

By: Taylor

H.B. No. 4651

A BILL TO BE ENTITLED

AN ACT

relating to the sovereign immunity of certain local governmental entities regarding certain contracts.

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

SECTION 1. Section 271.151(2), Local Government Code, is amended to read as follows:

(2) "Contract subject to this subchapter" means:

(A) a written contract stating the essential terms of the agreement for providing goods or services to the local governmental entity that is properly executed on behalf of the local governmental entity; or

(B) a written contract for the lease of public land located at a port improvement or facility managed and controlled by a board of trustees established under Section 54.051, Transportation Code, for a proprietary function, including the construction or operation of retail, office, hotel, restaurant, residential, or parking facilities, or other tourism-related improvements.

SECTION 2. Section 54.053, Transportation Code, is amended by amending Subsections (c) and (d) and adding Subsection (c-1) to read as follows:

(c) A board has the power to construct a port improvement or facility on land acquired by purchase, lease, or otherwise.

(c-1) A ~~and a~~ board may convey by lease, sublease, or

1 sale by installment or otherwise, on the terms the board determines  
2 to be advantageous, the land, interest in the land, or port  
3 improvement or facility. A contract for the lease of public land  
4 for the construction or operation of retail, office, hotel,  
5 restaurant, residential, or parking facilities, or other  
6 tourism-related improvements, is a proprietary function and not a  
7 public or governmental function.

8 (d) Except as provided by Subsection (c-1), each ~~[Each]~~  
9 power provided by this section is a public and governmental  
10 function, is exercised for a public purpose, and is a matter of  
11 public necessity.

12 SECTION 3. Section 54.056, Transportation Code, is  
13 repealed.

14 SECTION 4. (a) The changes in law made by this Act apply to  
15 a contract executed by a local governmental entity regardless of  
16 whether the contract was executed before, on, or after the  
17 effective date of this Act.

18 (b) The waiver of sovereign immunity created by this Act  
19 concedes no defense by any party in a pending lawsuit except that of  
20 sovereign immunity.

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