

BILL ANALYSIS

C.S.H.B. 3785
By: Callegari
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Port authorities and navigation districts are governed by Chapter 60 of the Water Code. C.S.H.B. 3785 makes several updates to that chapter, allowing navigation districts or port authorities to establish employee catastrophic assistance funds, eliminating the requirement to use corporate seals for the attestation of contracts, and clarifying certain competitive bidding requirements for emergency purchases, public works contracts, and the procurement of construction services.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3785 amends the Water Code to authorize the navigation and canal commission or executive director of a navigation district to establish a program in the district to allow an employee to voluntarily transfer time earned by the employee as sick leave or vacation leave to a district employee catastrophic assistance fund and authorizes the commission or executive director to adopt rules and prescribe procedures and forms relating to the fund. The bill requires the commission or executive director to designate a person to administer the fund and to identify natural or man-made events classified as catastrophic for the purposes of the fund. The bill requires an employee to submit an application to the administrator in the prescribed form to contribute to the fund and authorizes an employee, on approval by the administrator, to contribute not less than one day or more than 10 days of the employee's combined accrued sick and vacation leave time to the fund in a fiscal year. The bill requires the administrator to credit the fund with a dollar amount equivalent to the hourly salary of the employee multiplied by the number of hours contributed by the employee and deduct the same number of hours from the accrued sick or vacation leave time, as applicable, to which the employee was entitled before the contribution as if the employee had used the time for personal purposes. The bill authorizes an employee who is terminated or who resigns or retires to make a contribution of not more than 10 days of the combined accrued sick leave or vacation leave time earned by the employee to take effect immediately before the effective date of the termination, resignation, or retirement. The bill establishes that an employee may be eligible for a transfer of money from the fund if, because of a catastrophic event, the employee has suffered unreimbursed losses or expenses. The bill requires an eligible employee to apply to the administrator for a transfer of money from the fund, and requires the administrator to approve the transfer of money from the fund to the employee if the administrator determines that the employee is eligible. The bill prohibits an eligible employee from receiving more than \$5,000 from the fund for any catastrophic event and requires the administrator to determine the amount of money that is transferred to the eligible employee. The bill defines "administrator," "assistance fund," and "employee."

C.S.H.B. 3785 removes the requirement that a contract entered into by a navigation district with the United States be duly attested by the corporate seal of the district. The bill requires the executive director of a district, rather than the executive director of a port commission, to notify

the appropriate port commissioners of any emergency purchase not later than 48 hours after the purchase is made. The bill specifies that the requirement to attach a certified check, cashier's check, or bidders bond to a bid is if security is required in connection with the bid. The bill replaces, in provisions relating to competitive bidding and proposal procedures required for certain contracts and to exemptions, references to statutes relating to competitive bidding requirements and proposal procedures for navigation districts with references to subchapters governing competitive bidding requirements and purchase contracts for navigation districts. The bill specifies that provisions relating to the requirement for a bidder to furnish a performance bond apply if the bond is required by a district or port authority. The bill specifies, in a provision requiring a district to read aloud prices stated in a competitive sealed proposal for construction services, that the prices are lump-sum prices. The bill repeals provisions relating to the investment of funds in the retirement, disability, and death compensation fund for navigation districts. The bill defines "administrator," "assistance fund," and "employee" for the purposes of the bill.

C.S.H.B. 3785 adds provisions that relate to the authority of a navigation district or port authority to make routine purchases or certain contracts in an amount not to exceed \$25,000. The bill specifies that provisions governing emergency purchases or contracts, including emergency amendments to existing purchase orders or contracts, as well as competitive bidding requirements and competitive bidding and proposal procedures required for certain contracts apply to purchases, contracts, or expenditures, as applicable, valued at an amount greater than the amount authorized under that authority, rather than an amount that exceeds \$25,000. The bill specifies that provisions governing contract awards apply to contracts valued at more than the amount authorized under that authority.

C.S.H.B. 3785 repeals Section 60.012, Water Code.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3785 establishes an employee catastrophic assistance program rather than an employee catastrophic assistance fund as in the original. The substitute adds a provision not in the original to define "assistance fund" and makes conforming changes. The substitute authorizes or requires the navigation and canal commission of a navigation district to take certain actions in connection with an employee catastrophic assistance program rather than the governing board of a district as in the original. The substitute authorizes an employee to contribute up to 10 days of accrued sick leave and vacation leave to an assistance fund rather than five days as in the original. The substitute differs from the original by prohibiting an employee from receiving more than \$5,000 from an assistance fund, whereas the original prohibits an employee from receiving an amount that exceeds \$1,000.

C.S.H.B. 3785 adds a provision not in the original to require the executive director of a district, rather than the executive director of a port commission, to notify the appropriate port commissioners of any emergency purchase not later than 48 hours after the purchase is made. The substitute adds a provision not in the original to specify that the requirement to attach a certified check, cashier's check, or bidders bond to a bid is applicable when security is required in connection with the bid. The substitute adds provisions not in the original to replace certain references to statutes relating to competitive bidding requirements and proposal procedures for navigation districts with references to subchapters governing competitive bidding requirements and purchase contracts for navigation districts. The substitute removes a provision from the original specifying that the designated officer authorized to execute certain contracts is an officer of the port commission. The substitute removes a provision from the original specifying that

requirements relating to the furnishing of a performance bond apply only to a contract or purchase order for public works.

C.S.H.B. 3785 differs from the original by repealing Section 60.012, Water Code.