

By: Garcia, Hinojosa

S.B. No. 1894

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of navigation districts, port authorities, and boards of trustees of municipal port facilities.

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

SECTION 1. The heading to Section 551.0415, Government Code, is amended to read as follows:

Sec. 551.0415. BOARD OF TRUSTEES OR GOVERNING BODY OF MUNICIPALITY, [OR] COUNTY, OR NAVIGATION DISTRICT: REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE TAKEN.

SECTION 2. Section 551.0415(a), Government Code, is amended to read as follows:

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality, ~~or~~ county, navigation district, or board of trustees established under Chapter 54, Transportation Code, may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

SECTION 3. Section 60.034, Water Code, is amended to read as follows:

1 Sec. 60.034. OIL, GAS, AND MINERAL LEASES. The district
2 [~~commission~~] may lease for oil, gas, and minerals rights-of-way,
3 spoil grounds, spoil basins, or any other land owned by a navigation
4 district if it does not interfere with use of or obstruct any
5 natural or artificial waterway of the district used for navigation
6 purposes.

7 SECTION 4. The heading to Section 60.035, Water Code, is
8 amended to read as follows:

9 Sec. 60.035. NOTICE OF CERTAIN OIL, GAS, AND MINERAL LEASES
10 [~~LEASE~~].

11 SECTION 5. Section 60.035(a), Water Code, is amended to
12 read as follows:

13 (a) Before a district may enter into a lease [~~may be~~
14 ~~executed by the commission~~] under Section 60.034 [~~of this code~~],
15 the district [~~commission~~] shall have a notice requesting bids on
16 the lease published in a newspaper of general circulation in the
17 district. The notice shall be published at least once a week for
18 two consecutive weeks before the final date for the receipt of bids.
19 Chapter 71, Natural Resources Code, does not apply to a lease made
20 under this section if the lease is made in accordance with this
21 section and Sections 60.036 and 60.037 of this chapter.

22 SECTION 6. Section 60.038, Water Code, is amended to read as
23 follows:

24 Sec. 60.038. DISPOSITION [~~SALE OR LEASE~~] OF INTERESTS IN
25 REAL PROPERTY [~~LAND~~]. (a) A district may sell, exchange, or lease
26 real property or any interest in real property [~~all or any part of~~
27 ~~land~~] owned by it, whether the real property was [~~land is~~] acquired

1 by gift or purchase, in settlement of any litigation, controversy,
2 or claim in behalf of the district, or in any other manner, except
3 that lands or flats heretofore purchased from the State of Texas
4 under Article 8225, Revised Civil Statutes of Texas, 1925, or
5 granted by the State of Texas in any general or special act, may be
6 sold only to the State of Texas or exchanged with the State of Texas
7 for other lands or exchanged for adjacent littoral land as
8 authorized by Section 61.117 of this code. The district may impose
9 restrictions on the development, use, and transfer of any real
10 property or interest in real property in connection with its sale or
11 exchange under this section.

12 (b) Before a district may sell or exchange real property
13 [~~land~~], the commission shall determine by resolution that the land
14 is no longer needed for use by the district in connection with the
15 development of a navigation project.

16 (c) A sale [~~Sale~~] or exchange [~~lease~~] of real property
17 [~~land~~] shall be made as provided by Sections 60.040-60.042
18 [~~60.039-60.042 of this code~~].

19 (d) A district may grant easements over, on, or under its
20 real property on terms and conditions the commission determines to
21 be advantageous to the district.

22 SECTION 7. Section 60.039, Water Code, is amended to read as
23 follows:

24 Sec. 60.039. CERTAIN SURFACE LEASES [~~LEASE~~]. (a) A
25 district [~~The commission~~] may lease, as lessor, the surface of real
26 property [~~land~~] for not more than 50 [~~30~~] years by the entry of an
27 order on the minutes of the commission and the execution of a lease

1 in the manner provided by the original order. The lease may not be
2 extended beyond the 50-year [~~30-year~~] period by renewal, extension,
3 or otherwise.

4 (b) The commission or the executive director of the
5 district, or a person authorized by the commission or the executive
6 director, may enter into a lease, as lessor, for the surface of real
7 property for not more than one year without [~~a monthly tenancy or a~~
8 ~~tenancy from month to month. The lease term may only exceed one~~
9 ~~year if~~]:

10 (1) entering [~~the commission enters~~] an order on the
11 minutes; or [~~and~~]

12 (2) executing [~~the execution of~~] the lease [~~is~~] in the
13 manner provided by the original order for the lease.

14 SECTION 8. Section 60.040, Water Code, is amended to read as
15 follows:

16 Sec. 60.040. PUBLICATION OF NOTICE FOR SALES AND LEASES IN
17 EXCESS OF 50 [~~30~~] YEARS. Before making a sale of real property or a
18 lease of real property [~~land~~] for more than 50 [~~30~~] years, the
19 district [~~commission~~] shall publish a notice in the manner provided
20 in Section 60.035 of this subchapter. Before publication of the
21 notice, a district may enter into negotiations with one or more
22 potential buyers or lessees without affecting the validity of the
23 sale or lease.

24 SECTION 9. Section 60.041, Water Code, is amended to read as
25 follows:

26 Sec. 60.041. SECURITY FOR BIDS ON REAL PROPERTY [~~LAND~~] TO BE
27 SOLD OR LEASED FOR MORE THAN 50 [~~30~~] YEARS. Each bid submitted on

1 real property [~~land~~] to be sold or leased for more than 50 [~~30~~]
2 years under Section 60.040 shall be accompanied by a certified
3 check, cashier's check, or bidder's bond with a responsible
4 corporate surety authorized to do business in Texas. The check or
5 bond shall be in an amount equal to five percent of the bid price for
6 the real property [~~land~~] or 100 percent of [~~for~~] the first rental
7 payment under the lease and shall guarantee that the bidder will
8 perform the terms of his bid if it is accepted by the district
9 [~~commission~~].

10 SECTION 10. Section 60.042(a), Water Code, is amended to
11 read as follows:

12 (a) After notice is published under Section 60.040 [~~of this~~
13 ~~code~~], the district [~~commission~~] may sell or lease in accordance
14 with Section 60.040 all or any part of the real property [~~land~~] to
15 the highest and best bidder for an amount which is not less than the
16 reasonable market value in the locality at the time and place of the
17 sale or lease.

18 SECTION 11. Section 60.0725, Water Code, is amended to read
19 as follows:

20 Sec. 60.0725 NUISANCES; POLLUTION. The commission shall
21 take all reasonable measures to [~~may~~] suppress and prevent
22 nuisances, pollution, and improper disposal of materials on any
23 district property to:

- 24 (1) accomplish the purposes stated in Section 60.071;
- 25 (2) protect other district property; or
- 26 (3) promote the health, safety, and general welfare of
27 persons using other district property.

1 SECTION 12. Section 60.124, Water Code, is amended to read
2 as follows:

3 Sec. 60.124. GIFTS, GRANTS, AND DONATIONS. A district may
4 accept a gift, grant, donation, or bequest of money, services,
5 equipment, goods, or other tangible or intangible property from any
6 source for any district purpose.

7 SECTION 13. Sections 60.404(b) and (d), Water Code, are
8 amended to read as follows:

9 (b) A notice of proposed purchase must be published once a
10 week for two consecutive weeks in a newspaper with general
11 circulation in each county in which the district [~~or port~~
12 ~~authority~~] is located. [~~The first notice must be published not~~
13 ~~later than the 14th day before the date the bids are to be opened.~~]
14 If there is no newspaper of general circulation in a county in which
15 the district [~~or port authority~~] is located, the notice shall be
16 published in a newspaper of general circulation in the county
17 nearest the county seat of the county in which the district is
18 located or the county in which the greatest amount of the district's
19 territory is located [~~for that county must be given by posting the~~
20 ~~notice in a prominent place in the courthouse of that county for not~~
21 ~~less than 14 days before the date the bids are to be opened~~].

22 (d) The specifications must:
23 (1) describe in detail the item to be acquired;
24 (2) require that bids be sealed;
25 (3) require the attachment to the bid of a certified
26 check, cashier's check, or bidders bond, if security is required in
27 connection with the bid; and

1 (4) indicate whether a small business development
2 program, local preference program, or other contracting program
3 adopted by the [~~port commission of the port authority or~~] district
4 applies to the purchase and, if so, where a copy of the program
5 requirements may be obtained.

6 SECTION 14. Section 60.405, Water Code, is amended to read
7 as follows:

8 Sec. 60.405. PROPOSAL PROCEDURES. (a) Items other than
9 construction services valued at more than the amount authorized by
10 Section 60.403(a) for routine purchases or contracts [~~Insurance or~~
11 ~~high technology items~~] may be purchased under the procedure
12 provided by this section.

13 (b) Quotations shall be solicited by the district or its
14 broker through a request for proposals from as many sources as are
15 reasonably available. The request for proposals must specify the
16 relative importance of price and all other factors of evaluation.

17 (c) Public notice of the request for proposal must be made
18 in the same manner as provided by Section 60.404 [~~of this code~~].

19 (d) The award of the contract shall be made by the port
20 commission in open session to the responsible offerer whose
21 proposal is determined, with or without negotiations, to provide
22 the best value to the district [~~be the lowest evaluated offer~~
23 ~~resulting from negotiation~~] giving consideration to evaluation
24 factors set forth in the request for proposals.

25 (e) If so provided in the request for proposals, information
26 in proposals may not be disclosed to the public [~~competing~~
27 ~~offerers~~] until the contract is awarded. After a contract is

1 awarded, proposals shall be open for public inspection, except that
2 information contained in a proposal identified as a trade secret or
3 as confidential shall be kept confidential.

4 (f) A district [~~port commission~~] may adopt rules relating to
5 negotiations to be conducted with responsible offerers submitting
6 proposals. Offerers must be accorded fair and equal treatment with
7 respect to any opportunity for negotiation and revision of
8 proposals. Revisions to proposal and contract terms may be
9 permitted after submission of a proposal and before award of the
10 contract.

11 SECTION 15. The heading to Section 60.407, Water Code, is
12 amended to read as follows:

13 Sec. 60.407. OPENING SEALED PROPOSALS AND BIDS.

14 SECTION 16. Section 60.407(a), Water Code, is amended to
15 read as follows:

16 (a) An official of the district [~~or port authority~~] shall
17 open the bids and competitive sealed proposals on the date
18 specified in the notice. If an error is discovered in the original
19 specifications or the nature of the item to be purchased requires an
20 extension, the date may be extended.

21 SECTION 17. Section 60.409(b), Water Code, is amended to
22 read as follows:

23 (b) If a district [~~or port authority~~] uses unit pricing in
24 its notice, the information furnished proposers or bidders shall
25 specify the approximate quantities estimated on the best available
26 information, or other quantities reasonably specified to permit
27 comparison of proposals or bids, and the total contract amount may

1 be based on estimated maximum quantities, but the compensation
2 paid the bidder must be based on the actual quantities purchased.

3 SECTION 18. Section 60.411(d), Water Code, is amended to
4 read as follows:

5 (d) A district may determine that bidders [~~Bidders~~] or
6 proposal offerers for contracts for the construction of public
7 works for a district, and otherwise subject to Chapter 2253,
8 Government Code, are not required to furnish bonds in the amounts [~~a~~
9 ~~bond as~~] provided by that chapter [~~article~~], but in other amounts as
10 required by the district [~~except that a district or port authority~~
11 ~~may require that the bond be executed with a surety company listed~~
12 ~~on the United States Department of Treasury List of Approved~~
13 ~~Sureties~~].

14 SECTION 19. Section 60.458, Water Code, is amended to read
15 as follows:

16 Sec. 60.458. PURCHASE CONTRACT AWARD CRITERIA. Except as
17 provided by this subchapter, in determining to whom to award a
18 contract, the district may consider:

- 19 (1) the purchase price;
- 20 (2) the reputation of the vendor and of the vendor's
21 goods or services;
- 22 (3) the quality of the vendor's goods or services;
- 23 (4) the extent to which the goods or services meet the
24 district's needs;
- 25 (5) the vendor's past relationship with the district;
- 26 (6) the impact on the ability of the district to comply
27 with laws and rules relating to historically underutilized

1 businesses~~[7]~~ and on the district's small business development
2 program, local preference program, or other ~~[another]~~ contracting
3 program adopted by the ~~[approved by the]~~ district, if any;

4 (7) the total long-term cost to the district to
5 acquire the vendor's goods or services; and

6 (8) any other relevant factor specifically listed in
7 the request for bids or proposals.

8 SECTION 20. Section 60.463, Water Code, is amended by
9 amending Subsections (d) and (e) and adding Subsection (d-1) to
10 read as follows:

11 (d) The district shall select a contractor through
12 competitive sealed proposals in either a one-step or two-step
13 process. The district shall prepare a request for competitive
14 sealed proposals, in the case of a one-step process, or a request
15 for qualifications, in the case of a two-step process, that
16 includes construction documents, selection criteria, project
17 scope, schedule, the time and place for receipt of proposals or
18 qualifications, as applicable, a statement as to whether the
19 selection process is a one-step or two-step process, and other
20 information that contractors may require to respond to the request.
21 The district shall state in the request for proposals or
22 qualifications, as applicable, the selection criteria that will be
23 used in selecting the successful offeror. If a one-step process is
24 used, the district may request, as part of the offeror's proposal,
25 proposed prices.

26 (d-1) If a two-step process is used, the district may not
27 request prices in step one. In step two, the district may request

1 that five or fewer offerors, selected solely on the basis of
2 qualifications, provide additional information, including proposed
3 prices.

4 (e) At each step, the ~~[The]~~ district shall receive, publicly
5 open, and read aloud the names of the offerors ~~[and, if any lump-sum~~
6 ~~prices are required to be stated, all such lump-sum prices stated in~~
7 ~~each proposal]~~. At the appropriate step, the district shall read
8 aloud the prices, if any, stated in each proposal as the proposal is
9 opened. Not later than the 45th day after the date of opening the
10 proposals, the district shall evaluate and rank each proposal
11 submitted in relation to the published selection criteria.

12 SECTION 21. Section 61.164(b), Water Code, is amended to
13 read as follows:

14 (b) No franchise shall be granted for longer than 50 ~~[30]~~
15 years nor shall a franchise be granted except on the affirmative
16 vote of a majority of the commissioners at three separate meetings
17 of the commission which meetings may not be closer together than one
18 week.

19 SECTION 22. Section 62.153, Water Code, is amended to read
20 as follows:

21 Sec. 62.153. DUTIES OF DISTRICT TREASURER. The district
22 treasurer shall:

23 (1) open an account for all funds received by him for
24 the district and all district funds which he pays out;

25 (2) pay out money on vouchers signed by the chairman of
26 the commission, any two members of the commission, or the
27 commissioners court, or any two of any number of persons delegated

1 by the commission with authority to sign vouchers, provided that
2 the commission may, in such delegation, limit the authority of such
3 persons and may require that each furnish a fidelity bond in such
4 amount as the commission shall specify and subject to commission
5 approval;

6 (3) carefully preserve all orders for the payment of
7 money; ~~and~~

8 (4) render a correct account to the commissioners
9 court of all matters relating to the financial condition of the
10 district as often as required by the commissioners court; and

11 (5) not be required to sign a check drawn on a
12 depository selected under Section 62.156, unless the district
13 treasurer is the designated officer of the district, as defined by
14 Section 60.271(g).

15 SECTION 23. Section 63.178(b), Water Code, is amended to
16 read as follows:

17 (b) A franchise may be granted for a period of not more than
18 50 ~~30~~ years.

19 SECTION 24. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2015.