

1-1 By: Garcia, Hinojosa S.B. No. 1894
 1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read
 1-3 first time and referred to Committee on Natural Resources and
 1-4 Economic Development; May 7, 2015, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 9,
 1-6 Nays 0; May 7, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17			X	
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1894 By: Estes

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the powers and duties of navigation districts, port
 1-24 authorities, and boards of trustees of municipal port facilities.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. The heading to Section 551.0415, Government
 1-27 Code, is amended to read as follows:

1-28 Sec. 551.0415. BOARD OF TRUSTEES OR GOVERNING BODY OF
 1-29 MUNICIPALITY, [OR] COUNTY, OR NAVIGATION DISTRICT: REPORTS ABOUT
 1-30 ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE
 1-31 TAKEN.

1-32 SECTION 2. Section 551.0415(a), Government Code, is amended
 1-33 to read as follows:

1-34 (a) Notwithstanding Sections 551.041 and 551.042, a quorum
 1-35 of the governing body of a municipality, ~~or~~ county, navigation
 1-36 district, or board of trustees established under Chapter 54,
 1-37 Transportation Code, may receive from staff of the political
 1-38 subdivision and a member of the governing body may make a report
 1-39 about items of community interest during a meeting of the governing
 1-40 body without having given notice of the subject of the report as
 1-41 required by this subchapter if no action is taken and, except as
 1-42 provided by Section 551.042, possible action is not discussed
 1-43 regarding the information provided in the report.

1-44 SECTION 3. Section 60.034, Water Code, is amended to read as
 1-45 follows:

1-46 Sec. 60.034. OIL, GAS, AND MINERAL LEASES. Except for lands
 1-47 or flats purchased from this state under Article 8225, Revised
 1-48 Statutes, a district [The commission] may lease for oil, gas, and
 1-49 minerals rights-of-way, spoil grounds, spoil basins, or any other
 1-50 land owned by the [a navigation] district if it does not interfere
 1-51 with use of or obstruct any natural or artificial waterway of the
 1-52 district used for navigation purposes.

1-53 SECTION 4. The heading to Section 60.035, Water Code, is
 1-54 amended to read as follows:

1-55 Sec. 60.035. NOTICE OF CERTAIN OIL, GAS, AND MINERAL LEASES
 1-56 [LEASE].

1-57 SECTION 5. Section 60.035(a), Water Code, is amended to
 1-58 read as follows:

1-59 (a) Before a district may enter into a lease [may be
 1-60 executed by the commission] under Section 60.034 [of this code],

2-1 the district [~~commission~~] shall have a notice requesting bids on
 2-2 the lease published in a newspaper of general circulation in the
 2-3 district. The notice shall be published at least once a week for
 2-4 two consecutive weeks before the final date for the receipt of bids.
 2-5 Chapter 71, Natural Resources Code, does not apply to a lease made
 2-6 under this section if the lease is made in accordance with this
 2-7 section and Sections 60.036 and 60.037 of this code.

2-8 SECTION 6. Section 60.038, Water Code, is amended to read as
 2-9 follows:

2-10 Sec. 60.038. DISPOSITION [~~SALE OR LEASE~~] OF INTERESTS IN
 2-11 REAL PROPERTY [~~LAND~~]. (a) A district may sell, exchange, or lease
 2-12 real property or any interest in real property [~~all or any part of~~
 2-13 ~~land~~] owned by it, whether the real property was [~~land is~~] acquired
 2-14 by gift or purchase, in settlement of any litigation, controversy,
 2-15 or claim in behalf of the district, or in any other manner, except
 2-16 that lands or flats heretofore purchased from the State of Texas
 2-17 under Article 8225, Revised [~~Civil~~] Statutes [~~of Texas, 1925~~], or
 2-18 granted by the State of Texas in any general or special act, may be
 2-19 sold only to the State of Texas or exchanged with the State of Texas
 2-20 for other lands or exchanged for adjacent littoral land as
 2-21 authorized by Section 61.117 of this code. Except for lands or
 2-22 flats purchased from this state under Article 8225, Revised
 2-23 Statutes, the district may impose restrictions on the development,
 2-24 use, and transfer of any real property or interest in real property
 2-25 in connection with its sale or exchange under this section.

2-26 (b) Before a district may sell or exchange real property
 2-27 [~~land~~], the commission shall determine by resolution that the land
 2-28 is no longer needed for use by the district in connection with the
 2-29 development of a navigation project.

2-30 (c) A sale [~~sale~~] or exchange [~~lease~~] of real property
 2-31 [~~land~~] shall be made as provided by Sections 60.040-60.042
 2-32 [~~60.039-60.042 of this code~~].

2-33 SECTION 7. Section 60.039, Water Code, is amended to read as
 2-34 follows:

2-35 Sec. 60.039. CERTAIN SURFACE LEASES [~~LEASE~~]. (a) A
 2-36 district [~~The commission~~] may lease, as lessor, the surface of real
 2-37 property [~~land~~] for not more than 50 [~~30~~] years by the entry of an
 2-38 order on the minutes of the commission and the execution of a lease
 2-39 in the manner provided by the original order. The lease may not be
 2-40 extended beyond the 50-year [~~30-year~~] period by renewal, extension,
 2-41 or otherwise.

2-42 (b) The commission or the executive director of the
 2-43 district, or a person authorized by the commission or the executive
 2-44 director, may enter into a lease, as lessor, for the surface of real
 2-45 property for not more than one year without [~~a monthly tenancy or a~~
 2-46 ~~tenancy from month to month. The lease term may only exceed one~~
 2-47 ~~year if~~]:

2-48 (1) entering [~~the commission enters~~] an order on the
 2-49 minutes; or [~~and~~]

2-50 (2) executing [~~the execution of~~] the lease [~~is~~] in the
 2-51 manner provided by the original order for the lease.

2-52 SECTION 8. Section 60.040, Water Code, is amended to read as
 2-53 follows:

2-54 Sec. 60.040. PUBLICATION OF NOTICE FOR SALES AND LEASES IN
 2-55 EXCESS OF 50 [~~30~~] YEARS. Before making a sale of real property or a
 2-56 lease of real property [~~land~~] for more than 50 [~~30~~] years, the
 2-57 district [~~commission~~] shall publish a notice in the manner provided
 2-58 in Section 60.035 [~~of this subchapter~~]. Before publication of the
 2-59 notice, a district may enter into negotiations with one or more
 2-60 potential buyers or lessees without affecting the validity of the
 2-61 sale or lease.

2-62 SECTION 9. Section 60.041, Water Code, is amended to read as
 2-63 follows:

2-64 Sec. 60.041. SECURITY FOR BIDS ON REAL PROPERTY [~~LAND~~] TO BE
 2-65 SOLD OR LEASED FOR MORE THAN 50 [~~30~~] YEARS. Each bid submitted on
 2-66 real property [~~land~~] to be sold or leased for more than 50 [~~30~~]
 2-67 years under Section 60.040 shall be accompanied by a certified
 2-68 check, cashier's check, or bidder's bond with a responsible
 2-69 corporate surety authorized to do business in Texas. The check or

3-1 bond shall be in an amount equal to five percent of the bid price for
3-2 the real property [land] or 100 percent of [for] the first rental
3-3 payment under the lease and shall guarantee that the bidder will
3-4 perform the terms of his bid if it is accepted by the district
3-5 [~~commission~~].

3-6 SECTION 10. Section 60.042(a), Water Code, is amended to
3-7 read as follows:

3-8 (a) After notice is published under Section 60.040 [~~of this~~
3-9 ~~code~~], the district [commission] may sell or lease in accordance
3-10 with Section 60.040 all or any part of the real property [land] to
3-11 the highest and best bidder for an amount which is not less than the
3-12 reasonable market value in the locality at the time and place of the
3-13 sale or lease.

3-14 SECTION 11. Section 60.071, Water Code, is amended to read
3-15 as follows:

3-16 Sec. 60.071. GENERAL RULE-MAKING AUTHORITY. The commission
3-17 of a district which owns, operates, and maintains wharves, docks,
3-18 piers, sheds, warehouses, and other similar terminal facilities
3-19 which are not located inside the boundaries of any incorporated
3-20 city, town, or village may pass, amend, and repeal any ordinance,
3-21 rule, or police regulation which is not contrary to the
3-22 constitution or laws of this state and which is necessary to protect
3-23 the property and to promote the health, safety, and general welfare
3-24 of persons using the property or living or working near the
3-25 property.

3-26 SECTION 12. Section 60.124, Water Code, is amended to read
3-27 as follows:

3-28 Sec. 60.124. GIFTS, GRANTS, AND DONATIONS. A district may
3-29 accept a gift, grant, donation, or bequest of money, services,
3-30 equipment, goods, or other tangible or intangible property from any
3-31 source for any district purpose.

3-32 SECTION 13. Sections 60.404(b) and (d), Water Code, are
3-33 amended to read as follows:

3-34 (b) A notice of proposed purchase must be published once a
3-35 week for two consecutive weeks in a newspaper with general
3-36 circulation in each county in which the district [~~or port~~
3-37 ~~authority~~] is located. [~~The first notice must be published not~~
3-38 ~~later than the 14th day before the date the bids are to be opened.~~]
3-39 If there is no newspaper of general circulation in a county in which
3-40 the district [~~or port authority~~] is located, the notice shall be
3-41 published in a newspaper of general circulation in the county
3-42 nearest the county seat of the county in which the district is
3-43 located or the county in which the greatest amount of the district's
3-44 territory is located [~~for that county must be given by posting the~~
3-45 ~~notice in a prominent place in the courthouse of that county for not~~
3-46 ~~less than 14 days before the date the bids are to be opened~~].

3-47 (d) The specifications must:

- 3-48 (1) describe in detail the item to be acquired;
- 3-49 (2) require that bids be sealed;
- 3-50 (3) require the attachment to the bid of a certified
3-51 check, cashier's check, or bidders bond, if security is required in
3-52 connection with the bid; and

3-53 (4) indicate whether a small business development
3-54 program, local preference program, or other contracting program
3-55 adopted by the [port commission of the port authority or] district
3-56 applies to the purchase and, if so, where a copy of the program
3-57 requirements may be obtained.

3-58 SECTION 14. Section 60.405, Water Code, is amended to read
3-59 as follows:

3-60 Sec. 60.405. PROPOSAL PROCEDURES. (a) Items other than
3-61 construction services valued at more than the amount authorized by
3-62 Section 60.403(a) for routine purchases or contracts [~~Insurance or~~
3-63 ~~high technology items~~] may be purchased under the procedure
3-64 provided by this section.

3-65 (b) Quotations shall be solicited by the district or its
3-66 broker through a request for proposals from as many sources as are
3-67 reasonably available. The request for proposals must specify the
3-68 relative importance of price and all other factors of evaluation.

3-69 (c) Public notice of the request for proposal must be made

4-1 in the same manner as provided by Section 60.404 ~~[of this code]~~.

4-2 (d) The award of the contract shall be made by the port
 4-3 commission in open session to the responsible offerer whose
 4-4 proposal is determined to provide the best value to the district ~~[be~~
 4-5 ~~the lowest evaluated offer resulting from negotiation]~~ giving
 4-6 consideration to evaluation factors set forth in the request for
 4-7 proposals.

4-8 (e) If so provided in the request for proposals, information
 4-9 in proposals may not be disclosed to the public ~~[competing~~
 4-10 ~~offerers]~~ until the contract is awarded. After a contract is
 4-11 awarded, proposals shall be open for public inspection, except that
 4-12 information contained in a proposal identified as a trade secret or
 4-13 as confidential shall be kept confidential.

4-14 (f) A district ~~[port commission]~~ may adopt rules relating to
 4-15 negotiations to be conducted with responsible offerers submitting
 4-16 proposals. Offerers must be accorded fair and equal treatment with
 4-17 respect to any opportunity for negotiation and revision of
 4-18 proposals. Revisions to proposal and contract terms may be
 4-19 permitted after submission of a proposal and before award of the
 4-20 contract.

4-21 SECTION 15. The heading to Section 60.407, Water Code, is
 4-22 amended to read as follows:
 4-23 Sec. 60.407. OPENING SEALED PROPOSALS AND BIDS.

4-24 SECTION 16. Section 60.407(a), Water Code, is amended to
 4-25 read as follows:
 4-26 (a) An official of the district ~~[or port authority]~~ shall
 4-27 open the bids and competitive sealed proposals on the date
 4-28 specified in the notice. If an error is discovered in the original
 4-29 specifications or the nature of the item to be purchased requires an
 4-30 extension, the date may be extended.

4-31 SECTION 17. Section 60.409(b), Water Code, is amended to
 4-32 read as follows:
 4-33 (b) If a district ~~[or port authority]~~ uses unit pricing in
 4-34 its notice, the information furnished proposers or bidders shall
 4-35 specify the approximate quantities estimated on the best available
 4-36 information, or other quantities reasonably specified to permit
 4-37 comparison of proposals or bids, and the total contract amount may
 4-38 be based on estimated maximum quantities, but the compensation
 4-39 paid the bidder must be based on the actual quantities purchased.

4-40 SECTION 18. Section 60.458, Water Code, is amended to read
 4-41 as follows:
 4-42 Sec. 60.458. PURCHASE CONTRACT AWARD CRITERIA. Except as
 4-43 provided by this subchapter, in determining to whom to award a
 4-44 contract, the district may consider:
 4-45 (1) the purchase price;
 4-46 (2) the reputation of the vendor and of the vendor's
 4-47 goods or services;
 4-48 (3) the quality of the vendor's goods or services;
 4-49 (4) the extent to which the goods or services meet the
 4-50 district's needs;
 4-51 (5) the vendor's past relationship with the district;
 4-52 (6) the impact on the ability of the district to comply
 4-53 with laws and rules relating to historically underutilized
 4-54 businesses~~[7]~~ and on the district's small business development
 4-55 program, local preference program, or other ~~[another]~~ contracting
 4-56 program adopted by the ~~[approved by the]~~ district, if any;
 4-57 (7) the total long-term cost to the district to
 4-58 acquire the vendor's goods or services; and
 4-59 (8) any other relevant factor specifically listed in
 4-60 the request for bids or proposals.

4-61 SECTION 19. Section 60.463, Water Code, is amended by
 4-62 amending Subsections (d) and (e) and adding Subsection (d-1) to
 4-63 read as follows:
 4-64 (d) The district shall select a contractor through
 4-65 competitive sealed proposals in either a one-step or two-step
 4-66 process. The district shall prepare a request for competitive
 4-67 sealed proposals, in the case of a one-step process, or a request
 4-68 for qualifications, in the case of a two-step process, that
 4-69 includes construction documents, selection criteria, project

5-1 scope, schedule, the time and place for receipt of proposals or
5-2 qualifications, as applicable, a statement as to whether the
5-3 selection process is a one-step or two-step process, and other
5-4 information that contractors may require to respond to the request.
5-5 The district shall state in the request for proposals or
5-6 qualifications, as applicable, the selection criteria that will be
5-7 used in selecting the successful offeror. If a one-step process is
5-8 used, the district may request, as part of the offeror's proposal,
5-9 proposed prices.

5-10 (d-1) If a two-step process is used, the district may not
5-11 request prices in step one. In step two, the district may request
5-12 that five or fewer offerors, selected solely on the basis of
5-13 qualifications, provide additional information, including proposed
5-14 prices.

5-15 (e) At each step, the [The] district shall receive, publicly
5-16 open, and read aloud the names of the offerors [~~and, if any lump-sum
5-17 prices are required to be stated, all such lump-sum prices stated in
5-18 each proposal~~]. At the appropriate step, the district shall read
5-19 aloud the prices, if any, stated in each proposal as the proposal is
5-20 opened. Not later than the 45th day after the date of opening the
5-21 proposals, the district shall evaluate and rank each proposal
5-22 submitted in relation to the published selection criteria.

5-23 SECTION 20. Section 61.164(b), Water Code, is amended to
5-24 read as follows:

5-25 (b) No franchise shall be granted for longer than 50 [~~30~~]
5-26 years nor shall a franchise be granted except on the affirmative
5-27 vote of a majority of the commissioners at three separate meetings
5-28 of the commission which meetings may not be closer together than one
5-29 week.

5-30 SECTION 21. Section 62.153, Water Code, is amended to read
5-31 as follows:

5-32 Sec. 62.153. DUTIES OF DISTRICT TREASURER. The district
5-33 treasurer shall:

5-34 (1) open an account for all funds received by him for
5-35 the district and all district funds which he pays out;

5-36 (2) pay out money on vouchers signed by the chairman of
5-37 the commission, any two members of the commission, or the
5-38 commissioners court, or any two of any number of persons delegated
5-39 by the commission with authority to sign vouchers, provided that
5-40 the commission may, in such delegation, limit the authority of such
5-41 persons and may require that each furnish a fidelity bond in such
5-42 amount as the commission shall specify and subject to commission
5-43 approval;

5-44 (3) carefully preserve all orders for the payment of
5-45 money; [~~and~~]

5-46 (4) render a correct account to the commissioners
5-47 court of all matters relating to the financial condition of the
5-48 district as often as required by the commissioners court; and

5-49 (5) not be required to sign a check drawn on a
5-50 depository selected under Section 62.156, unless the district
5-51 treasurer is the designated officer of the district, as defined by
5-52 Section 60.271(g).

5-53 SECTION 22. Section 63.178(b), Water Code, is amended to
5-54 read as follows:

5-55 (b) A franchise may be granted for a period of not more than
5-56 50 [~~30~~] years.

5-57 SECTION 23. This Act takes effect immediately if it
5-58 receives a vote of two-thirds of all the members elected to each
5-59 house, as provided by Section 39, Article III, Texas Constitution.
5-60 If this Act does not receive the vote necessary for immediate
5-61 effect, this Act takes effect September 1, 2015.

5-62 * * * * *