

AN ACT

relating to navigation districts and the navigation and canal commission, including disposing of salvage or surplus personal property and purchasing by a district.

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

SECTION 1. Subchapter A, Chapter 60, Water Code, is amended by adding Section 60.004 to read as follows:

Sec. 60.004. ACT OR PROCEEDING OF DISTRICT PRESUMED VALID.

(a) An act or proceeding of a district, its governing body, or any local government corporation, development corporation, or nonprofit corporation of the district is conclusively presumed, as of the date it occurred, to be valid and to have occurred in accordance with all applicable statutes and ordinances if:

(1) the second anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that second anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred; or

(3) a matter that on the second anniversary of the

1 effective date of the act or proceeding:

2 (A) is involved in litigation if the litigation  
3 ultimately results in the matter being held invalid by a final court  
4 judgment; or

5 (B) has been held invalid by a final court  
6 judgment.

7 SECTION 2. Section 60.077, Water Code, is amended to read as  
8 follows:

9 Sec. 60.077. AUTHORITY OF PEACE OFFICERS. (a) In  
10 prosecutions involving the enforcement of the provisions of this  
11 subchapter or the enforcement of any ordinance, rule, or regulation  
12 of the district, any sheriff, constable, or other duly constituted  
13 peace officer of the State of Texas or any peace officer employed or  
14 appointed by the commission may make arrests, serve criminal  
15 warrants, subpoenas, or writs, and perform any other service or  
16 duty which may be performed by any sheriff, constable, or other duly  
17 constituted peace officer of the State of Texas in enforcing other  
18 laws of this state.

19 (b) A peace officer employed or appointed by the commission  
20 has the same powers and duties as a peace officer described by  
21 Article 2.12, Code of Criminal Procedure.

22 SECTION 3. Subsection (b), Section 60.120, Water Code, is  
23 amended to read as follows:

24 (b) Any contract, lease, or agreement entered into under  
25 Subsection (a) of this section shall be approved by resolution of  
26 the commission and shall be executed by the chairman, the executive  
27 director of the district, or an authorized representative of the

1 executive director [~~and attested by the secretary of the~~  
2 ~~commission~~].

3 SECTION 4. Section 60.153, Water Code, is amended to read as  
4 follows:

5 Sec. 60.153. EXECUTION OF CONTRACTS. A contract entered  
6 into by a district under this subchapter shall be approved by  
7 resolution of the commission, executed by the presiding officer of  
8 the commission, the executive director of the district, or an  
9 authorized representative of the executive director, and duly  
10 attested by the corporate seal of the district.

11 SECTION 5. Subsections (a) and (b), Section 60.403, Water  
12 Code, are amended to read as follows:

13 (a) A port commission, an authorized designated officer of  
14 the port commission, the executive director of the district or the  
15 port authority, or an authorized representative of the executive  
16 director [~~or authorized designated employee of a port authority or~~  
17 ~~district~~] may make routine purchases or contracts in an amount not  
18 to exceed \$25,000.

19 (b) Before a purchase is made, a purchase order or other  
20 form of precommitment approval must be signed by the executive  
21 director of the district or the port authority or an authorized  
22 representative of the executive director [~~the authorized~~  
23 ~~designated officer~~]. For routine contracts or purchases, the  
24 precommitment approval may be in the form of a list of approved  
25 routine purchases or contracts signed by the executive director.  
26 The signed list shall remain on file in the offices of the district  
27 or port authority.

1 SECTION 6. Subsection (b), Section 60.410, Water Code, is  
2 amended to read as follows:

3 (b) If a change order involves an increase or decrease in  
4 cost [~~of \$15,000 or~~] less than or equal to the amount authorized in  
5 Section 60.403(a) for routine purchases or contracts, a port  
6 commission may grant general authority to an employee to approve  
7 the change order. However, the original contract price may not be  
8 increased by more than 25 percent or decreased by 18 percent or more  
9 without the consent of the contractor.

10 SECTION 7. Subsection (a), Section 60.4125, Water Code, is  
11 amended to read as follows:

12 (a) Notwithstanding the other provisions of this subchapter  
13 or any other law, a district or port authority may make a purchase  
14 or enter into a contract valued at [~~\$25,000 or~~] more than the amount  
15 authorized in Section 60.403(a) for routine purchases or contracts  
16 by any method available to a school district, including all  
17 procedures and limitations, under Subchapter B, Chapter 44,  
18 Education Code, that, in the opinion of the port commission,  
19 provides the best value to the district or port authority.

20 SECTION 8. Section 60.454, Water Code, is amended to read as  
21 follows:

22 Sec. 60.454. PURCHASING CONTRACT METHODS. Notwithstanding  
23 any other provision of this chapter or other law, a district  
24 contract valued at [~~\$25,000 or~~] more than the amount authorized in  
25 Section 60.403(a) for routine purchases or contracts in the  
26 aggregate for each 12-month period may be made by the method below  
27 that, in the opinion of the district's commission, provides the

1 best value for the district:

2 (1) a design-build contract to construct,  
3 rehabilitate, alter, or repair facilities;

4 (2) a contract to construct, rehabilitate, alter, or  
5 repair facilities that involves using a construction manager-agent  
6 or construction manager-at-risk;

7 (3) competitive sealed proposals for construction,  
8 repair, rehabilitation, or alteration of a facility, and  
9 nonconstruction items;

10 (4) a job order contract for the construction, repair,  
11 rehabilitation, or alteration of a facility;

12 (5) a request for proposals, if the contract is for  
13 items [~~services~~] other than construction services;

14 (6) competitive sealed bids;

15 (7) a catalog purchase as provided by Subchapter B,  
16 Chapter 2157, Government Code;

17 (8) an interlocal contract as provided by Chapter 791,  
18 Government Code;

19 (9) the reverse auction procedure as defined by  
20 Section 2155.062(d), Government Code;

21 (10) a contract with the United States, including any  
22 agency thereof; or

23 (11) a contract with this state, including an agency  
24 of this state.

25 SECTION 9. Subsection (d), Section 60.463, Water Code, is  
26 amended to read as follows:

27 (d) The district shall prepare a request for competitive

1 sealed proposals that includes construction documents, selection  
2 criteria, [~~estimated budget,~~] project scope, schedule, and other  
3 information that contractors may require to respond to the request.  
4 The district shall state in the request for proposals the selection  
5 criteria that will be used in selecting the successful offeror.

6 SECTION 10. Section 62.113, Water Code, is amended to read  
7 as follows:

8 Sec. 62.113. FORM OF CONTRACTS. All contracts made by the  
9 commission shall be in writing and signed by the contractors and at  
10 least two of the commissioners, the executive director of the  
11 district, or an authorized representative of the executive  
12 director. [~~A copy of the contract shall be filed with the county~~  
13 ~~clerk.~~]

14 SECTION 11. Subchapter D, Chapter 62, Water Code, is  
15 amended by adding Section 62.122 to read as follows:

16 Sec. 62.122. DISPOSITION OF SALVAGE OR SURPLUS PERSONAL  
17 PROPERTY. The commission may periodically dispose of surplus or  
18 salvage personal property in the same manner as the commissioners  
19 court of a county under Subchapter D, Chapter 263, Local Government  
20 Code.

21 SECTION 12. Section 63.172, Water Code, is amended to read  
22 as follows:

23 Sec. 63.172. FORMAL REQUIREMENTS OF CONTRACT. [~~(a)~~] A  
24 contract entered into by the district shall be in writing and signed  
25 by the contractors and the commissioners, [or] any two of the  
26 commissioners, the executive director of the district, or an  
27 authorized representative of the executive director.

1           ~~[(b) A copy of the contract shall be filed with the county~~  
2 ~~clerk for reference.]~~

3           SECTION 13. (a) Except as provided by Subsection (b) of  
4 this section, the changes in law made by this Act related to  
5 contracts and purchases made by a navigation district or port  
6 authority apply only to a contract entered into or purchase made on  
7 or after the effective date of this Act. A contract entered into or  
8 purchase made before the effective date of this Act is governed by  
9 the law in effect on the date the contract was entered into or the  
10 purchase was made, and that law is continued in effect for that  
11 purpose.

12           (b) Sections 60.410 and 60.454, Water Code, as amended by  
13 this Act, apply to a contract entered into before, on, or after the  
14 effective date of this Act. A contract entered into by a navigation  
15 district or port authority under one of those sections before the  
16 effective date of this Act is validated in all respects as if the  
17 contract were entered into as authorized by law.

18           SECTION 14. This Act takes effect immediately if it  
19 receives a vote of two-thirds of all the members elected to each  
20 house, as provided by Section 39, Article III, Texas Constitution.  
21 If this Act does not receive the vote necessary for immediate  
22 effect, this Act takes effect September 1, 2007.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1531 passed the Senate on May 3, 2007, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 24, 2007, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1531 passed the House, with amendments, on May 23, 2007, by the following vote: Yeas 144, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor