

By: Armbrister

S.B. No. 1254

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the leasing and contracting powers of a port authority  
3 or navigation district.

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

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

7 Sec. 60.039. SURFACE LEASE FOR NOT MORE THAN 30 [~~10~~] YEARS.  
8 The commission may lease the surface of land for not more than 30  
9 [~~10~~] years by the entry of an order on the minutes of the commission  
10 and the execution of a lease in the manner provided by the original  
11 order. The lease may not be extended beyond the 30-year [~~10-year~~]  
12 period by renewal, extension, or otherwise.

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

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

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

21 Sec. 60.041. SECURITY FOR BIDS ON LAND TO BE SOLD OR LEASED  
22 FOR MORE THAN 30 [~~10~~] YEARS. Each bid submitted on land to be sold  
23 or leased for more than 30 [~~10~~] years shall be accompanied by a  
24 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. Subsection (a), Section 60.152, Water Code, is  
20 amended to 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, Water Code, is amended by  
27 amending Subsection (a) and adding Subsection (e) to read as

1 follows:

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

6 (e) A port commission may authorize its executive director,  
7 or any officer of the port commission specified in writing by the  
8 executive director, to make emergency purchases of more than  
9 \$25,000 when necessary to preserve or protect the public health or  
10 the safety of the residents within the boundaries of the port  
11 authority or the district, when necessary in the case of public  
12 calamity to relieve the necessity of residents or to preserve the  
13 property of the port authority or the district, when necessary  
14 because of unforeseen damage to the property of the port authority  
15 or the district, or when made necessary by security directives from  
16 the United States Homeland Security Department, the United States  
17 Coast Guard, the United States Transportation Security  
18 Administration, the United States Maritime Administration, or  
19 another state or federal agency responsible for homeland security.  
20 The executive director or the executive director's designee shall  
21 notify the port commissioners of a purchase not later than 48 hours  
22 after making the purchase under this authorization.

23 SECTION 8. Subchapter N, Chapter 60, Water Code, is amended  
24 by adding Section 60.4115 to read as follows:

25 Sec. 60.4115. NOTIFICATION OF SAFETY AND ENVIRONMENTAL  
26 RECORD OF CONTRACTOR. (a) A person that enters into a contract  
27 with a district or port authority shall provide, at the request of

1 the district or port authority, notice to the district or authority  
2 of any citation, notice of violation or penalty, or other similar  
3 document, regarding a serious safety or environmental violation  
4 that the person received from an agency or department of this state  
5 or of the federal government. The notice must include:

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

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

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

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

20 SECTION 9. Subsection (a), Section 60.412, Water Code, is  
21 amended to read as follows:

22 (a) A contract for a purchase is exempt from the  
23 requirements of Sections 60.404 and 60.405 of this code if a  
24 contract is for the purchase of:

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

1 district or port authority;

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

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

7 (4) a personal or professional service;

8 (5) any work performed and paid for by the day as the  
9 work progresses;

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

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

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

16 (B) films, manuscripts, or books;

17 (C) public utility services; and

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

20 (8) any items necessary to secure a port during a  
21 period of heightened security threat level as determined by the  
22 United States Homeland Security Department, United States Coast  
23 Guard, United States Customs Service, Federal Bureau of  
24 Investigation, United States Maritime Administration, United  
25 States Transportation Security Administration, or other federal,  
26 state, or local agency or their successor that informs the port  
27 commission that the security threat level has increased.

1           SECTION 10. (a) This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2003.

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

12           (c) The changes in law made to Sections 60.039, 60.040,  
13 60.041, and 60.042, Water Code, by this Act apply only to a lease  
14 entered into on or after the effective date of this Act. A lease  
15 entered into before the effective date of this Act is governed by  
16 the law in effect at the time the lease was entered into, and the  
17 former law is continued in effect for that purpose.