

By: Hamric

H.B. No. 1730

Substitute the following for H.B. No. 1730:

By: Harper-Brown

C.S.H.B. No. 1730

A BILL TO BE ENTITLED

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. Subchapter N, Chapter 60, Water Code, is amended
5 by adding Section 60.4115 to read as follows:

6 Sec. 60.4115. NOTIFICATION OF SAFETY AND ENVIRONMENTAL
7 RECORD OF CONTRACTOR. (a) A person that enters into a contract
8 with a district or port authority shall provide, at the request of
9 the district or port authority, notice to the district or authority
10 of any citation, notice of violation or penalty, or other similar
11 document regarding a serious safety or environmental violation that
12 the person received from an agency or department of this state or of
13 the federal government. The notice must include:

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

16 (2) the document from the agency or department that
17 provided notice to the person of the citation, violation, penalty,
18 or similar sanction.

19 (b) A district or port authority may terminate a contract
20 with a person if the district or authority determines that the
21 person failed to give notice as required by Subsection (a) or
22 misrepresented conduct that resulted in a citation, notice of
23 violation or penalty, or similar sanction. The district or port
24 authority shall compensate the person for services performed before
25 the termination of the contract.

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

SECTION 10. Section 60.412(a), Water Code, is amended to read as follows:

(a) 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:

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

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

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

(4) a personal or professional service;

(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

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

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

5 (B) the United States Coast Guard;

6 (C) the United States Customs Service;

7 (D) the Federal Bureau of Investigation;

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

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

11 SECTION 11. (a) This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2003.

16 (b) Sections 60.4035 and 60.4115, Water Code, as added by
17 this Act, apply only to a contract entered into on or after the
18 effective date of this Act. A contract entered into before the
19 effective date of this Act is governed by the law in effect at the
20 time the contract was entered into, and the former law is continued
21 in effect for that purpose.

22 (c) The changes in law made to Sections 60.039, 60.040,
23 60.041, and 60.042, Water Code, by this Act apply to a lease entered
24 into before, on, or after the effective date of this Act.