

BILL ANALYSIS

Senate Research Center

S.B. 755
By: Hinojosa
Transportation
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Navigation districts created or operating under Article XVI, Section 59, of the Texas Constitution are subject to Chapter 62 of the Water Code. Chapter 62 was codified nearly 50 years ago and many of its administrative sections are out of date and are no longer consistent with how navigation districts and other local governments operate today.

S.B. 755 clarifies, updates, and improves certain statutes related to the management of navigation districts. It will also harmonize the amendments made to Section 62.153 of the Water Code by the 85th Legislature. (Original Author's/Sponsor's Statement of Intent)

S.B. 755 amends current law relating to the administration, powers, and duties of certain navigation districts.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the navigation and canal commission in SECTION 1 (Section 62.0725, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 62, Water Code, by adding Section 62.0725, as follows:

Sec. 62.0725. EXECUTIVE DIRECTOR. (a) Authorizes the navigation and canal commission (commission) to employ an executive director of the navigation district operating under the provisions of Article XVI, Section 59, of the Texas Constitution (district). Requires the commission, if the commission employs an executive director, to prescribe the duties and compensation of the executive director.

(b) Authorizes the commission, by rule, order, or resolution, to delegate to an executive director the full authority necessary to manage the affairs of the district subject only to orders of the commission, including the authority to employ persons necessary for the operation of the district and to determine the compensation of those persons or perform any act on behalf of the district, as authorized by the commission.

(c) Authorizes the duties of an executive director to be performed by a general manager or chief executive officer.

SECTION 2. Amends the heading to Section 62.077, Water Code, to read as follows:

Sec. 62.077. COUNSEL.

SECTION 3. Amends Section 62.077(c), Water Code, to require the fees of counsel, rather than the amount of compensation for employees and fees of counsel, to be determined by the commission.

SECTION 4. Amends Section 62.113, Water Code, as follows:

Sec. 62.113. FORM OF CONTRACTS. Requires that all contracts made by the district, rather than the commission, be in writing and signed by the contractors, the executive director of the district, an authorized representative of the executive director, or a person to whom the duties of executive director have been delegated, rather than signed by the contractors and at least two of the commissioners, the executive director of the district, or an authorized representative of the executive director.

SECTION 5. Amends the heading to Section 62.115, Water Code, to read as follows:

Sec. 62.115. SUPERVISION OF WORK.

SECTION 6. Amends Section 62.115(a), Water Code, as follows:

(a) Requires that all work contracted for by the district, rather than by the commission, unless done under the supervision of the United States, be done under the supervision of a representative of the district, rather than be done under the supervision of the district engineer.

SECTION 7. Amends Sections 62.116(a) and (b), Water Code, as follows:

(a) Requires a representative of the district to inspect, rather than requiring the commission to inspect, the progress of work being done under a contract, and requires the district's chief financial officer, rather than the commission, on completion of the contract, to draw a warrant on the county treasurer or issue a check, rather than draw a warrant on the county treasurer, payable to the contractor or the contractor's assignee for the amount of the contract price. Requires the warrant or check to be paid out of the construction and maintenance fund or the operating fund, rather than the construction and maintenance fund, of the district. Makes conforming and nonsubstantive changes.

(b) Authorizes the district, rather than the commission, if the district considers it advisable, to contract for work to be paid for in partial payments as the work progresses. Requires that the amount of work completed at the time of the partial payment be shown by a certificate of a representative of the district, rather than by a certificate of the district engineer. Deletes existing text prohibiting the partial payments from exceeding in the aggregate eighty percent of the total amount to be paid under the contract.

SECTION 8. Amends Section 62.152, Water Code, as follows:

Sec. 62.152. New heading: PAYMENT OF EXPENSES. Authorizes the district, rather than the commission, to draw warrants or issue checks:

- (1) to pay for services, rather than legal services;
- (2) to pay the compensation of employees, rather than the salary of the engineer, his assistant, and any other employees; and
- (3) makes no changes to this subdivision.

SECTION 9. Reenacts and amends Section 62.153, Water Code, as amended by Chapters 398 (S.B. 1131) and 427 (S.B. 1395), Acts of the 85th Legislature, Regular Session, 2017, as follows:

Sec. 62.153. DUTIES OF DISTRICT TREASURER; AUTHORITY OF DESIGNATED OFFICER. (a) Makes nonsubstantive changes to this subsection.

(b) Redesignates existing text of existing Subsection (a)(5) as Subsection (b). Provides that the district treasurer is not required to sign a check drawn on a depository selected under Section 62.156 (Selection of Depository), unless the district treasurer is the designated officer of the district, as defined by Section

60.271(g) (relating to the definition of "designated officer"). Makes nonsubstantive changes.

(c) Creates this subsection from existing text. Makes no further changes to this subsection.

SECTION 10. Amends Subchapter C, Chapter 63, Water Code, by adding Section 63.1045 to read as follows:

Sec. 63.1045. EXECUTIVE DIRECTOR. (a) Authorizes the district to employ an executive director of the district. Requires the district, if the district employs an executive director, to prescribe the duties and compensation of the executive director.

(b) Authorizes the duties of an executive director to be performed by a general manager, port director, or chief executive officer.

SECTION 11. Amends Section 63.105, Water Code, as follows:

Sec. 63.105. ENGINEER. Authorizes the district, rather than the commission, to employ a competent engineer whose term of office and compensation are required to be determined by the district, rather than by the commission.

SECTION 12. Amends Section 63.107, Water Code, to make conforming changes.

SECTION 13. Amends Section 63.109, Water Code, as follows:

Sec. 63.109. PAYMENT OF COMPENSATION AND EXPENSES. Creates subdivisions from existing text and makes nonsubstantive changes. Authorizes the district, rather than the commission, to draw warrants, issue checks, or use a payment method adopted under Section 60.271 (Selection of Depository) to pay for:

- (1) services, rather than legal services;
- (2) the compensation of employees, rather than for the salaries of the engineer, his assistant, or any other employees; and
- (3) all expenses incident and relating to the district.

SECTION 14. Amends the heading to Section 63.175, Water Code, to read as follows:

Sec. 63.175. New heading: SUPERVISION OF WORK.

SECTION 15. Amends Section 63.175(a), Water Code, as follows:

(a) Requires all work contracted for by the district, rather than by the commission, unless done under the supervision of the United States, to be done under the supervision of a representative of the district, rather than under the supervision of the district engineer.

SECTION 16. Amends Sections 63.176(a) and (b), Water Code, as follows:

(a) Requires a representative of the district, rather than the commission, to inspect the work being done during its progress, and requires the district, rather than the commission, on completion of the contract, to draw a warrant on the district depository or issue a check in favor of the contractor or the contractor's assignee for the amount of the contract price. Makes conforming and nonsubstantive changes.

(b) Authorizes the district, if the district, rather than the commission, considers it advisable, to contract to pay for the work in partial payments as the work progresses. Prohibits partial payments from being more in the aggregate than the amount allowed under applicable laws, rather than from being more in the aggregate than 90 percent of

the contract price of the total amount of work done under the contract. Makes nonsubstantive and conforming changes.

SECTION 17. Repealer: Section 63.175(b) (relating to requiring the engineer, after the work is completed according to the contract, to make a detailed report of the work to the commission showing whether or not the contract was fully complied with according to its terms and, if not, in what particulars it has not been complied with), Water Code.

SECTION 18. Repealer: Section 62.076 (District Engineer), Water Code.

Repealer: Section 62.077(a) (relating to the authorization of the commission to employ assistant engineers and other employees), Water Code.

Repealer: Section 62.115(b) (relating to the requirement that the district engineer make a detailed report to the commission of the work after it is completed), Water Code.

SECTION 19. Provides that, to the extent of any conflict, this Act controls over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 20. Effective date: upon passage or September 1, 2019.