

BILL ANALYSIS

S.B. 1137
By: Creighton
Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Sabine-Neches Navigation District has been working with the Army Corps of Engineers for several years to develop plans to modernize the Sabine-Neches Waterway with a deepening and widening project that would make the waterway potentially the first waterway to meet the new depth of the Panama Canal. Recently enacted federal legislation authorized the project to move forward. In anticipation of federal authorization, the district began working to ensure it was in a financial position to undertake the project. As the district begins negotiations to finalize an agreement with the Army Corps of Engineers and begin the project, interested parties have expressed concern regarding the ambiguity of current law with regard to the district's authority to move forward with the project. S.B. 1137 seeks to address these concerns.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1137 amends Chapter 1472, Acts of the 77th Legislature, Regular Session, 2001, to establish that the Sabine-Neches Navigation District of Jefferson County is the project sponsor of the existing Sabine-Neches Waterway and the Sabine-Neches Waterway Improvement Project authorized by the federal Water Resources Reform and Development Act of 2014 to improve an existing facility of the district and to deepen the Sabine-Neches Waterway. The bill specifies that the district also is the nonfederal cost-sharing sponsor of the improvement project. The bill requires the district's navigation and canal commission to make a determination on matters that may be required or desirable as a project sponsor to implement the improvement project.

S.B. 1137 authorizes the district, in the district's capacity as the project sponsor of the improvement project, to enter into any contract, agreement, or lease as necessary or convenient to carry out any of the district's powers granted under the bill's provisions. The bill authorizes such a contract, agreement, or lease to provide any terms and conditions, and to be for any term of years, as the commission determines are in the best interests of the district. The bill authorizes such a contract, agreement, or lease to be entered into with any person, political subdivision, or governmental agency. The bill authorizes the district to enter into contracts with a private entity to develop or operate any part of the improvement project under Government Code provisions relating to public and private facilities and infrastructure and authorizes such contracts to provide that the private entity perform all or any part of the district's obligations under contracts or agreements with the United States and use revenue or other money from the improvement project to prepay for duties or tariffs.

S.B. 1137 authorizes the district to enter into a contract, agreement, or lease under Water Code provisions relating to contract elections and authorized contracts, agreements, and leases, as determined by the commission. The bill establishes that the district is not required to obtain approval from the Texas Commission on Environmental Quality for the district's contracts or financing related to the improvement project. The bill authorizes any contracts or agreements of the district to be renewed or extended and authorizes any time warrants or maintenance notes to be refunded in the manner provided by general law.

S.B. 1137 authorizes the district to provide that payments required by any of the district's contracts, agreements, or leases may be payable from the sale of notes, taxes, or bonds, or any combination of notes, taxes, or bonds, or may be secured by a lien on or a pledge of any available funds, and may be payable subject to annual appropriation by the district. The bill makes specified Tax Code provisions relating to assessments inapplicable to maintenance taxes levied and collected for payments under a contract, agreement, lease, time warrant, or maintenance note issued or executed under the bill's provisions.

S.B. 1137 authorizes the district to borrow money, receive advances of funds, and enter into repayment agreements for the repayment of borrowed money or advances, and to issue anticipation notes, time warrants, and maintenance notes. The bill authorizes the anticipation notes to be issued in accordance with Government Code provisions relating to anticipation notes in the same manner as an eligible countywide district; caps the issuance of tax anticipation notes at 75 percent of the revenue or taxes anticipated to be collected in that year; and requires the anticipation notes to be payable during the district's current fiscal year. The bill authorizes time warrants and maintenance notes issued by the district to be issued to pay for any lawful district expenditure and requires the warrants and notes to be payable over a period not to exceed 35 years from the date of issuance.

S.B. 1137 requires the commission to determine whether the amount of the district's maintenance taxes and other available resources required to pay the district's existing obligations is also sufficient to pay the debt service on any time warrants or maintenance notes issued under the bill's provisions. The bill authorizes the commission, in evaluating the tax rate, to include in the district's budget an improvement project fund, which may be funded to assure that adequate funds are available to the district to comply with the district's covenants and obligations during future years when the amounts projected to be needed will exceed the then-current available maintenance tax funds.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.