

By: Callegari

H.B. No. 3785

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Subchapter B, Chapter 60, Water Code, is amended by adding Section 60.015 to read as follows:

Section 60.015 EMPLOYEE CATASTROPHIC ASSISTANCE FUND. (a)

In this section:

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

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

(b) The governing board or executive director of a district may establish a program within the district to allow an employee to voluntarily transfer sick leave time earned by the employee to a district employee catastrophic assistance fund.

(c) The governing board or executive director of a district may allow an employee to voluntarily transfer vacation leave time earned by the employee to a district employee catastrophic assistance fund.

(d) The governing board or executive director of a district

1 may adopt rules and prescribe procedures and forms relating to the
2 operation of the district employee catastrophic assistance fund.

3 (e) The governing board or executive director of a district
4 shall designate a person to administer the district employee
5 catastrophic assistance fund.

6 (f) The governing board or executive director of a district
7 shall identify natural or man-made events classified as
8 catastrophic for purposes of this section.

9 (g) To contribute to the district employee catastrophic
10 assistance fund, an employee must submit an application to the
11 administrator in the prescribed form.

12 (h) On approval by the administrator, in a fiscal year the
13 employee may transfer to the district employee catastrophic
14 assistance fund not less than one day of accrued sick leave time, or
15 accrued vacation leave time, earned by the employee, nor more than
16 five days of accrued sick leave time and accrued vacation leave
17 time. The administrator shall credit the fund with an amount
18 equivalent to the hourly salary of such employee multiplied by the
19 amount of time contributed by the employee and shall deduct the same
20 amount of time from the accrued sick leave time or accrued vacation
21 leave time to which the employee is entitled, as if the employee had
22 used the time for personal purposes.

23 (i) An employee who is terminated or who resigns or retires
24 may donate not more than ten days of accrued sick leave time or
25 accrued vacation leave time earned by the employee, to take effect
26 immediately before the effective date of termination, resignation,
27 or retirement.

1 (j) An employee may be eligible for a transfer of funds
2 contributed to the district employee catastrophic assistance fund
3 if, because of a catastrophic event, the employee has suffered
4 unreimbursed losses or expenses.

5 (k) An eligible employee must apply to the administrator for
6 a transfer of funds from the district employee catastrophic
7 assistance fund. If the administrator determines that the employee
8 is eligible, the administrator shall approve the transfer of funds
9 from the pool to the employee.

10 (l) An eligible employee may not receive funds from the
11 district employee catastrophic assistance fund in an amount that
12 exceeds One thousand dollars (\$1,000) for any catastrophic event.
13 The administrator shall determine the exact amount of funds
14 transferred to the eligible employee.

15 SECTION 2. Section 60.153, Water Code is amended to read as
16 follows:

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

23 SECTION 3. Subsection (a), Section 60.4035, Water Code is
24 amended to read as follows:

25 (a) Notwithstanding the competitive bidding requirements
26 and proposal procedures of Subchapters N or O of this code, and the
27 requirements of Section 60.408(a) through (e) [Sections 60.404 and

1 ~~60.406~~], the executive director of a district [~~port commission~~] or
2 an officer of a district [~~port commission~~] authorized in writing by
3 the [~~executive director of~~] the port commission may make emergency
4 purchases or contracts, or emergency amendments to existing
5 purchase orders or contracts, in an amount [~~that exceeds \$25,000 if~~
6 ~~necessary~~] valued at more than the amount authorized under Section
7 60.403(a) for routine purchases or contracts.

8 SECTION 4. Subsection (a), Section 60.404, Water Code is
9 amended to read as follows:

10 (a) If the materials, supplies, machinery, equipment, or
11 other items to be purchased or contracted for [~~exceed \$25,000~~] are
12 valued at more than the amount authorized under Section 60.403(a)
13 for routine purchases or contracts, notice shall be published as
14 provided by this section.

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

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

26 SECTION 6. Subsections (e) through (i), Section 60.408,
27 Water Code are amended to read as follows:

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

5 (f) The contract valued at more than the amount authorized
6 under Section 60.403(a) for routine purchases or contracts must be
7 in writing, executed for the district or port authority by its
8 executive or designated officer of the port commission, or an
9 authorized designated employee of a port authority or district, and
10 filed with the proper officer of the district or port authority.

11 (g) Before a contract valued at more than the amount
12 authorized under Section 60.403(a) for routine purchases or
13 contracts takes effect or is binding on a district or port
14 authority, the appropriate financial officer of the district or
15 port authority must certify that funds are or will be available to
16 meet the contract when due.

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

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

26 SECTION 7. Subsection (b), Section 60.411, Water Code is
27 amended to read as follows:

1 (b) Not later than the 10th day after the date of the signing
2 of a contract or issuance of a contract or purchase order [~~if~~
3 ~~required by a district or port authority~~] for public works, the
4 bidder or proposal offerer shall furnish a performance bond to the
5 district or port authority, if required by a district or port
6 authority, for the full amount of the contract if the contract
7 exceeds \$50,000.

8 SECTION 8. Subsection (a), Section 60.412, Water Code is
9 amended to read as follows:

10 (a) A contract for a purchase is exempt from the competitive
11 bidding [~~provided by~~] requirements or proposal procedures of
12 Subchapters N or O of this code, [~~Sections 60.404 and 60.405~~] if a
13 contract is for the purchase of:

14 (1) an item that must be purchased in a case of public
15 calamity if it is necessary to make the purchase promptly to relieve
16 the necessity of the citizens or to preserve the property of the
17 district or port authority;

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

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

23 (4) a personal or professional service;

24 (5) any work performed and paid for by the day as the
25 work progresses;

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

27 (7) an item that can be obtained only from one source,

1 including:

2 (A) items for which competition is precluded
3 because of the existence of patents, copyrights, secret processes,
4 or natural monopolies;

5 (B) films, manuscripts, or books;

6 (C) public utility services; and

7 (D) captive replacement parts or components for
8 equipment;

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

11 (A) the federal Department of Homeland Security,
12 including the Transportation Security Administration;

13 (B) the United States Coast Guard;

14 (C) the United States Bureau of Customs and
15 Border Protection;

16 (D) the Federal Bureau of Investigation;

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

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

20 (9) an item from the United States, including any
21 agency thereof, or from this state, including an agency of this
22 state.

23 SECTION 9. Subsection (e), Section 60.463, Water Code is
24 amended to read as follows:

25 (e) The district shall receive, publicly open, and read
26 aloud the names of the offerors and, if any lump-sum prices are
27 required to be stated, all such lump-sum prices stated in each

1 proposal. Not later than the 45th day after the date of opening the
2 proposals, the district shall evaluate and rank each proposal
3 submitted in relation to the published selection criteria.

4 SECTION 10. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2009.