

1-1 By: Armbrister S.B. No. 1254  
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 May 2, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 2, 2003, sent  
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1254 By: Armbrister

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. Subsection (a), Section 60.152, Water Code, is  
1-52 amended to 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, Water Code, is amended by  
1-59 amending Subsection (a) and adding Subsection (e) to read as  
1-60 follows:

1-61 (a) A port commission, [~~or~~] authorized designated officer  
1-62 of the port commission, or authorized designated employee of a port  
1-63 authority or district may make routine purchases or contracts in an

2-1 amount not to exceed \$25,000.

2-2 (e) A port commission may authorize its executive director,  
2-3 or any officer of the port commission specified in writing by the  
2-4 executive director, to make emergency purchases of more than  
2-5 \$25,000 when necessary to preserve or protect the public health or  
2-6 the safety of the residents within the boundaries of the port  
2-7 authority or the district, when necessary in the case of public  
2-8 calamity to relieve the necessity of residents or to preserve the  
2-9 property of the port authority or the district, when necessary  
2-10 because of unforeseen damage to the property of the port authority  
2-11 or the district, or when made necessary by security directives from  
2-12 the United States Homeland Security Department, the United States  
2-13 Coast Guard, the United States Transportation Security  
2-14 Administration, the United States Maritime Administration, or  
2-15 another state or federal agency responsible for homeland security.  
2-16 The executive director or the executive director's designee shall  
2-17 notify the port commissioners of a purchase not later than 48 hours  
2-18 after making the purchase under this authorization.

2-19 SECTION 8. Subchapter N, Chapter 60, Water Code, is amended  
2-20 by adding Section 60.4115 to read as follows:

2-21 Sec. 60.4115. NOTIFICATION OF SAFETY AND ENVIRONMENTAL  
2-22 RECORD OF CONTRACTOR. (a) A person that enters into a contract  
2-23 with a district or port authority shall provide, at the request of  
2-24 the district or port authority, notice to the district or authority  
2-25 of any citation, notice of violation or penalty, or other similar  
2-26 document, regarding a serious safety or environmental violation  
2-27 that the person received from an agency or department of this state  
2-28 or of the federal government. The notice must include:

2-29 (1) a general description of the conduct that resulted  
2-30 in the citation, violation, penalty, or similar sanction; and

2-31 (2) the document from the agency or department that  
2-32 provided notice to the person of the citation, violation, penalty,  
2-33 or similar sanction.

2-34 (b) A district or port authority may terminate a contract  
2-35 with a person if the district or authority determines that the  
2-36 person failed to give notice as required by Subsection (a) or  
2-37 misrepresented conduct that resulted in a citation, notice of  
2-38 violation or penalty, or similar sanction. The district or port  
2-39 authority shall compensate the person for services performed before  
2-40 the termination of the contract.

2-41 (c) This section applies to all purchasing methods  
2-42 available to a district or port authority.

2-43 SECTION 9. Subsection (a), Section 60.412, Water Code, is  
2-44 amended to read as follows:

2-45 (a) A contract for a purchase is exempt from the  
2-46 requirements of Sections 60.404 and 60.405 of this code if a  
2-47 contract is for the purchase of:

2-48 (1) an item that must be purchased in a case of public  
2-49 calamity if it is necessary to make the purchase promptly to relieve  
2-50 the necessity of the citizens or to preserve the property of the  
2-51 district or port authority;

2-52 (2) an item necessary to preserve or protect the  
2-53 public health or the safety of the residents of the district or port  
2-54 authority;

2-55 (3) an item made necessary by unforeseen damage to the  
2-56 property of the district or port authority;

2-57 (4) a personal or professional service;

2-58 (5) any work performed and paid for by the day as the  
2-59 work progresses;

2-60 (6) any land or right-of-way; [~~or~~]

2-61 (7) an item that can be obtained only from one source,  
2-62 including:

2-63 (A) items for which competition is precluded  
2-64 because of the existence of patents, copyrights, secret processes,  
2-65 or natural monopolies;

2-66 (B) films, manuscripts, or books;

2-67 (C) public utility services; and

2-68 (D) captive replacement parts or components for  
2-69 equipment; or

3-1 (8) any items necessary to secure a port during a  
3-2 period of heightened security threat level as determined by the  
3-3 United States Homeland Security Department, United States Coast  
3-4 Guard, United States Customs Service, Federal Bureau of  
3-5 Investigation, United States Maritime Administration, United  
3-6 States Transportation Security Administration, or other federal,  
3-7 state, or local agency or their successor that informs the port  
3-8 commission that the security threat level has increased.

3-9 SECTION 10. (a) This Act takes effect immediately if it  
3-10 receives a vote of two-thirds of all the members elected to each  
3-11 house, as provided by Section 39, Article III, Texas Constitution.  
3-12 If this Act does not receive the vote necessary for immediate  
3-13 effect, this Act takes effect September 1, 2003.

3-14 (b) Section 60.4115, Water Code, as added by this Act,  
3-15 applies only to a contract entered into on or after the effective  
3-16 date of this Act. A contract entered into before the effective date  
3-17 of this Act is governed by the law in effect at the time the contract  
3-18 was entered into, and the former law is continued in effect for that  
3-19 purpose.

3-20 (c) The changes in law made to Sections 60.039, 60.040,  
3-21 60.041, and 60.042, Water Code, by this Act apply only to a lease  
3-22 entered into on or after the effective date of this Act. A lease  
3-23 entered into before the effective date of this Act is governed by  
3-24 the law in effect at the time the lease was entered into, and the  
3-25 former law is continued in effect for that purpose.

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