

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 25, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2770** by Smith, Wayne (Relating to the powers and duties of navigation districts, port authorities, and certain municipalities.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend sections of the Local Government Code and the Water Code relating to the powers and duties of navigation districts, port authorities, and certain municipalities.

The bill would amend the Local Government Code to include wharves, docks, navigation channels, and dredge material placement areas to the definition of civil works projects; and “board of trustees” under Chapter 54 of the Transportation Code to the definition of local governmental entity enabling a board to be considered as a local governmental entity in certain circumstances as defined by the provisions of the bill.

The bill would amend the Water Code to change the powers and duties of a navigation district and certain municipalities. Any navigation district could engage in certain activities, including constructing improvements and leasing oil, gas and minerals. The bill would modify the procedures for the sale of land and the ability to lease, including the ability to contract with a broker to sell a tract of land.

The bill would amend Chapter 97, Acts of the 40th Legislature, 1st Called Session, 1927, by adding Section 9 to provide that the Port of Houston Authority is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished. The review would be required to be conducted as if the authority were to be abolished September 1, 2013, and another review conducted as if the authority were to be abolished September 1, 2019. The authority would be required to promptly pay the costs incurred and determined by the Sunset Advisory Commission (SAC) for the review. This section expires September 1, 2019.

A navigation district would be authorized to enter into a contract with a public facility corporation for the purpose of improvements and to make payments under a contract through the sale of bonds or notes, taxes or any other income.

A district could accept gifts, grants and donations, and would be required to adopt payment procedures consistent with Section 105.074(g) of the Local Government Code.

The bill would provide that a promotion and development fund established under Chapter 60, Subchapter H, Water Code, would be subject to an audit conducted by the State Auditor. The navigation district would be required to reimburse the State Auditor’s Office (SAO) for all costs incurred by an audit.

The bill would require a district to hold an electronic copy or photocopy of a purchase and would grant authority to establish an electronic requisition system to perform such functions. The bill would authorize a navigation district to establish an employee charitable contribution campaign and would provide specific guidelines and procedures for the campaign.

The bill would amend the Local Government Code to authorize the board of trustees of a city owned port under Chapter 54 of the Transportation Code to use the design-build method of construction as defined by Chapter 271.

The bill would repeal Section 60.465 of the Water Code to remove the expiration date of September 1, 2013, regarding purchase contracts.

According to the Sunset Advisory Commission, the costs for a review would be an estimated \$204,709 in fiscal year (FY) 2012 and \$74,316 in FY 2013. The costs would include salaries for three additional full-time employees (\$189,459), including benefits (\$41,282) in FY 2012; salary for one additional full-time employee (\$74,316), including benefits (\$16,193) in FY 2013; and travel expenses (\$15,000), and report production costs (\$250) in FY 2012. All costs incurred by SAC would be reimbursed by the Port of Houston Authority.

According to the SAO, any audit conducted under Section 60.07, Water Code, would be subject to the SAO's risk assessment process for inclusion in the SAO's annual audit plan. If conducted, the SAO assumes the office could, but would not be limited to, a financial-related audit of a navigation district's Promotion and Development Fund which could require an estimated 1,200 hours to complete. Based on the SAO's billing rate of \$92 per hour, an audit could cost an estimated \$113,544 which would include travel costs. All costs incurred by the SAO would be reimbursed by a navigation district.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

There would be costs to the Port of Houston Authority for the required reviews conducted in 2013 and 2019 by the SAC. According to the SAC, the costs for a review would be an estimated total of \$204,709 in FY 2012 and \$74,316 in FY 2013. The Port of Houston Authority reported the overall operating budget is \$200.8 million.

There would be costs to a navigation district that establishes a Promotion and Development Fund under Subchapter H that would be subject to audit by the SAO. According to the SAO, the costs for an audit would be an estimated \$113,544. It is assumed that a navigation district would establish a fund only if sufficient resources were available to pay for an audit.

**Source Agencies:** 116 Sunset Advisory Commission, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 582 Commission on Environmental Quality

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