

1-1 By: Hamric (Senate Sponsor - Armbrister) H.B. No. 1730
1-2 (In the Senate - Received from the House May 7, 2003;
1-3 May 9, 2003, read first time and referred to Committee on
1-4 Administration; May 16, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 16, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1730 By: Janek

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the leasing and contracting powers of a port authority
1-11 or navigation district.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 60.039, Water Code, is amended to read as
1-14 follows:

1-15 Sec. 60.039. SURFACE LEASE FOR NOT MORE THAN 30 ~~[10]~~ YEARS.
1-16 The commission may lease the surface of land for not more than 30
1-17 ~~[10]~~ years by the entry of an order on the minutes of the commission
1-18 and the execution of a lease in the manner provided by the original
1-19 order. The lease may not be extended beyond the 30-year ~~[10-year]~~
1-20 period by renewal, extension, or otherwise.

1-21 SECTION 2. Section 60.040, Water Code, is amended to read as
1-22 follows:

1-23 Sec. 60.040. PUBLICATION OF NOTICE FOR SALES AND LEASES IN
1-24 EXCESS OF 30 ~~[10]~~ YEARS. Before making a sale or lease of land for
1-25 more than 30 ~~[10]~~ years, the commission shall publish a notice in
1-26 the manner provided in Section 60.035 of this subchapter.

1-27 SECTION 3. Section 60.041, Water Code, is amended to read as
1-28 follows:

1-29 Sec. 60.041. SECURITY FOR BIDS ON LAND TO BE SOLD OR LEASED
1-30 FOR MORE THAN 30 ~~[10]~~ YEARS. Each bid submitted on land to be sold
1-31 or leased for more than 30 ~~[10]~~ years shall be accompanied by a
1-32 certified check, cashier's check, or bidder's bond with a
1-33 responsible corporate surety authorized to do business in Texas.
1-34 The check or bond shall be in an amount equal to the bid for the land
1-35 or for the first rental payment under the lease and shall guarantee
1-36 that the bidder will perform the terms of his bid if it is accepted
1-37 by the commission.

1-38 SECTION 4. The heading to Section 60.042, Water Code, is
1-39 amended to read as follows:

1-40 Sec. 60.042. AWARD AND EXECUTION OF DEED OR LEASE IN EXCESS
1-41 OF 30 ~~[10]~~ YEARS.

1-42 SECTION 5. Section 60.151, Water Code, is amended to read as
1-43 follows:

1-44 Sec. 60.151. PURPOSE. It is the purpose and intent of this
1-45 subchapter to confer on districts individually, jointly, or
1-46 mutually interested in a navigation project, including a project
1-47 relating to improvements and facilities described in Sections
1-48 60.032 and 60.101 of this code, the fullest possible power of
1-49 contract with regard to navigation or other projects of individual
1-50 or common interest.

1-51 SECTION 6. Section 60.152(a), Water Code, is amended to
1-52 read as follows:

1-53 (a) One ~~[Two]~~ or more districts, which are interested in or
1-54 may, in the judgment of the commission, be benefited by a navigation
1-55 or other project, may enter into contracts with the United States or
1-56 with another district ~~[each other]~~, or both, to consummate
1-57 navigation or other projects of common interest.

1-58 SECTION 7. Section 60.403(a), Water Code, is amended to
1-59 read as follows:

1-60 (a) A port commission, ~~[or]~~ authorized designated officer
1-61 of the port commission, or authorized designated employee of a port
1-62 authority or district may make routine purchases or contracts in an
1-63 amount not to exceed \$25,000.

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

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

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

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

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

(4) to respond to security directives issued by:
(A) the federal Department of Homeland Security,
including the Transportation Security Administration;

(B) the United States Coast Guard;

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

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

(b) The executive director of a port commission or the authorized officer of the port commission shall notify the port commissioners of any purchase made under Subsection (a) not later than 48 hours after the purchase is made.

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

(d) The specifications must:
 (1) describe in detail the item to be acquired;
 (2) require that bids be sealed; ~~and~~
 (3) require the attachment to the bid of a certified check, cashier's check, or bidders bond; and

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

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

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

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

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

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

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

SECTION 11. 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

(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 copy of the program requirements may be obtained.

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

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

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

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