

1 AN ACT

2 relating to the powers and duties of a navigation district or port
3 authority.

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

5 SECTION 1. Chapter 60, Water Code, is amended by adding
6 Subchapter B-1 to read as follows:

7 SUBCHAPTER B-1. EMPLOYEE CATASTROPHIC ASSISTANCE PROGRAM

8 Sec. 60.021. DEFINITIONS. In this subchapter:

9 (1) "Administrator" means the person designated by the
10 commission or executive director of a district to administer the
11 district's employee catastrophic assistance fund.

12 (2) "Assistance fund" means an employee catastrophic
13 assistance fund established by a district under this subchapter.

14 (3) "Employee" means a district employee with 12 or
15 more months of continuous employment with the district who is paid
16 from the general fund of the district, from a special fund of the
17 district, or from special grants paid through the district.

18 Sec. 60.022. ESTABLISHMENT OF EMPLOYEE CATASTROPHIC
19 ASSISTANCE PROGRAM. (a) The commission or executive director of a
20 district may establish a program in the district to allow an
21 employee to voluntarily transfer time earned by the employee as
22 sick leave or vacation leave to a district employee catastrophic
23 assistance fund.

24 (b) The commission or executive director of a district shall

1 designate a person to administer the district assistance fund.

2 (c) The commission or executive director of a district shall
3 identify natural or man-made events classified as catastrophic for
4 purposes of this subchapter.

5 (d) The commission or executive director of a district may
6 adopt rules and prescribe procedures and forms relating to the
7 operation of the district assistance fund.

8 Sec. 60.023. EMPLOYEE CONTRIBUTION TO DISTRICT ASSISTANCE
9 FUND. (a) To contribute to the district assistance fund, an
10 employee must submit an application to the administrator in the
11 prescribed form.

12 (b) On approval by the administrator, in a fiscal year the
13 employee may contribute to the district assistance fund not less
14 than one day or more than 10 days of the employee's combined accrued
15 sick leave and vacation leave time. The administrator shall credit
16 the fund with a dollar amount equivalent to the hourly salary of the
17 employee multiplied by the number of hours contributed by the
18 employee and shall deduct the same number of hours from the accrued
19 sick leave or vacation leave time, as applicable, to which the
20 employee was entitled before the contribution as if the employee
21 had used the time for personal purposes.

22 (c) An employee who is terminated or who resigns or retires
23 may make a contribution of not more than 10 days of the combined
24 accrued sick leave or vacation leave time earned by the employee, to
25 take effect immediately before the effective date of the
26 termination, resignation, or retirement.

27 Sec. 60.024. TRANSFERS FROM DISTRICT ASSISTANCE FUND TO

1 EMPLOYEES. (a) An employee may be eligible for a transfer of money
2 from the district assistance fund if, because of a catastrophic
3 event, the employee has suffered unreimbursed losses or expenses.

4 (b) An eligible employee must apply to the administrator for
5 a transfer of money from the district assistance fund. If the
6 administrator determines that the employee is eligible, the
7 administrator shall approve the transfer of money from the fund to
8 the employee.

9 (c) An eligible employee may not receive from the district
10 assistance fund more than \$5,000 for any catastrophic event. The
11 administrator shall determine the amount of money that is
12 transferred to the eligible employee.

13 SECTION 2. Section 60.153, Water Code, is amended to read as
14 follows:

15 Sec. 60.153. EXECUTION OF CONTRACTS. A contract entered
16 into by a district under this subchapter shall be approved by
17 resolution of the commission and~~[7]~~ executed by the presiding
18 officer of the commission, the executive director of the district,
19 or an authorized representative of the executive director~~[7, and~~
20 ~~duly attested by the corporate seal of the district]~~.

21 SECTION 3. Section 60.4035, Water Code, is amended to read
22 as follows:

23 Sec. 60.4035. CONTRACTS: EMERGENCY PURCHASES. (a)
24 Notwithstanding the competitive bidding requirements and proposal
25 procedures of this subchapter and Subchapter O and the requirements
26 of Sections 60.408(a), (b), (c), (d), and (e) [Sections 60.404 and
27 60.406], the executive director of a district [~~port commission~~] or

1 an officer of a district [~~port commission~~] authorized in writing by
2 the [~~executive director of the~~] port commission may make emergency
3 purchases or contracts or emergency amendments to existing purchase
4 orders or contracts in an amount that exceeds the amount authorized
5 under Section 60.403(a) for routine purchases or contracts
6 [~~\$25,000~~] if necessary:

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

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

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

13 (4) to respond to security directives issued by:

14 (A) the federal Department of Homeland Security,
15 including the Transportation Security Administration;

16 (B) the United States Coast Guard;

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

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

21 (b) The executive director of a district [~~port commission~~]
22 or the authorized officer of the district [~~port commission~~] shall
23 notify the port commissioners of any purchase made under Subsection
24 (a) not later than 48 hours after the purchase is made.

25 SECTION 4. Sections 60.404(a) and (d), Water Code, are
26 amended to read as follows:

27 (a) If the materials, supplies, machinery, equipment, or

1 other items to be purchased or contracted for are valued at an
2 amount greater than the amount authorized under Section 60.403(a)
3 for routine purchases or contracts [~~exceed \$25,000~~], notice shall
4 be published as provided by this section.

5 (d) The specifications must:

6 (1) describe in detail the item to be acquired;

7 (2) require that bids be sealed;

8 (3) require the attachment to the bid of a certified
9 check, cashier's check, or bidders bond, if security is required in
10 connection with the bid; and

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

15 SECTION 5. Section 60.406, Water Code, is amended to read as
16 follows:

17 Sec. 60.406. COMPETITIVE BIDDING AND PROPOSAL PROCEDURES
18 REQUIRED FOR CERTAIN CONTRACTS. (a) Except as otherwise provided
19 by Section 60.4035 or 60.412, before [~~Before~~] a district or port
20 authority may purchase one or more items under a contract that will
21 require an expenditure of more than the amount authorized under
22 Section 60.403(a) for routine purchases or contracts [~~\$25,000~~], the
23 port commission of that district or port authority must comply with
24 the competitive bidding requirements or proposal procedures
25 provided by this subchapter or Subchapter O [~~Sections 60.404 and~~
26 ~~60.405 of this code~~]. All bids must be sealed.

27 (b) The competitive bidding and proposal requirements

1 provided by this subchapter and Subchapter O [~~Sections 60.404 and~~
2 ~~60.405 of this code~~] apply only to contracts for which payment will
3 be made from current funds or bond funds.

4 (c) In applying the competitive bidding procedures and
5 proposal procedures, all separate, sequential, or component
6 purchases of items ordered or purchased from the same supplier by
7 the same officer, entity, or department, purchased with the intent
8 of avoiding the requirements of this subchapter or Subchapter O
9 [~~Section 60.404 or 60.405 of this code~~], shall be treated as if they
10 are part of a single purchase and a single contract.

11 SECTION 6. Sections 60.408(e), (f), (g), (h), and (i),
12 Water Code, are amended to read as follows:

13 (e) A contract valued at more than the amount authorized
14 under Section 60.403(a) for routine purchases or contracts shall be
15 awarded at a regularly scheduled or specially called meeting of the
16 port commission.

17 (f) A [~~The~~] contract valued at more than the amount
18 authorized under Section 60.403(a) for routine purchases or
19 contracts must be in writing, executed for the district or port
20 authority by the district's or port authority's [~~its~~] executive or
21 designated officer or by an authorized designated employee of the
22 district or port authority, and filed with the proper officer of the
23 district or port authority.

24 (g) Before a contract valued at more than the amount
25 authorized under Section 60.403(a) for routine purchases or
26 contracts takes effect or is binding on a district or port
27 authority, the appropriate financial officer of the district or

1 port authority must certify that funds are or will be available to
2 meet the contract when due.

3 (h) A contract, requisition, or purchase order valued at
4 more than the amount authorized under Section 60.403(a) for routine
5 purchases or contracts must be issued in duplicate with one copy
6 delivered to the contractor and one copy remaining on file with the
7 district or port authority.

8 (i) A purchase or contract valued at more than the amount
9 authorized under Section 60.403(a) for routine purchases or
10 contracts that is not in compliance with this subchapter is void and
11 unenforceable.

12 SECTION 7. Section 60.411(b), Water Code, is amended to
13 read as follows:

14 (b) Not later than the 10th day after the date of the signing
15 of a contract or issuance of a contract or purchase order [~~if~~
16 ~~required by a district or port authority~~], the bidder or proposal
17 offerer shall furnish a performance bond to the district or port
18 authority, if required by a district or port authority, for the full
19 amount of the contract if the contract exceeds \$50,000.

20 SECTION 8. Section 60.412, Water Code, is amended by
21 amending Subsection (a) and adding Subsection (c) to read as
22 follows:

23 (a) A contract for a purchase is exempt from the competitive
24 bidding requirements and proposal procedures of this subchapter and
25 Subchapter O [~~Sections 60.404 and 60.405~~] if a contract is for the
26 purchase of:

27 (1) an item that must be purchased in a case of public

1 calamity if it is necessary to make the purchase promptly to relieve
2 the necessity of the citizens or to preserve the property of the
3 district or port authority;

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

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

9 (4) a personal or professional service;

10 (5) any work performed and paid for by the day as the
11 work progresses;

12 (6) any land or right-of-way;

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

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

18 (B) films, manuscripts, or books;

19 (C) public utility services; and

20 (D) captive replacement parts or components for
21 equipment;

22 (8) any item necessary to secure a district or port
23 authority during a period of heightened security as determined by:

24 (A) the federal Department of Homeland Security,
25 including the Transportation Security Administration;

26 (B) the United States Coast Guard;

27 (C) the United States Bureau of Customs and

1 Border Protection;

2 (D) the Federal Bureau of Investigation;

3 (E) the federal Department of Transportation,
4 including the Maritime Administration; or

5 (F) another federal, state, or local agency; or

6 (9) an item from the United States, including any
7 agency thereof, or from this state, including an agency of this
8 state.

9 (c) A district or port authority shall comply with Chapter
10 2254, Government Code, in procuring professional services.

11 SECTION 9. Section 60.463(e), Water Code, is amended to
12 read as follows:

13 (e) The district shall receive, publicly open, and read
14 aloud the names of the offerors and, if any lump-sum prices are
15 required to be stated, all such lump-sum prices stated in each
16 proposal. Not later than the 45th day after the date of opening the
17 proposals, the district shall evaluate and rank each proposal
18 submitted in relation to the published selection criteria.

19 SECTION 10. Section 60.012, Water Code, is repealed.

20 SECTION 11. The changes in law made by this Act affecting
21 contracts, purchases, or amendments to existing purchase orders or
22 contracts made by a navigation district or port authority under
23 Subchapter N or O, Chapter 60, Water Code, apply only to a contract,
24 purchase, or amendment made on or after the effective date of this
25 Act. A contract, purchase, or amendment made before the effective
26 date of this Act is governed by the law in effect on the date the
27 contract, purchase, or amendment was made, and that law is

1 continued in effect for that purpose.

2 SECTION 12. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3785 was passed by the House on April 30, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3785 on May 29, 2009, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3785 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor