

1-1 By: Smith of Harris, Callegari H.B. No. 2770
1-2 (Senate Sponsor - Williams)
1-3 (In the Senate - Received from the House May 4, 2011;
1-4 May 5, 2011, read first time and referred to Committee on
1-5 Transportation and Homeland Security; May 20, 2011, reported
1-6 favorably by the following vote: Yeas 9, Nays 0; May 20, 2011, sent
1-7 to printer.)

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the powers and duties of navigation districts, port
1-11 authorities, and certain municipalities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 551, Government Code, is
1-14 amended by adding Section 551.090 to read as follows:

1-15 Sec. 551.090. DELIBERATION REGARDING CERTAIN NEGOTIATIONS
1-16 AND PROPOSED CHANGES TO FACILITIES OR SERVICES; CLOSED MEETING.
1-17 This chapter does not require a navigation district, port
1-18 authority, or board of trustees under Chapter 54, Transportation
1-19 Code, to conduct an open meeting to deliberate about information
1-20 relating to:

1-21 (1) a bid, proposal, or contract for goods or services
1-22 under negotiation, if disclosure of the information would have a
1-23 detrimental effect on the position of the navigation district, port
1-24 authority, or board of trustees under Chapter 54, Transportation
1-25 Code, in negotiations with a third person; or

1-26 (2) proposed changes to facilities or services of the
1-27 navigation district, port authority, or board of trustees under
1-28 Chapter 54, Transportation Code.

1-29 SECTION 2. Sections 271.181(2) and (6), Local Government
1-30 Code, are amended to read as follows:

1-31 (2) "Civil works project" means:

1-32 (A) roads, streets, bridges, utilities, water
1-33 supply projects, water plants, wastewater plants, water
1-34 distribution and wastewater conveyance facilities, desalination
1-35 projects, wharves, docks, navigation channels, dredge material
1-36 placement areas, airport runways and taxiways, storm drainage and
1-37 flood control projects, or transit projects;

1-38 (B) types of projects or facilities related to
1-39 those described by Paragraph (A) and associated with civil
1-40 engineering construction; and

1-41 (C) buildings or structures that are incidental
1-42 to projects or facilities that are described by Paragraphs (A) and
1-43 (B) and that are primarily civil engineering construction projects.

1-44 (6) "Local governmental entity" means a municipality,
1-45 a county, a river authority, a defense base development authority
1-46 established under Chapter 379B, a board of trustees under Chapter
1-47 54, Transportation Code, a municipally owned water utility with a
1-48 separate governing board appointed by the governing body of a
1-49 municipality, or any other special district or authority authorized
1-50 by law to enter into a public works contract for a civil works
1-51 project. The term does not include a regional tollway authority
1-52 created under Chapter 366, Transportation Code, a regional mobility
1-53 authority created under Chapter 370, Transportation Code, or a
1-54 water district or authority created under Section 52, Article III,
1-55 or Section 59, Article XVI, Texas Constitution, with a population
1-56 of less than 50,000.

1-57 SECTION 3. Section 271.182, Local Government Code, as
1-58 amended by Chapters 135 (S.B. 1047) and 725 (S.B. 229), Acts of the
1-59 81st Legislature, Regular Session, 2009, is reenacted and amended
1-60 to read as follows:

1-61 Sec. 271.182. APPLICABILITY. (a) This subchapter applies
1-62 to:

1-63 (1) a local governmental entity with a population of
1-64 more than 100,000 within its geographic boundaries or service area;

2-1 (2) a board of trustees under Chapter 54,
2-2 Transportation Code; and

2-3 (3) [~~—(c) This subchapter applies to~~] a municipally
2-4 owned combined electric, water, and wastewater utility situated in
2-5 an economically distressed area and located within 30 miles of the
2-6 Lower Texas Gulf Coast.

2-7 (b) For purposes of Subsection (a), [~~For this subchapter,~~]
2-8 "combined" means that the utilities are managed and controlled by
2-9 one board whose members are appointed by the governing body of the
2-10 municipality and that the financing of capital improvements is
2-11 secured from the revenue [~~revenues~~] of all three utilities.

2-12 SECTION 4. Sections 271.186(a) and (b), Local Government
2-13 Code, are amended to read as follows:

2-14 (a) During the first four years that this subchapter applies
2-15 to a local governmental entity under Section 271.182:

2-16 (1) a local governmental entity with a population of
2-17 500,000 or more may, under this subchapter, enter into contracts
2-18 for not more than three projects in any fiscal year;

2-19 (2) a local governmental entity with a population of
2-20 100,000 or more but less than 500,000 or a board of trustees under
2-21 Chapter 54, Transportation Code, may, under this subchapter, enter
2-22 into contracts for not more than two projects in any fiscal year;
2-23 and

2-24 (3) a municipally owned water utility with a separate
2-25 governing board appointed by the governing body of a municipality
2-26 with a population of 500,000 or more may:

2-27 (A) independently enter into a contract for not
2-28 more than one civil works project in any fiscal year; and

2-29 (B) enter into contracts for additional civil
2-30 works projects in any fiscal year, but not more than the number of
2-31 civil works projects prescribed by the limit in Subdivision (1) for
2-32 the municipality, provided that:

2-33 (i) the additional contracts for the civil
2-34 works projects entered into by the utility under this paragraph are
2-35 allocated to the number of contracts the municipality that appoints
2-36 the utility's governing board may enter under Subdivision (1); and

2-37 (ii) the governing body of the municipality
2-38 must approve the contracts.

2-39 (b) After the period described by Subsection (a):

2-40 (1) a local governmental entity with a population of
2-41 500,000 or more may, under this subchapter, enter into contracts
2-42 for not more than six projects in any fiscal year;

2-43 (2) a local governmental entity with a population of
2-44 100,000 or more but less than 500,000 or a board of trustees under
2-45 Chapter 54, Transportation Code, may, under this subchapter, enter
2-46 into contracts for not more than four projects in any fiscal year;
2-47 and

2-48 (3) a municipally owned water utility with a separate
2-49 governing board appointed by the governing body of a municipality
2-50 with a population of 500,000 or more may:

2-51 (A) independently enter into contracts for not
2-52 more than two civil works projects in any fiscal year; and

2-53 (B) enter into contracts for additional civil
2-54 works projects in any fiscal year, but not more than the number of
2-55 civil works projects prescribed by the limit in Subdivision (1) for
2-56 the municipality, provided that:

2-57 (i) the additional contracts for the civil
2-58 works projects entered into by the utility under this paragraph are
2-59 allocated to the number of contracts the municipality that appoints
2-60 the utility's governing board may enter under Subdivision (1); and

2-61 (ii) the governing body of the municipality
2-62 must approve the contracts.

2-63 SECTION 5. Section 60.031, Water Code, is amended to read as
2-64 follows:

2-65 Sec. 60.031. APPLICATION OF SUBCHAPTER. (a) The
2-66 provisions of this subchapter shall apply to:

2-67 (1) any district not participating with the United
2-68 States in a navigation project; or

2-69 (2) a district participating with the United States in

3-1 a navigation project if the commission by resolution adopts:

3-2 (A) this subchapter; or

3-3 (B) sections of this subchapter under which the
3-4 district will operate.

3-5 (b) For the purposes of Subsection (a)(2), a district that
3-6 contracts with the United States for a navigation project under
3-7 Subchapter F is considered to be participating with the United
3-8 States in a navigation project while the contract is in effect.

3-9 SECTION 6. Section 60.038(b), Water Code, is amended to
3-10 read as follows:

3-11 (b) Before a district may sell land, the commission shall
3-12 determine by resolution that the land is no longer [Land which is
3-13 sold or leased shall be declared surplus land and shall not be]
3-14 needed for use by the district in connection with the development of
3-15 a navigation project.

3-16 SECTION 7. Section 60.039, Water Code, is amended to read as
3-17 follows:

3-18 Sec. 60.039. SURFACE LEASE [~~FOR NOT MORE THAN 30 YEARS~~].

3-19 (a) The commission may lease the surface of land for not more than
3-20 30 years by the entry of an order on the minutes of the commission
3-21 and the execution of a lease in the manner provided by the original
3-22 order. The lease may not be extended beyond the 30-year period by
3-23 renewal, extension, or otherwise.

3-24 (b) The commission or the executive director of the
3-25 district, or a person authorized by the commission or the executive
3-26 director, may enter into a lease for a monthly tenancy or a tenancy
3-27 from month to month. The lease term may only exceed one year if:

3-28 (1) the commission enters an order on the minutes; and

3-29 (2) the execution of the lease is in the manner
3-30 provided by the original order for the lease.

3-31 SECTION 8. Subchapter D, Chapter 60, Water Code, is amended
3-32 by adding Section 60.0725 to read as follows:

3-33 Sec. 60.0725. NUISANCES; POLLUTION. The commission may
3-34 suppress and prevent nuisances, pollution, and improper disposal of
3-35 materials on any district property to:

3-36 (1) accomplish the purposes stated in Section 60.071;

3-37 (2) protect other district property; or

3-38 (3) promote the health, safety, and general welfare of
3-39 persons using other district property.

3-40 SECTION 9. Section 60.101, Water Code, is amended by
3-41 amending Subsection (b) and adding Subsections (c) and (d) to read
3-42 as follows:

3-43 (b) To the extent that the district incurs indebtedness,
3-44 [~~+~~]bonded or otherwise, [~~+~~] for purposes of financing the above
3-45 facilities which in turn are sold by installment sale or otherwise,
3-46 the [~~said~~] indebtedness, principal and interest, may be paid only
3-47 from the loan [~~+~~]or bond sale[~~+~~] proceeds and from revenues
3-48 generated from the project financed by the indebtedness, and
3-49 security for payment of the principal of and interest on [~~said~~]
3-50 indebtedness shall be limited to a pledge of the project's revenues
3-51 and the project's facilities including enlargements and additions
3-52 [~~thereafter made~~].

3-53 (c) An installment sale under this section is not a loan of
3-54 the district's credit or a grant of public money.

3-55 (d) A district may contract with a broker to sell a tract of
3-56 land in the same manner as the commissioners court of a county under
3-57 Section 263.008, Local Government Code.

3-58 SECTION 10. Section 60.120(a), Water Code, is amended to
3-59 read as follows:

3-60 (a) A district acting under [~~the provisions of~~] this
3-61 subchapter may enter into any contract, lease, or agreement
3-62 necessary or convenient to carry out any of the powers granted in
3-63 this subchapter, including a contract for purchase, lease for
3-64 purchase, or other agreement for the use or acquisition of real
3-65 property, or improvements to real property or the use or
3-66 acquisition of personal property. The contract, lease, or
3-67 agreement may be entered into with any person and any government or
3-68 governmental agency including the United States, [~~and~~] the State of
3-69 Texas, and a public facility corporation organized under Chapter

4-1 303, Local Government Code.

4-2 SECTION 11. Subchapter E, Chapter 60, Water Code, is
4-3 amended by adding Sections 60.1201, 60.1202, and 60.1203 to read as
4-4 follows:

4-5 Sec. 60.1201. METHOD FOR CONTRACTS TO CONSTRUCT OR ACQUIRE
4-6 PROPERTY. The district may use any method provided by Section
4-7 60.454 for a contract under this subchapter related to construction
4-8 or the acquisition of real property and related personal property,
4-9 if the commission determines the method provides the best value for
4-10 the district.

4-11 Sec. 60.1202. CERTAIN CONTRACT PROCEDURES; ELECTION. (a)
4-12 A contract may provide that a district will make payment under the
4-13 contract from proceeds from the sale of bonds or notes, from taxes,
4-14 or from any other district income, including revenue borrowed or
4-15 pledged under Section 60.171, or any combination of these.

4-16 (b) A district may make payments under a contract from taxes
4-17 other than maintenance taxes, after the provisions of the contract
4-18 have been approved by a majority of the electors voting at an
4-19 election held for that purpose.

4-20 (c) A contract election may be held alone or at the same time
4-21 and in conjunction with an election to authorize bonds.

4-22 (d) The procedure for calling the election, giving notice,
4-23 conducting the election, and canvassing the returns is the same as
4-24 the procedure for a bond election. If the contract is approved at
4-25 the election, it is an obligation against the taxing power of the
4-26 district to the extent provided in the contract.

4-27 Sec. 60.1203. ATTORNEY GENERAL APPROVAL FOR CONTRACTS
4-28 SECURED BY TAXES. (a) The district shall submit to the attorney
4-29 general for approval any contract, lease, or agreement secured by
4-30 tax revenue other than revenue from maintenance taxes.

4-31 (b) If the attorney general finds that the contract, lease,
4-32 or agreement has been entered into in accordance with the law, the
4-33 attorney general shall approve the contract, lease, or agreement
4-34 and the comptroller shall register it.

4-35 (c) When the contract, lease, or agreement has been approved
4-36 by the attorney general and registered by the comptroller, it is
4-37 incontestable except for forgery or fraud.

4-38 SECTION 12. Subchapter E, Chapter 60, Water Code, is
4-39 amended by adding Section 60.124 to read as follows:

4-40 Sec. 60.124. GIFTS, GRANTS, AND DONATIONS. A district may
4-41 accept a gift, grant, donation, or bequest of money or property from
4-42 any source for any district purpose.

4-43 SECTION 13. Section 60.271(f), Water Code, is amended to
4-44 read as follows:

4-45 (f) The district shall adopt payment procedures consistent
4-46 with Section 105.074(g), Local Government Code. The designated
4-47 officer of a district may draw a check on a depository only on a
4-48 warrant signed by the presiding officer [~~chairman~~] and attested by
4-49 the secretary of the district, or by a procedure adopted under this
4-50 section.

4-51 SECTION 14. Section 60.403, Water Code, is amended by
4-52 amending Subsection (c) and adding Subsection (e) to read as
4-53 follows:

4-54 (c) One original, photocopy, or electronic copy of the
4-55 purchase order shall be [~~A purchase order must be executed in~~
4-56 duplicate with one copy] delivered to the person from whom the
4-57 purchase is made and one original, photocopy, or electronic copy
4-58 shall be retained [~~remaining~~] on file in the district or port
4-59 authority in accordance with Subtitle C, Title 6, Local Government
4-60 Code.

4-61 (e) A district may establish an electronic requisition
4-62 system to perform some or all of the functions required by
4-63 Subsections (b), (c), and (d). An electronic requisition system
4-64 established under this subsection must electronically transmit
4-65 data to and receive data from the financial system of the district
4-66 in a manner that meets professional, regulatory, and statutory
4-67 requirements and standards, including those relating to
4-68 purchasing, auditing, and accounting.

4-69 SECTION 15. Section 60.408(h), Water Code, is amended to

5-1 read as follows:

5-2 (h) One original, photocopy, or electronic copy of a [A]
 5-3 contract, requisition, or purchase order valued at more than the
 5-4 amount authorized under Section 60.403(a) for routine purchases or
 5-5 contracts must be [~~issued in duplicate with one copy~~] delivered to
 5-6 the contractor and one original, photocopy, or electronic copy
 5-7 shall be retained [~~remaining~~] on file with the district or port
 5-8 authority in accordance with Subtitle C, Title 6, Local Government
 5-9 Code.

5-10 SECTION 16. Chapter 60, Water Code, is amended by adding
 5-11 Subchapter R to read as follows:

5-12 SUBCHAPTER R. CHARITABLE CONTRIBUTIONS

5-13 Sec. 60.551. DEFINITIONS. In this subchapter:

5-14 (1) "Charitable organization" means an organization
 5-15 that:

5-16 (A) is organized for charitable purposes under
 5-17 Chapter 22, Business Organizations Code, or holds a certificate of
 5-18 authority issued under that chapter;

5-19 (B) is exempt from taxation under Section 501(a)
 5-20 of the Internal Revenue Code of 1986 as an organization described in
 5-21 Section 501(c)(3) of that code and to which contributions are
 5-22 deductible for income tax purposes under Section 170 of that code;

5-23 (C) complies with all applicable federal
 5-24 nondiscrimination law, including Chapter 21, Title 42, United
 5-25 States Code;

5-26 (D) complies with all state statutes and rules
 5-27 relating to charitable organizations;

5-28 (E) is not a private foundation; and

5-29 (F) provides funds or programs for eligible
 5-30 services that directly or indirectly benefit the recipients.

5-31 (2) "District employee charitable campaign" means a
 5-32 campaign conducted in communities or areas in which district
 5-33 employees solicit contributions to an eligible charitable
 5-34 organization.

5-35 (3) "Eligible charitable organization" means a
 5-36 charitable organization eligible to participate in the district
 5-37 employee charitable campaign as provided by Section 60.561.

5-38 (4) "Eligible services" means services provided by a
 5-39 charitable organization that:

5-40 (A) benefit residents of this state, including
 5-41 children, youth, adults, elderly individuals, ill or infirm
 5-42 individuals, or individuals with a mental or physical disability,
 5-43 and consist of:

5-44 (i) human care, medical or other research
 5-45 in the field of human health, education, social adjustment, or
 5-46 rehabilitation;

5-47 (ii) relief for victims of natural disaster
 5-48 or other emergencies; or

5-49 (iii) assistance to impoverished
 5-50 individuals in need of food, shelter, clothing, or other basic
 5-51 needs; or

5-52 (B) benefit this state, and consist of activities
 5-53 to:

5-54 (i) safeguard public health and the
 5-55 environment; or

5-56 (ii) help solve environmental problems.

5-57 (5) "Federation or fund" means a fund-raising entity
 5-58 that:

5-59 (A) is a charitable organization;

5-60 (B) acts as an agent for at least five charitable
 5-61 organizations;

5-62 (C) is not organized exclusively to solicit
 5-63 contributions from district employees; and

5-64 (D) is supported by voluntary contributions by
 5-65 the public and is:

5-66 (i) incorporated in this state and has an
 5-67 established physical presence in this state in the form of an office
 5-68 or service facility that is staffed at least 20 hours a week; or

5-69 (ii) incorporated outside this state,

6-1 includes at least 10 affiliated charitable organizations, and has
 6-2 existed at least three years.

6-3 Sec. 60.552. AUTHORIZATION OF CAMPAIGN. (a) The
 6-4 commission or the executive director of a district may establish a
 6-5 program in the district to allow district employees to participate
 6-6 in a charitable campaign as provided by this subchapter.

6-7 (b) The commission or executive director of a district may
 6-8 adopt rules relating to the operation of a district employee
 6-9 charitable campaign as described in this subchapter.

6-10 Sec. 60.553. DEDUCTION AUTHORIZED. (a) A district
 6-11 employee may authorize a deduction each pay period from the
 6-12 employee's salary or wage payment for a charitable contribution as
 6-13 provided by this subchapter.

6-14 (b) An authorization must direct the district to distribute
 6-15 the deducted funds to a participating federation or fund.

6-16 (c) A deduction under this subchapter must be in the form
 6-17 prescribed by the district.

6-18 Sec. 60.554. VOLUNTARY PARTICIPATION. (a) Participation
 6-19 by a district employee in a state employee charitable campaign is
 6-20 voluntary. The district shall inform district employees that
 6-21 deductions are voluntary.

6-22 (b) The district shall adopt rules establishing a process
 6-23 for hearing employee complaints regarding coercive activity in a
 6-24 district employee charitable campaign.

6-25 Sec. 60.555. DESIGNATION OF AN ELIGIBLE CHARITABLE
 6-26 ORGANIZATION. (a) A district employee may designate in the
 6-27 authorization an eligible charitable organization to receive the
 6-28 deductions.

6-29 (b) If a district employee does not designate an eligible
 6-30 charitable organization, the employee's deductions shall be
 6-31 distributed to each participating federation or fund and eligible
 6-32 local charitable organization in the proportion that the deductions
 6-33 designated for that charitable organization bear to the total of
 6-34 designated deductions in the district employee charitable
 6-35 campaign.

6-36 Sec. 60.556. CONFIDENTIALITY. (a) Except as necessary to
 6-37 administer this subchapter or on written authorization of the
 6-38 employee, the following information is confidential:

6-39 (1) whether a district employee has authorized a
 6-40 deduction under this subchapter;

6-41 (2) the amount of the deduction; and

6-42 (3) the name of a federation or fund or charitable
 6-43 organization that a district employee has designated to receive
 6-44 contributions.

6-45 (b) The designation of a charitable organization by a
 6-46 district employee is not confidential if the employee executes a
 6-47 written pledge card or other document indicating that the employee
 6-48 wishes to receive an acknowledgement from the charitable
 6-49 organization.

6-50 (c) The district shall provide notice to district employees
 6-51 of the confidentiality provisions described by this section.

6-52 Sec. 60.557. REVOCATION OR CHANGE OF AUTHORIZATION. (a) A
 6-53 district employee may revoke or change an authorization by giving
 6-54 notice to the district.

6-55 (b) The notice must be in the form and manner prescribed by
 6-56 the district.

6-57 (c) A revocation or change takes effect on the date
 6-58 designated by the district, but not later than the 45th day after
 6-59 the date the district employee gives notice.

6-60 Sec. 60.558. DURATION OF DEDUCTION. (a) A deduction under
 6-61 this subchapter begins on the date designated by the district
 6-62 employee.

6-63 (b) A deduction under this subchapter, unless revoked or
 6-64 changed under Section 60.557, ends on the date designated by the
 6-65 district.

6-66 Sec. 60.559. FAIR AND EQUITABLE MANAGEMENT OF CAMPAIGN. A
 6-67 district employee charitable campaign must be managed fairly and
 6-68 equitably in accordance with this subchapter and the rules,
 6-69 policies, and procedures established by the district.

7-1 Sec. 60.560. CAMPAIGN POLICY AND MANAGEMENT. (a) The
 7-2 executive director of the district shall oversee the district
 7-3 employee charitable campaign and the district's employees who
 7-4 conduct the campaign.

7-5 (b) The executive director of the district and employees
 7-6 designated by the executive director of the district shall:

7-7 (1) determine the eligibility of a federation or fund
 7-8 and its affiliated agencies for participation in the district
 7-9 employee charitable campaign;

7-10 (2) develop a campaign plan, budget, and materials to
 7-11 be used in the campaign;

7-12 (3) coordinate and facilitate the campaign;

7-13 (4) ensure that all district employee charitable
 7-14 campaign activities are conducted fairly and equitably to promote
 7-15 unified solicitation on behalf of all participants; and

7-16 (5) perform other duties required by rules relating to
 7-17 the district employee charitable campaign.

7-18 Sec. 60.561. ELIGIBILITY OF CHARITABLE ORGANIZATIONS,
 7-19 FEDERATIONS, AND FUNDS FOR PARTICIPATION. (a) To be eligible to
 7-20 participate in a district employee charitable campaign, a
 7-21 charitable organization must:

7-22 (1) be governed by a voluntary board of citizens that
 7-23 meets at least twice each year to set policy and manage the affairs
 7-24 of the organization;

7-25 (2) if the organization's annual budget:

7-26 (A) does not exceed \$100,000, provide a completed
 7-27 Internal Revenue Service Form 990 and an accountant's review that
 7-28 offers full and open disclosure of the organization's internal
 7-29 operations; or

7-30 (B) exceeds \$100,000, be audited annually in
 7-31 accordance with generally accepted auditing standards of the
 7-32 American Institute of Certified Public Accountants; and

7-33 (3) not spend more than 25 percent of its annual
 7-34 revenue for administrative and fund-raising expenses.

7-35 (b) A federation or fund that seeks participation in a
 7-36 district employee charitable campaign must apply on behalf of
 7-37 itself and its affiliated agencies to the district during the
 7-38 eligibility determination period specified by the district. The
 7-39 district shall review each application and may approve a federation
 7-40 or fund for statewide participation only if the federation or fund
 7-41 qualifies as a charitable organization. The district may approve
 7-42 an affiliated charitable organization for participation only if the
 7-43 organization qualifies as a charitable organization.

7-44 (c) The district may use outside expertise and resources
 7-45 available to it, and rely on a certification of a charitable
 7-46 organization, or determination of qualification by a statewide
 7-47 employee charitable campaign under Section 659.146, Government
 7-48 Code, to assess the eligibility of a charitable organization that
 7-49 seeks to participate in a district employee charitable campaign.

7-50 (d) An appeal from a decision of the district shall be
 7-51 conducted in the manner prescribed by the commission. The appeals
 7-52 process must permit a charitable organization that is not approved
 7-53 for participation to apply for participation in a district employee
 7-54 charitable campaign.

7-55 Sec. 60.562. FUND-RAISING PRACTICES. The fund-raising
 7-56 practices of a participating charitable organization must:

7-57 (1) be truthful and consumer-oriented; and

7-58 (2) protect against:

7-59 (A) unauthorized use of a list of contributors to
 7-60 the organization;

7-61 (B) payment of commissions, kickbacks, finder
 7-62 fees, percentages, bonuses, or overrides for fund-raising;

7-63 (C) mailing of unordered merchandise or tickets
 7-64 with a request for money in return; and

7-65 (D) general phone solicitation of the public.

7-66 Sec. 60.563. LIMITATION ON USE OF CONTRIBUTIONS. (a) A
 7-67 participating charitable organization may use contributions under
 7-68 this subchapter only to provide eligible services or to fund a
 7-69 charitable organization that provides eligible services.

8-1 (b) A participating charitable organization may not use
 8-2 contributions under this subchapter to:

8-3 (1) directly or indirectly fund litigation; or

8-4 (2) make expenditures that would require the
 8-5 organization to register under Chapter 305, Government Code, if the
 8-6 organization were not an entity exempt from registration under that
 8-7 chapter.

8-8 Sec. 60.564. MISAPPLICATION OF CONTRIBUTIONS; AUDIT. (a)
 8-9 The district may obtain an audit of any participating charitable
 8-10 organization that the district reasonably believes has misapplied
 8-11 contributions under this subchapter.

8-12 (b) If an audit under this section reveals gross negligence
 8-13 or intentional misconduct on the part of a participating charitable
 8-14 organization, the district shall remove the charitable
 8-15 organization from the campaign. A charitable organization removed
 8-16 under this subsection is not eligible to participate in a district
 8-17 employee charitable campaign before the fifth anniversary of the
 8-18 date the charitable organization was removed.

8-19 (c) If an audit under this section reveals intentional
 8-20 misconduct on the part of a charitable organization, the district
 8-21 shall forward its findings to the appropriate law enforcement
 8-22 agency.

8-23 (d) The district may bring an action to recover misapplied
 8-24 contributions.

8-25 (e) If an investigation or lawsuit results in a recovery of
 8-26 misapplied contributions and there is not a judgment distributing
 8-27 the amounts recovered, the district shall determine the manner of
 8-28 refunding contributions to the appropriate district employees.

8-29 SECTION 17. Section 61.164(c), Water Code, is amended to
 8-30 read as follows:

8-31 (c) No franchise shall be granted until notice [after the
 8-32 franchise in its final form] is published [in full] at the expense
 8-33 of the applicant, once a week for three consecutive weeks in a daily
 8-34 newspaper of general circulation published inside the district.
 8-35 For the purposes of this subsection, notice consists of:

8-36 (1) the text of the franchise in full; or

8-37 (2) a descriptive caption stating the purpose of the
 8-38 franchise and the location at which a complete copy of the franchise
 8-39 may be obtained.

8-40 SECTION 18. Sections 62.107(a) and (c), Water Code, are
 8-41 amended to read as follows:

8-42 (a) Any district created under this chapter may acquire by
 8-43 gift, purchase, or condemnation and may own land adjacent or
 8-44 accessible to the navigable water and ports developed by it which
 8-45 may be necessary or required for any and all purposes incident to or
 8-46 necessary for the development and operation of the navigable water
 8-47 or ports within the district, or may be necessary or required for or
 8-48 in aid of the development of industries and businesses on the land.

8-49 (c) The acquisition of land for the purposes included in
 8-50 this section and the operation and industrial and business
 8-51 development of ports and waterways are a public purpose and a matter
 8-52 of public necessity.

8-53 SECTION 19. Section 62.122, Water Code, is amended to read
 8-54 as follows:

8-55 Sec. 62.122. DISPOSITION OF SALVAGE OR SURPLUS PERSONAL
 8-56 PROPERTY. (a) Except as provided by Subsection (b), the [The]
 8-57 commission may periodically dispose of surplus or salvage personal
 8-58 property in the same manner as the commissioners court of a county
 8-59 under Subchapter D, Chapter 263, Local Government Code.

8-60 (b) The commission may authorize the destruction or
 8-61 disposition of salvage or surplus property as worthless if the
 8-62 property is so worn, damaged, or obsolete that it has no value for
 8-63 the purpose for which it was originally intended, and the expense to
 8-64 the district to attempt to sell the property would be more than the
 8-65 proceeds from the sale.

8-66 SECTION 20. Section 63.178(c), Water Code, is amended to
 8-67 read as follows:

8-68 (c) Before the franchise is granted, the commission must
 8-69 approve the franchise by a majority vote at three separate meetings

9-1 held at least one week apart and must publish notice. For the
9-2 purposes of this subsection, notice must be published [~~the~~
9-3 ~~franchise in full,~~] at the expense of the applicant, once a week for
9-4 three consecutive weeks in a newspaper published in the district.
9-5 The notice must consist of:

- 9-6 (1) the text of the franchise in full; or
- 9-7 (2) a descriptive caption stating the purpose of the
9-8 franchise and the location at which a complete copy of the franchise
9-9 may be obtained.

9-10 SECTION 21. This Act applies only to a contract entered into
9-11 on or after the effective date of this Act. A contract entered into
9-12 before the effective date of this Act is covered by the law in
9-13 effect when the contract was entered into, and the former law is
9-14 continued in effect for that purpose.

9-15 SECTION 22. To the extent of any conflict, this Act prevails
9-16 over another Act of the 82nd Legislature, Regular Session, 2011,
9-17 relating to nonsubstantive additions to and corrections in enacted
9-18 codes.

9-19 SECTION 23. Section 60.465, Water Code, is repealed.

9-20 SECTION 24. This Act takes effect immediately if it
9-21 receives a vote of two-thirds of all the members elected to each
9-22 house, as provided by Section 39, Article III, Texas Constitution.
9-23 If this Act does not receive the vote necessary for immediate
9-24 effect, this Act takes effect September 1, 2011.

9-25 * * * * *