86R13171 SLB-D

By:  Lozano H.B. No. 2922

A BILL TO BE ENTITLED

AN ACT

relating to the administration of the Port of Corpus Christi of Nueces County, Texas.

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

SECTION 1.  Chapter 397, Acts of the 68th Legislature, Regular Session, 1983, is amended by adding Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 to read as follows:

Sec. 7.  DEFINITIONS. In this Act:

(1)  "Authority" means the Port of Corpus Christi Authority of Nueces County, Texas.

(2)  "Port commission" means the port commission of the authority.

(3)  "Port commissioner" means a member of the port commission.

Sec. 8.  CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b)  A person may not be a port commissioner and may not be an authority employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1)  the person is an officer, employee, or paid consultant of a Texas trade association in a field relating to maritime commerce, the members of which are regulated by the authority; or

(2)  the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field relating to maritime commerce, the members of which are regulated by the authority.

(c)  A person may not be a port commissioner or act as the general counsel to the port commission or the authority if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

(d)  A person may not be a port commissioner if the person or an individual related to the person in the first degree of consanguinity or affinity, as determined under Chapter 573, Government Code:

(1)  is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the authority; or

(2)  uses or receives a substantial amount of tangible goods, services, or money from the authority other than compensation or reimbursement authorized by law for port commission membership, attendance, or expenses.

Sec. 9.  PORT COMMISSION POLICIES. (a) The port commission shall adopt detailed policies that document its governance practices and make those policies available on the authority's website.

(b)  The port commission shall develop and implement policies that clearly separate the policymaking responsibilities of the port commission and the management responsibilities of the executive director and the other employees of the authority.

(c)  The port commission shall distribute a copy of all policies adopted under this section to each port commissioner and authority employee not later than the third business day after the date the person begins employment or a term as port commissioner.

Sec. 10.  EXECUTIVE DIRECTOR. (a) The port commission shall appoint an executive director of the authority. The port commission shall prescribe the duties and compensation of the executive director. The port commission may delegate to the executive director full authority to manage and operate the affairs of the authority subject only to orders of the port commission.

(b)  The port commission shall delegate to the executive director the authority to employ all persons necessary for the proper handling of the business and operation of the authority and to determine the compensation to be paid to all employees, other than the executive director.

(c)  The executive director shall execute a bond for $10,000 conditioned on the faithful performance of the executive director's duties and other conditions as required by the authority. The bond must be recorded in a record kept for that purpose in the authority's office.

(d)  The port commission by general or special rule, regulation, order, resolution, or other direction may authorize the executive director or another person authorized to act instead of the executive director to perform any act on behalf of the port commission.

Sec. 11.  STANDARDS OF CONDUCT; ETHICS POLICY. (a) A port commissioner or an authority employee should not:

(1)  accept or solicit any gift, favor, or service that might reasonably tend to influence the port commissioner or employee in the discharge of official duties or that the port commissioner or employee knows or should know is being offered with the intent to influence the port commissioner's or employee's official conduct;

(2)  accept other employment or engage in a business or professional activity that the port commissioner or employee might reasonably expect would require or induce the port commissioner or employee to disclose confidential information acquired by reason of the official position;

(3)  accept other employment or compensation that could reasonably be expected to impair the port commissioner's or employee's independence of judgment in the performance of the port commissioner's or employee's official duties;

(4)  make personal investments that could reasonably be expected to create a substantial conflict between the port commissioner's or employee's private interest and the public interest; or

(5)  intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the port commissioner's or employee's official powers or performed the port commissioner's or employee's official duties in favor of another.

(b)  The port commission shall adopt a written ethics policy for the port commissioners and authority employees consistent with the standards prescribed by Subsection (a) of this section.

Sec. 12.  ETHICS AFFIRMATION AND HOTLINE. (a) A port commissioner or an authority employee shall annually affirm the port commissioner's or employee's adherence to the ethics policy adopted under Section 11(b) of this Act.

(b)  The port commission shall establish and operate a telephone hotline that enables a person to call the hotline number, anonymously or not anonymously, to report alleged fraud, waste, or abuse or an alleged violation of the ethics policy adopted under Section 11(b) of this Act.

Sec. 13.  COMPLAINTS. (a) The authority shall maintain a system to promptly and efficiently act on complaints filed with the authority. The authority shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b)  The authority shall make information available to the public, including on the authority's website, describing its procedures for complaint investigation and resolution.

(c)  The authority periodically shall notify the complaint parties of the status of the complaint until final disposition.

(d)  The authority shall develop a standard form and a procedure for submitting complaints to the authority and shall make that form and procedure available on the authority's website. The authority shall also make available on its website clear information about what a person making a complaint should expect after the complaint is filed, including timelines for response and resolution.

(e)  The authority shall compile detailed statistics and analyze trends on complaint information, including:

(1)  the nature of the complaints;

(2)  the disposition of the complaints; and

(3)  the length of time to resolve complaints.

(f)  Authority staff shall report the information compiled under Subsection (e) of this section to senior management as designated by the executive director and the port commission on a regular basis.

Sec. 14.  WHISTLEBLOWER POLICY. The port commission shall adopt a whistleblower policy consistent with Chapter 554, Government Code.

Sec. 15.  PROMOTION AND DEVELOPMENT FUND. (a) In this section, "promotion and development fund" means a fund created and managed under Subchapter H, Chapter 60, Water Code.

(b)  The port commission shall adopt clear, complete policy and procedures to govern the use of the promotion and development fund. The policy and procedures must include:

(1)  provisions limiting acceptable uses of promotion and development fund money to uses with a direct tie to the mission of the authority;

(2)  a consistent budget process;

(3)  a process for requesting sponsorship funds by port commissioners, authority employees, and outside groups;

(4)  an approval process for each type of expenditure from the promotion and development fund, including:

(A)  the level of approval or notification required for authority employees, applicable task forces, and the port commission; and

(B)  a requirement that each approved expenditure must include a description of:

(i)  the expected impact of the expenditure; and

(ii)  how the expenditure is consistent with the strategic direction for promotion and development fund money as adopted by the port commission;

(5)  a procedure for handling exceptions to the policy, including a requirement that an exception be subject to the same reporting requirements as other approved expenditures from the promotion and development fund;

(6)  a provision for evaluating the policy's effectiveness and having the port commission adopt updates to the policy as needed at regularly scheduled public meetings; and

(7)  requirements for regular tracking of all expenditures from the promotion and development fund and reporting of the expenditures to the port commission and to the public by making the reports available on the authority's website.

(c)  A report described by Subsection (b)(7) of this section must include detailed information about:

(1)  travel by port commissioners;

(2)  special uses of the authority's resources, including the use of any public tour vessels and the associated costs, sorted by authority division;

(3)  sponsorship and similar spending; and

(4)  total expenditures from the promotion and development fund, including year-to-date summary information by category of expenditure.

Sec. 16.  BUDGET. The port commission annually shall adopt a budget for the authority in an open meeting.

Sec. 17.  PLANNING. (a) In this section, "staff" means one or more authority employees and does not include a port commissioner.

(b)  Appropriate staff shall develop a long-range plan containing:

(1)  a mission and values statement;

(2)  an assessment of the authority's state as of the date of the plan;

(3)  an assessment of the projected operating environment over the course of the long-range plan;

(4)  a discussion of high-level goals, strategies, and priorities;

(5)  a scheme for ongoing evaluation of progress toward stated goals, including performance measures; and

(6)  other strategic planning elements, as considered appropriate by the staff or port commission.

(c)  The port commission shall establish a planning horizon of at least 10 years for the long-range plan. The staff shall identify and collaborate with stakeholders to obtain input on the long-range plan. The port commission may amend and shall adopt the plan and any updates to the plan in an open meeting. The staff shall provide annual progress updates according to performance measures developed under Subsection (b)(5) of this section. The staff shall present a report on the annual progress to the port commission.

(d)  The staff shall complete a comprehensive reevaluation and update of the long-range plan at least every five years, or more frequently if the port commission finds that conditions warrant a more frequent update.

(e)  Appropriate staff shall develop a mid-range plan consistent with the long-range plan. The mid-range plan must include:

(1)  a five-year financial forecast addressing the financial needs and financing options of the authority for the five-year period, with information about the relative cost of the options;

(2)  a five-year capital plan, including a preliminary analysis and prioritization of projects; and

(3)  other detailed action plans as the port commission or staff finds necessary to achieve the goals of the mid-range plan or long-range plan.

(f)  The staff shall present the mid-range plan in an open meeting of the port commission. The port commission is not required to adopt a mid-range plan.

(g)  Appropriate staff shall develop a one-year capital plan, including associated financing, that is integrated with the budget of the authority. The port commission shall adopt the one-year capital plan in an open meeting. The port commission shall establish and document a detailed process for the analysis and approval of a project proposed for inclusion in the one-year capital plan. A project may be included in the one-year capital plan only if it is approved in accordance with that process.

Sec. 18.  PUBLIC ACCESS TO BUDGET AND PLANNING INFORMATION. (a) The port commission shall post on the authority's website and otherwise make available to the public the authority's most recently adopted budget and any plan adopted by the port commission at an open meeting, including the long-range plan, mid-range plan, one-year capital plan, and updates to that budget or those plans.

(b)  The port commission may redact sensitive business information from the plans made publicly available under this section.

SECTION 2.  This Act takes effect September 1, 2019.