

BILL ANALYSIS

C.S.H.B. 2499
By: Faircloth
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that certain notice and bidding requirements for the disposition of an interest in real property by a navigation district are unnecessary and burdensome since such an interest is generally not desired by the general public and is of concern only to a few entities. C.S.H.B. 2499 seeks to address this issue by revising provisions relating to the disposition of such interests by a navigation district.

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. 2499 amends the Water Code to replace the authorization for a navigation district to sell or lease all or any part of certain land owned by the district with an authorization for a navigation district to sell, exchange, or lease certain real property or any interest in certain real property owned by the district. The bill authorizes a district to impose restrictions on the development, use, and transfer of any real property or interest in real property in connection with its sale or exchange.

C.S.H.B. 2499 authorizes a navigation district to donate, exchange, convey, sell, or lease land, improvements, easements, or any other interests in real property to an electric utility to promote a public purpose related to the development of a district. The bill requires a district to determine the terms and conditions of the transaction so as to achieve the public purpose and be consistent with the requirements of the Public Utility Regulatory Act. The bill authorizes the district to donate, exchange, convey, sell, or lease such a real property interest for less than its fair market value and without complying with certain notice and bidding requirements.

C.S.H.B. 2499 authorizes narrow strips of real property resulting from boundary or surveying conflicts or similar causes, or from insubstantial encroachments by abutting real property owners, or real property of larger configuration that has been subject to encroachments by abutting real property owners for more than 25 years to be abandoned, released, exchanged, or transferred to such abutting owners on terms and conditions considered appropriate or advantageous to the navigation district. The bill authorizes a district to convey the real property for less than its fair market value and without complying with certain notice and bidding requirements.

C.S.H.B. 2499 authorizes a navigation district to grant easements over, on, or under its real property on terms and conditions the district's navigation and canal commission determines to be advantageous to the district. The bill establishes that the authority granted to a district by applicable general navigation district provisions to dispose of interests in real property is in addition to any authority granted by Local Government Code provisions relating to the sale or lease of property by municipalities, counties, and certain other local governments.

C.S.H.B. 2499 prohibits general navigation district provisions relating to the disposition of interests in real property from being construed to affect the application by the Parks and Wildlife Department (TPWD) of a statute or rule governing the taking, conservation, or protection of marine wildlife, including the authority of TPWD to issue oyster leases to individuals and private entities for the purpose of bedding, harvesting, and selling oysters consistent with certain Parks and Wildlife Code provisions.

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. 2499 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 60.038, Water Code, is amended to read as follows:

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

(b) Except as provided by Subsection (d), before [Before] a district may sell or exchange real property [land], the commission shall determine by resolution

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 60.038, Water Code, is amended to read as follows:

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

(b) Except as provided by Subsection (d), before [Before] a district may sell or exchange real property [land], the commission shall determine by resolution

that the land is no longer needed for use by the district in connection with the development of a navigation project.

(c) Except as provided by Subsection (d), (e), or (f), a sale [Sale] or exchange [lease] of real property [land] shall be made as provided by Sections 60.040-60.042 [60.039-60.042 of this code].

(d) A district may donate, exchange, convey, sell, or lease land, improvements, easements, or any other interests in real property to an electric utility, as that term is defined by Section 31.002, Utilities Code, or a telecommunications utility, as that term is defined by Section 51.002, Utilities Code, to promote a public purpose related to the development of a district. The district shall determine the terms and conditions of the transaction so as to:

- (1) achieve the public purpose; and
- (2) be consistent with the requirements of Title 2, Utilities Code.

(e) A district may donate, exchange, convey, sell, or lease a real property interest under Subsection (d) for less than its fair market value and without complying with the notice and bidding requirements of Sections 60.040-60.042.

(f) Narrow strips of real property resulting from boundary or surveying conflicts or similar causes, or from insubstantial encroachments by abutting real property owners, or real property of larger configuration that has been subject to encroachments by abutting real property owners for more than 25 years may be abandoned, released, exchanged, or transferred to such abutting owners on terms and conditions considered appropriate or advantageous to the district. A district may convey real property under this subsection for less than its fair market value and without complying with the notice and bidding requirements of Sections 60.040-60.042.

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

(h) The authority granted to a district by this section to dispose of interests in real property is in addition to any authority granted by Chapter 272, Local Government Code, and a disposition of an interest in real property under this section is exempt from

that the land is no longer needed for use by the district in connection with the development of a navigation project.

(c) Except as provided by Subsection (d), (e), or (f), a sale [Sale] or exchange [lease] of real property [land] shall be made as provided by Sections 60.040-60.042 [60.039-60.042 of this code].

(d) A district may donate, exchange, convey, sell, or lease land, improvements, easements, or any other interests in real property to an electric utility, as that term is defined by Section 31.002, Utilities Code, to promote a public purpose related to the development of a district. The district shall determine the terms and conditions of the transaction so as to:

- (1) achieve the public purpose; and
- (2) be consistent with the requirements of Title 2, Utilities Code.

(e) A district may donate, exchange, convey, sell, or lease a real property interest under Subsection (d) for less than its fair market value and without complying with the notice and bidding requirements of Sections 60.040-60.042.

(f) Narrow strips of real property resulting from boundary or surveying conflicts or similar causes, or from insubstantial encroachments by abutting real property owners, or real property of larger configuration that has been subject to encroachments by abutting real property owners for more than 25 years may be abandoned, released, exchanged, or transferred to such abutting owners on terms and conditions considered appropriate or advantageous to the district. A district may convey real property under this subsection for less than its fair market value and without complying with the notice and bidding requirements of Sections 60.040-60.042.

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

(h) The authority granted to a district by this section to dispose of interests in real property is in addition to any authority granted by Chapter 272, Local Government Code.

the notice, bidding, and other requirements in Chapter 272, Local Government Code.

(i) Nothing in this section may be construed to affect the application by the Parks and Wildlife Department of a statute or rule governing the taking, conservation, or protection of marine wildlife, including the authority of the department to issue oyster leases to individuals and private entities for the purpose of bedding, harvesting, and selling oysters consistent with Sections 1.011(d) and 12.001(a), Parks and Wildlife Code, and Chapter 76, Parks and Wildlife Code.

SECTION 2. 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.

SECTION 2. Same as introduced version.