

BILL ANALYSIS

Senate Research Center

S.B. 1137
By: Creighton
Agriculture, Water & Rural Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Sabine-Neches Navigation District (SNND) of Jefferson County is a county-wide navigation district that is the local sponsor of the Sabine-Neches Waterway, the ship channel serving the Port of Beaumont, the Port of Port Arthur, and numerous petrochemical plants. The SNND is the third largest waterway in the United States and the nation's largest commercial military outport.

In June 2014, Congress adopted the Water Resources Reform and Development Act (WRDA) of 2014, Section 7002(1) which authorized the Sabine-Neches Waterway Improvement Project to deepen and widen the Sabine-Neches Waterway. The primary purpose of this proposed legislation is to provide absolute clarity on the authority of the navigation district to move forward with the project. S.B. 1137 authorizes the SNND to:

- enter an agreement with the Army Corps of Engineers and other entities as necessary to complete the project;
- utilize certain types of debt instruments and issue time warrants to fulfill its obligations for the project;
- enter contracts associated with the project without approval from the Texas Commission on Environmental Quality;
- use existing revenue sources to pay for the project; and
- save money to prepare for the project.

The bill does not authorize any new taxing authority.

The project authorized by the WRDA will be one of the most significant public infrastructure projects in the state over the next decade, allowing Texas industry to fully utilize the newly deepened Panama Canal. The project is widely supported by all stakeholders in Jefferson County as it is projected to bring tens of thousands of jobs and over \$100 billion in new business activity to the region.

S.B. 1137 amends current law relating to improvement projects of the Sabine-Neches Navigation District of Jefferson County, Texas; providing authority to issue anticipation notes and time warrants.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect Texas Commission on Environmental Quality as the successor agency to TNRCC.]

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 Chapter 1472, Acts of the 77th Legislature, Regular Session, 2001, by adding Section 6B, as follows:

Sec. 6B. WATERWAY IMPROVEMENT PROJECT. (a) Defines, in this section, "improvement project" and "project sponsor."

(b) Provides that the Sabine-Neches Navigation District (district) is the project sponsor of the existing Sabine-Neches Waterway and the improvement project authorized by the Water Resources Reform and Development Act of 2014 (Pub. L. No. 113-121) to improve an existing facility of the district and deepen the Sabine-Neches Waterway. Provides that the district is also the nonfederal cost-sharing sponsor of the improvement project. Requires the Texas Natural Resource Conservation Commission (TNRCC) to make a determination on matters that may be required or desirable as a project sponsor to implement the improvement project.

(c) Provides that, in the district's capacity as the project sponsor of the improvement project, the district is authorized to enter into any contract, agreement, including an economic development agreement, or lease as necessary or convenient to carry out any of the district's powers granted under this section. Provides that a contract, agreement, or lease, including any amendments to a contract, agreement, or lease, may provide any terms and conditions, and be for any term of years, as the TNRCC determines are in the best interests of the district. Provides that the contract, agreement, or lease may be entered into with any person, political subdivision, or governmental agency, including the United States, the secretary of the army or the secretary of the army's designees, the Army Corps of Engineers, any local government, any county government, any special district or authority, any local government corporation, any transportation corporation, any tax increment reinvestment zone, the State of Texas, any agency of the State of Texas, and any other entity. Provides that the district is authorized to enter into contracts with a private entity to develop or operate any part of the improvement project under Chapter 2267 (Public and Private Facilities and Infrastructure), Government Code, and those contracts may provide that the private entity:

(1) perform all or any part of the district's obligations under contracts or agreements with the United States; and

(2) use revenue or other money from the improvement project to prepay for duties or tariffs, including duties or tariffs that may not be effective until the improvement project is partially or wholly completed, which may be credited against future duties or tariffs.

(d) Authorizes the district to enter into a contract, agreement, or lease under Section 49.108 (Contract Elections) or 60.120 (Contracts, Leases, and Agreements Authorized), Water Code, as determined by TNRCC.

(e) Provides that the district is not required to obtain approval from the Texas Commission on Environmental Quality (TCEQ) for the district's contracts or financing related to the improvement project. Authorizes any contracts or agreements of the district to be renewed or extended, and any time warrants or maintenance notes may be refunded in the manner provided by general law.

(f) Authorizes the district to provide that payments required by any of the district's contracts, agreements, or leases may be payable from the sale of notes, taxes, or bonds, or any combination of notes, taxes, or bonds, or may be secured by a lien on or a pledge of any available funds, including proceeds of the district's maintenance tax, and may be payable subject to annual appropriation by the district. Provides that Sections 26.04 (Submission of Roll to Governing Body; Effective and Rollback Tax Rates), 26.05 (Tax rate), 26.07 (Election to Repeal Increase), and 26.012 (Definitions), Tax Code, do not apply to maintenance taxes levied and collected for payments under a contract, agreement, lease, time warrant, or maintenance note issued or executed under this section.

(g) Provides that the district is authorized to borrow money, receive advances of funds, and enter into repayment agreements for the repayment of borrowed money or advances, and to issue anticipation notes, time warrants, and maintenance notes. Authorizes the anticipation notes to be issued in accordance with Chapter 1431 (Anticipation Notes), Government Code, in the same manner as an eligible countywide district. Provides that tax anticipation notes issued under this subsection may not exceed 75 percent of the revenue or taxes anticipated to be collected in that year and shall be payable during the district's current fiscal year. Provides that time warrants and maintenance notes issued under this subsection may be issued to pay for any lawful expenditure of the district and are required to be payable over a period not to exceed 35 years from the date of issuance.

(h) Requires TNRCC to determine whether the amount of the district's maintenance taxes and other available resources required to pay the district's existing obligations is also sufficient to pay the debt service on any time warrants or maintenance notes issued under this section. Authorizes TNRCC to, in evaluating the tax rate, include in the district's budget an improvement project fund, which may be funded to assure that adequate funds are available to the district to comply with the district's covenants and obligations during future years when the amounts projected to be needed will exceed the then-current available maintenance tax funds.

SECTION 2. (a) Provides that 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 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution, and Chapter 313 (Notice for Local and Special Laws), Government Code.

(b) Provides that the governor, one of the required recipients, has submitted the notice and Act to TCEQ.

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) 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 3. Effective date: upon passage or September 1, 2015.