

BILL ANALYSIS

C.S.H.B. 1528
By: Perez
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed confusion regarding the powers and duties of certain navigation districts regarding oil, gas, and mineral leases and certain procurement requirements. C.S.H.B. 1528 seeks to alleviate this confusion by revising general provisions relating to navigation districts.

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

C.S.H.B. 1528 amends the Water Code to revise general provisions relating to navigation districts, including transferring certain authority and responsibilities from a district's navigation and canal commission to the district itself and changing certain references to land to references to real property. The bill makes Natural Resources Code provisions relating to a lease for mineral development inapplicable to an oil, gas, or mineral lease if the lease is made in accordance with general navigation district provisions relating to notice, bid security, and award and execution of an oil, gas, or mineral lease. The bill provides for the granting of an easement over the surface estate of real property by a district and for the extension of a lease or easement beyond a 50-year period and makes related changes, including authorizing the executive director of a district, or a person authorized by the navigation and canal commission or the executive director, to enter into an easement on behalf of the district, as grantor, on the surface of real property for not more than one year without the commission's adoption of a resolution or an order approving the easement. The bill authorizes a district to enter into negotiations with one or more potential buyers, easement grantees, or lessees before the publication of the notice of a sale, easement, or lease for more than 50 years without affecting the validity of the sale, easement, or lease. The bill decreases the amount of the security of a bid on real property to be sold from the full amount of the bid to five percent of the bid. The bill specifies that a lease under provisions relating to the acquisition and maintenance of port facilities is not a loan of the district's credit or a grant of public money and that the acquisition and leasing of land and facilities for the purposes included in such provisions and the operation and industrial and business development of ports and waterways are a public purpose and a matter of public necessity. The bill specifies the type of property a bequest of which a district may accept.

C.S.H.B. 1528 revises general navigation district provisions relating to competitive bidding requirements and purchase contracts, including provisions regarding notice and specifications of

a proposed purchase and provisions revising certain port authority, port commission, navigation district, and contracting program references. The bill makes the authorization for a district to adopt general navigation district competitive bidding requirement provisions for a particular purchase or period or for all purchases and contracts subject to the navigation and canal commission's right to authorize particular procurements under general navigation district provisions relating to purchase contracts. The bill replaces insurance or high technology items with items other than construction services valued at more than \$50,000 as items that may be purchased under certain proposal procedures and makes related changes, including changing the entity to whom an award of a contract is required to be made from the responsible offerer whose proposal is determined to be the lowest evaluated offer resulting from negotiation to the responsible offerer whose proposal is determined to provide the best value to the district. The bill provides for the opening of competitive sealed proposals and revises a provision relating to the unit pricing method. The bill requires a district to select a contractor for construction services through competitive sealed proposals in either a one-step or two-step process and makes related changes regarding such processes.

C.S.H.B. 1528 revises provisions relating to the acquisition of land by an Article XVI, Section 59 navigation district, including providing for the granting of easements by a district and authorizing a lease or easement to be on terms and conditions considered appropriate or advantageous to the district. The bill authorizes a district to grant franchises to any person on property owned or controlled by the district by restrictive covenant or otherwise, prohibits a franchise from being granted for longer than 50 years, and sets out provisions relating to the granting of the franchise. The bill prohibits a district treasurer from being required to sign a check drawn on the district's selected depository unless the district treasurer is the designated officer of the district. The bill provides for the issuance of revenue bonds by a district for desalinization facilities. The bill extends from 30 years to 50 years the maximum period for which a self-liquidating navigation district may grant a franchise.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1528 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 60.034, Water Code, is amended to read as follows:

Sec. 60.034. OIL, GAS, AND MINERAL LEASES. Except for lands or flats purchased from this state under Section 61.115, 61.116, or 61.117, or their predecessor statute, Article 8225, Revised Statutes, a district [~~The commission~~] may lease for oil, gas, and minerals rights-of-way, spoil grounds, spoil basins, or any other land owned by the [~~a navigation~~] district if the lease [~~it~~] does not interfere with use of or obstruct any natural or artificial waterway of the district used for navigation purposes.

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 2. The heading to Section 60.035, Water Code, is amended.

SECTION 3. Section 60.035(a), Water Code, is amended.

SECTION 4. Section 60.039, Water Code, is amended.

SECTION 5. Section 60.040, Water Code, is amended.

SECTION 6. Section 60.041, Water Code, is amended.

SECTION 7. Section 60.042, Water Code, is amended.

SECTION 8. Section 60.101(c), Water Code, is amended.

SECTION 9. Section 60.124, Water Code, is amended.

SECTION 10. Section 60.401(b), Water Code, is amended.

SECTION 11. Sections 60.404(b) and (d), Water Code, are amended.

SECTION 12. Section 60.405, Water Code, is amended.

SECTION 13. Section 60.407, Water Code, is amended.

SECTION 14. Section 60.409(b), Water Code, is amended.

SECTION 15. Section 60.458, Water Code, is amended.

SECTION 16. Section 60.463, Water Code, is amended.

SECTION 17. Section 62.107, Water Code, is amended to read as follows:

Sec. 62.107. ACQUISITION AND CONVEYANCE OF LAND. (a) Any district created under this chapter may acquire by gift, purchase, or condemnation and may own land adjacent or accessible by road, rail, or water to the navigable water and ports developed by it which may be

SECTION 1. Same as introduced version.

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SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

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SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.

SECTION 14. Same as introduced version.

SECTION 15. Same as introduced version.

SECTION 16. Section 62.107, Water Code, is amended to read as follows:

Sec. 62.107. ACQUISITION AND CONVEYANCE OF LAND. (a) Any district created under this chapter may acquire by gift, purchase, or condemnation and may own land adjacent or accessible by road, rail, or water to the navigable water and ports developed by it which may be

necessary or required for any and all purposes incident to or necessary for the development and operation of the navigable water or ports within the district, or may be necessary or required for or in aid of the development of industries and businesses on the land.

(b) The district may lease and grant easements on any part of the acquired land to any person [~~individual or corporation~~] and may charge for the lease or easement reasonable tolls, rents, fees, or other charges. The lease or easement may be on terms and conditions considered appropriate or advantageous to the district. The district may use the proceeds both for the maintenance and operation of the business of the district and for the purpose of making the district self-supporting and financially solvent and returning the construction costs of the improvements within a reasonable period.

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

SECTION 18. Subchapter D, Chapter 62, Water Code, is amended by adding Section 62.123 to read as follows:

Sec. 62.123. FRANCHISES. (a) A district may grant franchises for purposes consistent with this chapter to any person on property owned or controlled by the district by restrictive covenant or otherwise.

(b) No franchise shall be granted for longer than 50 years nor shall a franchise be granted except on the affirmative vote of a majority of the commissioners present at three separate meetings of the commission which meetings may not be closer together than one week.

(c) No franchise shall be granted until notice of the franchise is published at the expense of the applicant, once a week for three consecutive weeks in a daily newspaper of general circulation in the district. For the purposes of this subsection, notice consists of:

(1) the text of the franchise in final form in all material respects; or

(2) a descriptive caption stating the purpose of the franchise and the location at which a

necessary or required for any and all purposes incident to or necessary for the development and operation of the navigable water or ports within the district, or may be necessary or required for or in aid of the development of industries and businesses on the land.

(b) The district may lease and grant easements on any part of the acquired land to any person [~~individual or corporation~~] and may charge for the lease or easement reasonable tolls, rents, fees, or other charges. The lease or easement may be on terms and conditions considered appropriate or advantageous to the district. The district may use the proceeds both for the maintenance and operation of the business of the district and for the purpose of making the district self-supporting and financially solvent and returning the construction costs of the improvements within a reasonable period.

(c) The acquisition and leasing of land or granting easements on land for the purposes included in this section and the operation and industrial and business development of ports and waterways are a public purpose and a matter of public necessity.

SECTION 17. Subchapter D, Chapter 62, Water Code, is amended by adding Section 62.123 to read as follows:

Sec. 62.123. FRANCHISES. (a) A district may grant franchises for purposes consistent with this chapter to any person on property owned or controlled by the district by restrictive covenant or otherwise.

(b) No franchise shall be granted for longer than 50 years nor shall a franchise be granted except on the affirmative vote of a majority of the commissioners present at three separate meetings of the commission which meetings may not be closer together than one week.

(c) No franchise shall be granted until notice of the franchise is published, at the expense of the applicant, once a week for three consecutive weeks in a daily newspaper of general circulation in the district. For the purposes of this subsection, notice consists of:

(1) the text of the franchise in final form in all material respects; or

(2) a descriptive caption stating the purpose of the franchise and the location at which a

complete copy of the franchise in all material respects may be obtained.

(d) The franchise shall require the grantee to file the grantee's written acceptance within 30 days after the franchise is finally approved by the commission.

(e) Nothing in this section shall be construed as preventing the district from granting revocable licenses or permits for the use of limited portions of waterfront or facilities for purposes consistent with this chapter.

SECTION 19. Section 62.153, Water Code, is amended.

SECTION 20. Section 62.208(a), Water Code, is amended.

SECTION 21. Section 63.178(b), Water Code, is amended.

SECTION 22. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

complete copy of the franchise in all material respects may be obtained.

(d) The franchise shall require the grantee to file the grantee's written acceptance within 30 days after the franchise is finally approved by the commission. The franchise is effective on the date the grantee files the acceptance, unless the district and the grantee agree on a later date.

(e) Nothing in this section shall be construed as preventing the district from granting revocable licenses or permits for the use of limited portions of waterfront or facilities for purposes consistent with this chapter.

SECTION 18. Same as introduced version.

SECTION 19. Same as introduced version.

SECTION 20. Same as introduced version.

SECTION 21. Same as introduced version.