

BILL ANALYSIS

C.S.S.B. 1642
By: Creighton
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.S.B. 1642 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.S.B. 1642 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.S.B. 1642 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.

C.S.S.B. 1642 establishes that items authorized to be purchased under the competitive sealed proposals procedure include items required in connection with a navigation project entered into with the United States. The bill removes the cap on the number of offerors that may be selected by a navigation district to provide additional information, including proposed prices, in the second step of a two-step competitive sealed proposal process to select a contractor for construction, rehabilitation, alteration, or repair services for a district facility.

C.S.S.B. 1642 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.S.B. 1642 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 once in a newspaper of general circulation in the district's territory that is available to residents of the district and 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.S.B. 1642 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.S.B. 1642 repeals Section 60.172(e), Water Code.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1642 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes the following provisions, which were absent from the engrossed:

- a provision establishing that items authorized to be purchased under the competitive sealed proposals procedure include items required in connection with a navigation project entered into with the United States; and
- a provision removing the cap on the number of offerors that may be selected by a navigation district to provide additional information, including proposed prices, in the second step of a two-step competitive sealed proposal process to select a contractor for certain services for a district facility.