

AN ACT

relating to the leasing and contracting powers of a port authority or navigation district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 60.039, Water Code, is amended to read as follows:

Sec. 60.039. SURFACE LEASE FOR NOT MORE THAN 30 [~~10~~] YEARS. The commission may lease the surface of land for not more than 30 [~~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. The lease may not be extended beyond the 30-year [~~10-year~~] period by renewal, extension, or otherwise.

SECTION 2. Section 60.040, Water Code, is amended to read as follows:

Sec. 60.040. PUBLICATION OF NOTICE FOR SALES AND LEASES IN EXCESS OF 30 [~~10~~] YEARS. Before making a sale or lease of land for more than 30 [~~10~~] years, the commission shall publish a notice in the manner provided in Section 60.035 of this subchapter.

SECTION 3. Section 60.041, Water Code, is amended to read as follows:

Sec. 60.041. SECURITY FOR BIDS ON LAND TO BE SOLD OR LEASED FOR MORE THAN 30 [~~10~~] YEARS. Each bid submitted on land to be sold or leased for more than 30 [~~10~~] years shall be accompanied by a certified check, cashier's check, or bidder's bond with a

1 responsible corporate surety authorized to do business in Texas.
2 The check or bond shall be in an amount equal to the bid for the land
3 or for the first rental payment under the lease and shall guarantee
4 that the bidder will perform the terms of his bid if it is accepted
5 by the commission.

6 SECTION 4. The heading to Section 60.042, Water Code, is
7 amended to read as follows:

8 Sec. 60.042. AWARD AND EXECUTION OF DEED OR LEASE IN EXCESS
9 OF 30 [~~10~~] YEARS.

10 SECTION 5. Section 60.151, Water Code, is amended to read as
11 follows:

12 Sec. 60.151. PURPOSE. It is the purpose and intent of this
13 subchapter to confer on districts individually, jointly, or
14 mutually interested in a navigation project, including a project
15 relating to improvements and facilities described in Sections
16 60.032 and 60.101 of this code, the fullest possible power of
17 contract with regard to navigation or other projects of individual
18 or common interest.

19 SECTION 6. Section 60.152(a), Water Code, is amended to
20 read as follows:

21 (a) One [~~Two~~] or more districts, which are interested in or
22 may, in the judgment of the commission, be benefited by a navigation
23 or other project, may enter into contracts with the United States or
24 with another district [~~each other~~], or both, to consummate
25 navigation or other projects of common interest.

26 SECTION 7. Section 60.403(a), Water Code, is amended to
27 read as follows:

1 (a) A port commission, ~~[or]~~ authorized designated officer
2 of the port commission, or authorized designated employee of a port
3 authority or district may make routine purchases or contracts in an
4 amount not to exceed \$25,000.

5 SECTION 8. Subchapter N, Chapter 60, Water Code, is amended
6 by adding Section 60.4035 to read as follows:

7 Sec. 60.4035. CONTRACTS: EMERGENCY PURCHASES. (a)
8 Notwithstanding Sections 60.404 and 60.406, the executive director
9 of a port commission or an officer of a port commission authorized
10 in writing by the executive director of the port commission may make
11 emergency purchases or contracts in an amount that exceeds \$25,000
12 if necessary:

13 (1) to preserve or protect the public health and
14 safety of the residents of the district;

15 (2) to preserve the property of the district in the
16 case of a public calamity;

17 (3) to repair unforeseen damage to the property of the
18 district; or

19 (4) to respond to security directives issued by:

20 (A) the federal Department of Homeland Security,
21 including the Transportation Security Administration;

22 (B) the United States Coast Guard;

23 (C) the federal Department of Transportation,
24 including the Maritime Administration; or

25 (D) another federal or state agency responsible
26 for domestic security.

27 (b) The executive director of a port commission or the

1 authorized officer of the port commission shall notify the port
2 commissioners of any purchase made under Subsection (a) not later
3 than 48 hours after the purchase is made.

4 SECTION 9. Section 60.404(d), Water Code, is amended to
5 read as follows:

6 (d) The specifications must:

7 (1) describe in detail the item to be acquired;

8 (2) require that bids be sealed; ~~and~~

9 (3) require the attachment to the bid of a certified
10 check, cashier's check, or bidders bond; and

11 (4) indicate whether a small business development
12 program adopted by the port commission of the port authority or
13 district applies to the purchase and, if so, where a copy of the
14 program requirements may be obtained.

15 SECTION 10. Subchapter N, Chapter 60, Water Code, is
16 amended by adding Section 60.4115 to read as follows:

17 Sec. 60.4115. NOTIFICATION OF SAFETY AND ENVIRONMENTAL
18 RECORD OF CONTRACTOR. (a) A person that enters into a contract
19 with a district or port authority shall provide, at the request of
20 the district or port authority, notice to the district or authority
21 of any citation, notice of violation or penalty, or other similar
22 document regarding a serious safety or environmental violation that
23 the person received from an agency or department of this state or of
24 the federal government. The notice must include:

25 (1) a general description of the conduct that resulted
26 in the citation, violation, penalty, or similar sanction; and

27 (2) the document from the agency or department that

1 provided notice to the person of the citation, violation, penalty,
2 or similar sanction.

3 (b) A district or port authority may terminate a contract
4 with a person if the district or authority determines that the
5 person failed to give notice as required by Subsection (a) or
6 misrepresented conduct that resulted in a citation, notice of
7 violation or penalty, or similar sanction. The district or port
8 authority shall compensate the person for services performed before
9 the termination of the contract.

10 (c) This section applies to all purchasing methods
11 available to a district or port authority.

12 SECTION 11. Section 60.412(a), Water Code, is amended to
13 read as follows:

14 (a) A contract for a purchase is exempt from the
15 requirements of Sections 60.404 and 60.405 of this code if a
16 contract is for the purchase of:

17 (1) an item that must be purchased in a case of public
18 calamity if it is necessary to make the purchase promptly to relieve
19 the necessity of the citizens or to preserve the property of the
20 district or port authority;

21 (2) an item necessary to preserve or protect the
22 public health or the safety of the residents of the district or port
23 authority;

24 (3) an item made necessary by unforeseen damage to the
25 property of the district or port authority;

26 (4) a personal or professional service;

27 (5) any work performed and paid for by the day as the

work progresses;

(6) any land or right-of-way; ~~[or]~~

(7) an item that can be obtained only from one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies;

(B) films, manuscripts, or books;

(C) public utility services; and

(D) captive replacement parts or components for equipment; or

(8) any item necessary to secure a district or port authority during a period of heightened security as determined by:

(A) the federal Department of Homeland Security, including the Transportation Security Administration;

(B) the United States Coast Guard;

(C) the United States Customs Service;

(D) the Federal Bureau of Investigation;

(E) the federal Department of Transportation, including the Maritime Administration; or

(F) another federal, state, or local agency.

SECTION 12. Section 60.4125, Water Code, is amended by adding Subsection (d) to read as follows:

(d) If a purchase or contract made under Subsection (a) is subject to a small business development program adopted by the port commission of the port authority or district, the purchase solicitation must indicate that fact and must also indicate where a

1 copy of the program requirements may be obtained.

2 SECTION 13. (a) This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this Act takes effect September 1, 2003.

7 (b) Sections 60.4035 and 60.4115, Water Code, as added by
8 this Act, and Sections 60.404 and 60.4125, Water Code, as amended by
9 this Act, apply only to a contract entered into on or after the
10 effective date of this Act. A contract entered into before the
11 effective date of this Act is governed by the law in effect at the
12 time the contract was entered into, and the former law is continued
13 in effect for that purpose.

14 (c) The changes in law made to Sections 60.039, 60.040,
15 60.041, and 60.042, Water Code, by this Act apply to a lease entered
16 into before, on, or after the effective date of this Act.

H.B. No. 1730

President of the Senate

Speaker of the House

I certify that H.B. No. 1730 was passed by the House on May 6, 2003, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1730 on May 22, 2003, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1730 was passed by the Senate, with amendments, on May 20, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor