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

SUBCHAPTER B-1. EMPLOYEE CATASTROPHIC ASSISTANCE PROGRAM

Sec. 60.021. DEFINITIONS. In this subchapter:

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

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

(3) "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.

Sec. 60.022. ESTABLISHMENT OF EMPLOYEE CATASTROPHIC ASSISTANCE PROGRAM. (a) The commission or executive director of a district may 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.

(b) The commission or executive director of a district shall designate a person to administer the district assistance fund.

(c) The commission or executive director of a district shall identify natural or man-made events classified as

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catastrophic for purposes of this subchapter.

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

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

(b) On approval by the administrator, in a fiscal year the employee may contribute to the district assistance fund not less than one day or more than 10 days of the employee's combined accrued sick leave and vacation leave time. The administrator shall 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 shall deduct the same number of hours from the accrued sick leave 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.

(c) An employee who is terminated or who resigns or retires may 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.

Sec. 60.024. TRANSFERS FROM DISTRICT ASSISTANCE FUND TO EMPLOYEES. (a) An employee may be eligible for a transfer of money from

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the district assistance fund if, because of a catastrophic event, the employee has suffered unreimbursed losses or expenses.

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

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

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

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

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

Sec. 60.4035. CONTRACTS: EMERGENCY PURCHASES. (a) Notwithstanding the competitive bidding requirements and proposal procedures of this

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subchapter and Subchapter O and the requirements of Sections 60.408(a), (b), (c), (d), and (e) [Sections 60.404 and 60.406], the executive director of a district [~~port commission~~] or an officer of a district [~~port commission~~] authorized in writing by the [~~executive director of the~~] port commission may make emergency purchases or contracts or emergency amendments to existing purchase orders or contracts in an amount that exceeds the amount authorized under Section 60.403(a) for routine purchases or contracts [\$25,000] if necessary:

- (1) to preserve or protect the public health and safety of the residents of the district;
- (2) to preserve the property of the district in the case of a public calamity;
- (3) to repair unforeseen damage to the property of the district; or
- (4) to respond to security directives issued by:
 - (A) the federal Department of Homeland Security, including the Transportation Security Administration;
 - (B) the United States Coast Guard;
 - (C) the federal Department of Transportation, including the Maritime Administration; or
 - (D) another federal or state agency responsible for domestic security.

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

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

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

(d) The specifications must:

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

(2) require that bids be sealed;

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

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

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

Sec. 60.406. COMPETITIVE BIDDING AND PROPOSAL PROCEDURES REQUIRED FOR CERTAIN CONTRACTS. (a) Except as otherwise provided by Section 60.4035 or 60.412, before [Before] a district or port authority may purchase one or more items under a contract that will require an expenditure of more than the amount authorized under Section 60.403(a) for

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routine purchases or contracts [~~\$25,000~~], the port commission of that district or port authority must comply with the competitive bidding requirements or proposal procedures provided by this subchapter or Subchapter O [~~Sections 60.404 and 60.405 of this code~~]. All bids must be sealed.

(b) The competitive bidding and proposal requirements provided by this subchapter and Subchapter O [~~Sections 60.404 and 60.405 of this code~~] apply only to contracts for which payment will be made from current funds or bond funds.

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

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

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

(f) A [~~The~~] contract valued at more than the amount authorized under Section 60.403(a) for routine purchases or contracts must be in writing, executed for the district

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or port authority by the district's or port authority's [its] executive or designated officer or by an authorized designated employee of the district or port authority, and filed with the proper officer of the district or port authority.

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

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

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

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

(b) Not later than the 10th day after the date of the signing of a contract or issuance of a contract or purchase order [~~if required by a district or port authority~~], the bidder or proposal offerer shall furnish a performance bond to the district or port authority, if

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required by a district or port authority, for the full amount of the contract if the contract exceeds \$50,000.

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

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

- (1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the district or port authority;
- (2) an item necessary to preserve or protect the public health or the safety of the residents of the district or port authority;
- (3) an item made necessary by unforeseen damage to the property of the district or port authority;
- (4) a personal or professional service;
- (5) any work performed and paid for by the day as the work progresses;
- (6) any land or right-of-way;
- (7) an item that can be obtained only from one source, including:
 - (A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies;

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SECTION 8. Section60.412, Water Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

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

- (1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the district or port authority;
- (2) an item necessary to preserve or protect the public health or the safety of the residents of the district or port authority;
- (3) an item made necessary by unforeseen damage to the property of the district or port authority;
- (4) a personal or professional service;
- (5) any work performed and paid for by the day as the work progresses;
- (6) any land or right-of-way;
- (7) an item that can be obtained only from one source, including:
 - (A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies;

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- (B) films, manuscripts, or books;
- (C) public utility services; and
- (D) captive replacement parts or components for equipment;
- (8) any item necessary to secure a district or port authority during a period of heightened security as determined by:
 - (A) the federal Department of Homeland Security, including the Transportation Security Administration;
 - (B) the United States Coast Guard;
 - (C) the United States Bureau of Customs and Border Protection;
 - (D) the Federal Bureau of Investigation;
 - (E) the federal Department of Transportation, including the Maritime Administration; or
 - (F) another federal, state, or local agency; or
- (9) an item from the United States, including any agency thereof, or from this state, including an agency of this state.

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

- (e) The district shall receive, publicly open, and read aloud the names of the offerors and, if any lump-sum prices are required to be stated, all such lump-sum prices stated in each proposal. Not later than the 45th day after

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- (B) films, manuscripts, or books;
- (C) public utility services; and
- (D) captive replacement parts or components for equipment;
- (8) any item necessary to secure a district or port authority during a period of heightened security as determined by:
 - (A) the federal Department of Homeland Security, including the Transportation Security Administration;
 - (B) the United States Coast Guard;
 - (C) the United States Bureau of Customs and Border Protection;
 - (D) the Federal Bureau of Investigation;
 - (E) the federal Department of Transportation, including the Maritime Administration; or
 - (F) another federal, state, or local agency; or
- (9) an item from the United States, including any agency thereof, or from this state, including an agency of this state.

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

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the date of opening the proposals, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

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

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

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

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