

BILL ANALYSIS

C.S.H.B. 3027
By: Canales
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding state law governing the administration of navigation districts. It has been suggested that because laws providing for these districts were codified roughly 50 years ago, they are in need of various updates, such as the explicit authorization for navigation districts to effectively respond to certain emergencies like fires, explosions, or hazardous materials incidents and the implementation of more modern public notice requirements. C.S.H.B. 3027 seeks to provide for clarity and efficiency in navigation district operations by updating certain laws governing these 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. 3027 amends the Water Code to authorize a navigation district to do the following:

- respond to and fight a fire, explosion, or hazardous material incident that occurs on or adjacent to a waterway, channel, or turning basin that is located in the district's territory, regardless of whether the waterway, channel, or turning basin is located in the corporate limits of a municipality; and
- acquire, purchase, lease, maintain, repair, and operate facilities and equipment for the purposes of protecting life and property by detecting, responding to, and fighting fires, explosions, and hazardous materials incidents.

C.S.H.B. 3027 authorizes a navigation district to contract with a broker to lease a tract of land in the same manner as the commissioners court of a county. The bill establishes that a lease that requires the lessee to construct improvements on district-owned land is not a public work contract subject to performance and payment bond requirements. A sale or lease of a tract of land by the district is subject to the prohibition against a navigation district conveying or exchanging an interest in real property to an individual or private entity for the purpose of bedding or harvesting oysters.

C.S.H.B. 3027 changes from the navigation and canal commission to the navigation district the entity required to prescribe fees and charges to be collected for the use of the land, improvements, and facilities of the district. The bill specifies that the fees and charges must be reasonable, equitable, and sufficient to produce revenue necessary to exercise the district's powers relating to the acquisition and maintenance of port facilities. The bill makes a schedule

of rates, fees, charges, rules, and ordinances that have been adopted in accordance with applicable law or the district's rules, including a limitation of liability for cargo loss or damage; that relates to receiving, delivering, handling, or storing property at a district facility; and that is made publicly available on the district's website enforceable by an appropriate court as an implied contract between the district and a person using the district's facilities or waterways without proof of actual knowledge of the schedule's provisions.

C.S.H.B. 3027 revises the notice requirements for a navigation and canal commission that proposes to borrow money and mortgage and encumber any part or all of its properties, facilities, franchises, revenue, and income by doing the following:

- changing the earliest time at which a public hearing concerning the proposed indebtedness is to be held from not less than fifteen days from the date of the resolution of the commission giving notice of its intention to not less than seven days from that date;
- requiring the notice to specify that all persons have a right to express their views at the hearing orally or in writing; and
- replacing existing requirements for public posting and newspaper publication of the notice with a requirement for the notice to be published not earlier than the seventh day before the date of the hearing in a newspaper of general circulation in the district's territory that is available to residents of the district and once on the district's website, if the district maintains a website, in an area of that website used to inform district residents about events such as public meetings.

C.S.H.B. 3027 changes the circumstances required for the granting of a franchise in a navigation district from the affirmative vote of a majority of the navigation and canal commissioners present at three separate commission meetings held at least one week apart to such a vote at one commission meeting.

C.S.H.B. 3027 repeals Section 60.172(e), Water Code.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3027 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute makes certain revisions to the authority granted to a navigation district by the original regarding fires, explosions, and hazardous material incidents and related facilities and equipment.

The substitute includes a provision absent from the original establishing that a sale or lease of a tract of land by a navigation district is subject to the prohibition against such a district conveying or exchanging an interest in real property to an individual or private entity for the purpose of bedding or harvesting oysters.

The substitute replaces the original's authorization for the notice of a hearing on a navigation and canal commission's indebtedness to be published on the district's website as an alternative to newspaper publication with a requirement for the notice to be published once on the district's website in addition to newspaper publication, if the district maintains a website.

The substitute includes a specification absent from the original that the schedules of rates, fees, charges, rules, and ordinances that are enforceable by a court under the bill's provisions are those that have been adopted in accordance with applicable law or the district's rules.