and consent of the senate.

(h) Requires that a vacancy, if the vacancy occurs through death, resignation, or other reason, be filled in the manner provided for making the original appointment and in accordance with Subsections (f) and (g).

(i) Authorizes the governor to appoint a port commissioner under Subsection (g) only if the appointing entity under Subsection (f) fails to make an appointment within the period described by this section, and any subsequent appointment is required to be made by the appropriate appointing entity.

Sec. 5007.205. APPOINTMENT OF CHAIR; TERM. (a) Requires the City of Houston mayor and city council and the Harris County Commissioners Court to jointly appoint the chair of the port commission in January of odd-numbered years. Provides that the term of the chair expires on February 1 of each odd-numbered year.

(b) Requires the governor, if the mayor, city council, and commissioners court do not make an appointment within the period specified by this section, to appoint the chair of the port commission with the advice and consent of the senate. Authorizes the governor to appoint the chair only if the original appointing entities fail to make an appointment within the period described by this section, and any subsequent appointment must be made by the appointing entities.

(c) Requires the person appointed as the chair of the port commission to comply with the qualifications described by Section 61.160, Water Code.

(d) Requires the City of Houston mayor and city council, the Harris County commissioners, and the Harris County judge, on the second Monday of January in each odd-numbered year, to hold a joint meeting to appoint the chair of the port commission at the headquarters of the authority.

(e) Provides that in the meeting held under Subsection (d):

(1) each city council member and the mayor are required to have one vote; and

(2) each county commissioner and the county judge are required to have the mixed-fraction number of votes equal to the sum of the number of city council members plus the mayor divided by the sum of the number of county commissioners plus the county judge.

(f) Provides that the presence of individuals with a majority of the total potential votes is required to establish a quorum at the meeting. Provides that a separate quorum from each group, representing the city and the county, is not required. Requires that the chair be appointed by at least a majority of the total potential votes, in any combination.

(g) Provides that the city council, mayor, county commissioners, and county judge, in the event of a tie, have three calendar days to deliberate, convene a meeting, and revote. Authorizes the period to be extended to allow for compliance with Chapter 551 (Open Meetings), Government Code, as it applies to

the notice requirement for an open meeting. Provides that if a second vote results in a tie:

- (1) the office of the chair of the port commission is considered an open position and the person serving as the chair is not eligible for reappointment to fill the position; and
- (2) the governor is required to appoint the chair as provided by Subsection (b).

Sec. 5007.206. NAVIGATION BOARD. Provides that the navigation board of the authority is composed of the county judge and county commissioners of Harris County, the mayor and city council members of the City of Houston, and the members of the Harris County Mayors' and Councils' Association.

Sec. 5007.207. CONFLICT OF INTEREST. (a) Defines "Texas trade association" in this section.

(b) Prohibits a person from being a port commissioner and from being an authority employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

- (1) the person is an officer, employee, or paid consultant of a Texas trade association in a field relating to maritime commerce, the members of which are regulated by the authority; or
- (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field relating to maritime commerce, the members of which are regulated by the authority.

(c) Prohibits a person from being a port commissioner or acting as the general counsel to the port commission or the authority if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

(d) Prohibits a person from being a port commissioner if the person or an individual related to the person in the first degree of consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code:

- (1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the authority; or
- (2) uses or receives a substantial amount of tangible goods, services, or money from the authority other than compensation or reimbursement authorized by law for port commission membership, attendance, or expenses.

Sec. 5007.208. FILING OF FINANCIAL STATEMENT BY PORT COMMISSIONERS. (a) Requires a port commissioner to file the financial statement required of state officers under Subchapter B (Personal Finance Statement), Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), Government Code, with the authority and the Texas Ethics Commission (TEC).

(b) Provides that Subchapter B, Chapter 572, Government Code:

- (1) applies to a port commissioner subject to this section as if the port commissioner were a state officer; and
- (2) governs the contents of, timeliness of filing, public inspection of, and civil and criminal penalties relating to a statement filed under this section.

Sec. 5007.209. PORT COMMISSIONER TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a port commissioner from voting, deliberating, or being counted as a port commissioner in attendance at a meeting of the port commission until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding:

- (1) the legislation that created the authority;
- (2) the programs, functions, policies, rules, and budget of the authority;
- (3) the results of the most recent formal audit of the authority;
- (4) the duties of the port commission as the board of pilot commissioners for Harris County ports under Chapter 66 (Houston Pilots Licensing and Regulatory Act), Transportation Code;
- (5) the requirements of laws relating to open meetings, public information, administrative procedure, financial disclosure, and conflicts of interest; and
- (6) any applicable ethics policies adopted by the port commission or TEC.

(c) Entitles a person appointed to the port commission to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 5007.210. REMOVAL FROM OFFICE. (a) Provides that it is a ground for removal from the port commission that a port commissioner:

- (1) does not have at the time of taking office the qualifications required by Section 5007.204;
- (2) does not maintain during service on the port commission the qualifications required by Section 5007.204;
- (3) is ineligible for membership under Section 5007.207;
- (4) cannot, because of illness or disability, discharge the port commissioner's duties for a substantial part of the port commissioner's term;
- (5) commits malfeasance in office; or
- (6) is absent from more than half of the regularly scheduled port commission meetings that the port commissioner is eligible to attend during a calendar year without an excuse approved by a majority vote of the port commission.

(b) Provides that the validity of an action of the port commission is not affected by the fact that it is taken when a ground for removal of a port commissioner exists.

(c) Requires the executive director of the authority (executive director), if the executive director has knowledge that a potential ground for removal exists, to notify the chair of the port commission of the potential ground. Requires the chair to then notify the entity that appointed the port commissioner that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the chair, to notify the next highest ranking officer of the port commission, who is required to then notify the entities who appointed the chair that a potential ground for removal exists.

Sec. 5007.211. PORT COMMISSION POLICIES. (a) Requires the port commission to adopt detailed policies that document its governance practices and make those policies available on the authority's website.

(b) Requires the port commission to develop and implement policies that clearly separate the policymaking responsibilities of the port commission and the management responsibilities of the executive director and the other employees of the authority.

(c) Requires the port commission to distribute a copy of all policies adopted under this subchapter to each port commissioner and authority employee not later than the third business day after the date the person begins employment or a term as port commissioner.

Sec. 5007.212. EXECUTIVE DIRECTOR. (a) Requires the port commission to appoint an executive director of the authority. Requires the port commission to prescribe the duties and compensation of the executive director. Authorizes the port commission to delegate to the executive director full authority to manage and operate the affairs of the authority subject only to orders of the port commission.

(b) Requires the port commission to delegate to the executive director the authority to employ all persons necessary for the proper handling of the business and operation of the authority and to determine the compensation to be paid to all employees, other than the executive director or the chief audit executive employed under Section 5007.226(c).

(c) Requires the executive director to execute a bond for \$10,000 conditioned on the faithful performance of the executive director's duties and other conditions as required by the authority. Requires that the bond be recorded in a record kept for that purpose in the authority's office.

(d) Authorizes the port commission by general or special rule, regulation, order, resolution, or other direction to authorize the executive director or another person authorized to act instead of the executive director to perform any act on behalf of the port commission.

Sec. 5007.213. STANDARDS OF CONDUCT; ETHICS POLICY. (a) Prohibits a port commissioner or an authority employee from:

(1) accepting or soliciting any gift, favor, or service that might reasonably tend to influence the port commissioner or employee in the discharge of official duties or that the port commissioner or employee knows or should know is being offered with the intent to influence the port commissioner's or employee's official conduct;

(2) accepting other employment or engage in a business or professional activity that the port commissioner or employee might reasonably expect would require or induce the port commissioner or employee to disclose confidential information acquired by reason of the official position;

(3) accepting other employment or compensation that could reasonably be expected to impair the port commissioner's or employee's independence of judgment in the performance of the port commissioner's or employee's official duties;

(4) making personal investments that could reasonably be expected to create a substantial conflict between the port commissioner's or employee's private interest and the public interest; or

(5) intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for having exercised the port commissioner's or employee's official powers or performed the port commissioner's or employee's official duties in favor of another.

(b) Requires the port commission to adopt a written ethics policy for the port commissioners and authority employees consistent with the standards prescribed by Subsection (a).

Sec. 5007.214. ETHICS AFFIRMATION AND HOTLINE. (a) Requires a port commissioner or an authority employee to annually affirm the port commissioner's or employee's adherence to the ethics policy adopted under Section 5007.213.

(b) Requires the port commission to establish and operate a telephone hotline that enables a person to call the hotline number, anonymously or not anonymously, to report alleged fraud, waste, or abuse or an alleged violation of the ethics policy adopted under Section 5007.213.

Sec. 5007.215. COMPLAINTS. (a) Requires the authority to maintain a system to promptly and efficiently act on complaints filed with the authority. Requires the authority to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires the authority to make information available to the public, including on the authority's website, describing its procedures for complaint investigation and resolution.

(c) Requires the authority to periodically notify the complaint parties of the status of the complaint until final disposition.

(d) Requires the authority to develop a standard form and a procedure for submitting complaints to the authority and to make that form and procedure available on the authority's website. Requires the authority to also make available on its website clear information about what a person making a complaint should expect after the complaint is filed, including timelines for response and resolution.

(e) Requires the authority to compile detailed statistics and analyze trends on complaint information, including the nature of the complaints, the disposition of the complaints, and the length of time to resolve complaints.

(f) Requires authority staff to report the information compiled under Subsection (e) to senior management as designated by the executive director and the port commission on a regular basis.

Sec. 5007.216. PUBLIC INVOLVEMENT POLICY. Requires the port commission to develop and implement a policy that provides a structure for public involvement. Requires that the policy include:

(1) a clear and detailed description of how the authority will seek to actively engage stakeholders;

(2) specific actions the authority will take to meet or exceed the requirements of laws related to open meetings; and

(3) strategies that include use of the authority's website to make available clear, updated information on issues of public concern.

Sec. 5007.217. WHISTLEBLOWER POLICY. Requires the port commission to adopt a whistleblower policy consistent with Chapter 554 (Protection for Reporting Violations of Law), Government Code.

Sec. 5007.218. EXPENSE POLICY. Requires the port commission to adopt an expense policy that includes:

(1) spending guidelines for meals, lodging, and entertainment, including a process for handling and documenting exceptions to the guidelines if business needs require an exception;

(2) clear expense report protocols, including:

(A) the use of cash advances;

(B) the separation of reports from port commissioners and authority employees; and

(C) clear lines of accountability for the submission of reports; and

(3) a prohibition on the use of authority funds for a meal for a port commissioner or an authority employee that is not part of approved travel for authority business or part of a business-related function with outside parties.

Sec. 5007.219. PROMOTION AND DEVELOPMENT FUND. (a) Defines "promotion and development fund" in this section.

(b) Requires the port commission to adopt clear, complete policy and procedures to govern the use of the promotion and development fund. Requires that the policy and procedures include:

(1) provisions limiting acceptable uses of promotion and development fund money to uses with a direct tie to the mission of the authority;

(2) a consistent budget process;

(3) a process for requesting sponsorship funds by port commissioners, authority employees, and outside groups;

(4) an approval process for each type of expenditure from the promotion and development fund, including:

(A) the level of approval or notification required for authority employees, applicable task forces, and the port commission; and

(B) a requirement that each approved expenditure include a description of certain information;

(5) a procedure for handling exceptions to the policy, including a requirement that an exception be subject to the same reporting requirements as other approved expenditures from the promotion and development fund;

(6) a provision for evaluating the policy's effectiveness and having the port commission adopt updates to the policy as needed at regularly scheduled public meetings; and

(7) requirements for regular tracking of all expenditures from the promotion and development fund and reporting of the expenditures to the port commission and to the public by making the reports available on the authority's website.

(c) Requires that a report described by Subsection (b)(7) include detailed information about:

(1) travel by port commissioners;

(2) special uses of the authority's resources, including the use of any public tour vessels and the associated costs, sorted by authority division;

(3) sponsorship and similar spending; and

(4) total expenditures from the promotion and development fund, including year-to-date summary information by category of expenditure.

Sec. 5007.220. PLANNING DEFINITIONS. Defines "long-range plan," "mid-range plan," "one-year capital plan," and "staff" for the purposes of Sections 5007.221, 5007.222, 5007.224, and 5007.225.

Sec. 5007.221. LONG-RANGE PLANNING. (a) Requires appropriate staff to develop a long-range plan containing:

(1) a mission and values statement;

(2) an assessment of the authority's state as of the date of the plan;

(3) an assessment of the projected operating environment over the course of the long-range plan;

(4) a discussion of high-level goals, strategies, and priorities;

(5) a scheme for ongoing evaluation of progress toward stated goals, including performance measures; and

(6) other strategic planning elements, as considered appropriate by the staff or port commission.

(b) Requires the port commission to establish a planning horizon of at least 10 years for the long-range plan.

(c) Requires the staff to identify and collaborate with stakeholders to obtain input on the long-range plan.

(d) Authorizes the port commission to amend and requires the port commission to adopt the plan and any updates to the plan in an open meeting.

(e) Requires the staff to provide annual progress updates according to performance measures developed under Subsection (a)(5). Requires the staff to present a report on the annual progress to the port commission.

(f) Requires the staff to complete a comprehensive reevaluation and update of the long-range plan at least every five years, or more frequently if the port commission finds that conditions warrant a more frequent update.

Sec. 5007.222. MID-RANGE PLANNING. (a) Requires appropriate staff to develop a mid-range plan consistent with the long-range plan. Requires that the mid-range plan include:

(1) a five-year financial forecast addressing the financial needs and financing options of the authority for the five-year period, with information about the relative cost of the options;

(2) a five-year capital plan, including a preliminary analysis and prioritization of projects; and

(3) other detailed action plans as the port commission or staff finds necessary to achieve the goals of the mid-range plan or long-range plan.

(b) Requires the staff to present the mid-range plan in an open meeting of the port commission. Provides that the port commission is not required to adopt a mid-range plan.

Sec. 5007.223. BUDGET. Requires the port commission to annually adopt a budget for the authority in an open meeting.

Sec. 5007.224. ONE-YEAR CAPITAL PLAN. (a) Requires appropriate staff to develop a one-year capital plan, including associated financing, that is integrated with the budget of the authority.

(b) Requires the port commission to adopt the one-year capital plan in an open meeting.

(c) Requires the port commission to establish and document a detailed process for the analysis and approval of a project proposed for inclusion in the one-year capital plan. Authorizes a project to be included in the one-year capital plan only if it is approved in accordance with that process.

Sec. 5007.225. PUBLIC ACCESS TO BUDGET AND PLANNING INFORMATION.

(a) Requires the port commission to post on the authority's website and otherwise make available to the public the authority's most recently adopted budget and any plan adopted by the port commission at an open meeting, including the long-range plan, mid-range plan, one-year capital plan, and updates to that budget or those plans.

(b) Authorizes the port commission to redact sensitive business information from the plans made publicly available under this section.

Sec. 5007.226. INTERNAL AUDIT. (a) Requires the port commission to establish an internal audit procedure consistent with the purposes, duties, and standards for state agency internal audit procedures under Chapter 2102 (Internal Auditing), Government Code.

(b) Requires the port commission to create an internal audit task force consisting of port commissioners.

(c) Requires the port commission only to hire and authorizes the commission only to fire or suspend a chief audit executive, who is required to report to the internal audit task force. Requires the chief audit executive to coordinate all audit activity, including:

(1) compliance reviews;

(2) reviews of internal controls;

- (3) audits by the county auditor of Harris County;
- (4) contracted audits;
- (5) performance reviews; and
- (6) investigations of alleged fraud, waste, abuse, or ethics violations reported under Section 5007.214(b).

(d) Requires the chief audit executive to monitor the authority's compliance with statutory requirements governing use of the promotion and development fund, as defined by Section 5007.219(a).

(e) Requires the port commission to create, approve, and make available on the authority's website a risk-based annual audit plan.

(f) Requires the port commission to make internal audits available on request to the county auditor of Harris County, and any entity with the authority to appoint a port commissioner.

Sec. 5007.227. HARRIS COUNTY AUDITOR. (a) Authorizes the county auditor of Harris County may conduct a financial audit of the authority as part of an annual, county-wide risk assessment and audit plan. Requires that an audit performed under this subsection be conducted in accordance with generally accepted auditing standards as prescribed by:

- (1) the American Institute of Certified Public Accountants;
- (2) the Governmental Accounting Standards Board;
- (3) the United States Government Accountability Office; or
- (4) any other professionally recognized entity that prescribes auditing standards.

(b) Prohibits the county auditor of Harris County from conducting an operational audit of the authority or any audit that exceeds the scope of the audit described in Subsection (a).

(c) Requires the authority to reimburse the county auditor of Harris County for an audit conducted under Subsection (a), according to standard rates agreed to by the authority and the county before an audit is scheduled or performed. Requires that the rates be updated periodically.

(d) Provides that Sections 60.204(c) (relating to requiring a county auditor to limit the amount of income the Texas Commission of Environmental Quality sets aside in the promotion and development fund) and 61.174(b) (relating to requiring the county auditor to make additional reports and perform additional accounting services as needed by the district) and (c) (relating to the compensation for the county auditor), Water Code, do not apply to the authority.

Sec. 5007.228. ACCEPTANCE OF GIFTS. (a) Defines "gift" in this section.

(b) Authorizes the authority to accept a gift only if, not later than the 90th day after the date the port commission receives the gift, the port commission, in an open meeting, acknowledges the acceptance of the gift.

(c) Requires the authority, for a gift accepted under Subsection (b), to record the name of the donor, a description of the gift, and a statement of the purpose of the gift in the minutes of the port commission.

SECTION 6. Repealers: Sections 2, 3, 4, 5, 6, and 7a (relating to the creation and ratification of the Harris County Houston Ship Channel Navigation District), Chapter 97, Acts of the 40th Legislature, 1st Called Session, 1927;

Repealer: Section 9 (Sunset Review), Chapter 97 (Port of Houston Authority), Acts of the 40th Legislature, 1st Called Session, 1927, as added by Section 22, Chapter 1027, Acts of the 82nd Legislature, Regular Session, 2011;

Repealer: Section 9 (Sunset Review), Chapter 97 (Port of Houston Authority), Acts of the 40th Legislature, 1st Called Session, 1927, as added by Section 1.10, Chapter 1232, Acts of the 82nd Legislature, Regular Session, 2011;

Repealers: Sections 2 and 3 (relating to legal provisions for the Harris County Houston Ship Channel Navigation District), Chapter 86, Acts of the 49th Legislature, Regular Session, 1945;

Repealers: Sections 5 (Validation Provisions), 6 (Notice), and 7 (Severability Clause), Chapter 117, Acts of the 55th Legislature, Regular Session, 1957;

Repealers: Sections 2 and 3 (relating to legal provisions for the Harris County Houston Ship Channel Navigation District), Chapter 186, Acts of the 57th Legislature, Regular Session, 1961;

Repealer: Section 2 (relating to the powers and duties of the Harris County Houston Ship Channel Navigation District), Chapter 43, Acts of the 62nd Legislature, Regular Session, 1971; and

Repealers: Sections 2 (relating to the appointment of a port commissioner for the Port of Houston Authority) and 3 (providing that this Act does not affect port commissioners serving of the effective date of this Act), Chapter 1042, Acts of the 70th Legislature, Regular Session, 1987.

SECTION 7. (a) Provides that if a port commissioner of the authority serving on the effective date of this Act has served before that date the equivalent of at least 12 full years on the port commission, that port commissioner's term expires on October 1, 2013.

(b) Requires the appropriate entity, for a term that expires under Subsection (a) of this section, not later than October 2, 2013, to make an appointment as described by Section 5007.204, Special District Local Laws Code, as added by this Act, to a term as provided by Subsection (d) of this section.

(c) Provides that if a port commissioner, including the chair of the port commission, serving on the effective date of this Act has not served before that date the equivalent of 12 full years on the port commission, that person is reappointed to a term as provided in Subsection (d) of this section.

(d) Requires that the initial term for a person appointed or reappointed under Subsection (b) or (c) of this section be designated by the appropriate appointing entity in accordance with Sections 5007.204(e) and 5007.205(a), Special District Local Laws Code, as added by this Act. Provides that for purposes of the initial appointments or reappointments made under this section:

(1) a term that ends in an even-numbered year expires February 1, 2016; and

(2) a term that ends in an odd-numbered year expires February 1, 2015.

(e) Provides that a person is not eligible for an initial appointment or reappointment under Subsection (b) or (c) of this section, or for any appointment to the port commission

after the effective date of this Act, if the person has served the equivalent of at least 12 full years on the port commission before the effective date of this Act.

(f) Prohibits the person serving as chair on the effective date of this Act, notwithstanding Section 5007.204(d), Special District Local Laws Code, as added by this Act, from being reappointed as the chair after the sixth anniversary of the first date on which the person was appointed as chair.

SECTION 8. (a) Requires the port commissioners of the authority to, not later than December 1, 2013, adopt the policies, plans, and procedures necessary to implement Subchapter B, Chapter 5007, Special District Local Laws Code, as added by this Act.

(b) Requires that all policies adopted by the port commission of the authority, notwithstanding Section 5007.211, Special District Local Laws Code, as added by this Act, be distributed to certain persons.

SECTION 9. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 10. Effective date: September 1, 2013.