

## **BILL ANALYSIS**

C.S.H.B. 2606  
By: Canales  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Statutes governing navigation districts have been amended many times since their codification in 1971 to keep up with best practices, but additional changes are needed to allow port authorities to continue to do business and enhance the state's economic development. According to the Texas Ports Association, Texas ports are responsible for 25 percent of the state's GDP. C.S.H.B. 2606 seeks to enact administrative changes that will allow Texas port authorities to be more efficient and cost effective, consistent with inflation and changes in supply chain logistics.

### **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. 2606 amends the Water Code to authorize a port commission to delegate authority to an authorized designated officer of the port commission, the executive director of the navigation district or port authority, or an authorized representative of the executive director to make routine purchases or contracts in an amount not to exceed \$100,000.

C.S.H.B. 2606 authorizes the executive director of a navigation district, or an officer of a district authorized in writing by the port commission, to make emergency purchases or contracts or emergency amendments to existing purchase orders or contracts in an amount that exceeds the cap on routine purchases or contracts if necessary to respond to an emergency related to supply chain disruptions or shortages or other disruptions or stoppages in the operation of the district which, without harm to the welfare of the district, does not permit the delay incident to the competitive process or would result in undue costs to the district. The bill exempts a contract for the purchase of an item to respond to such an emergency from applicable competitive bidding requirements and proposal procedures.

C.S.H.B. 2606 clarifies that the condemnation procedure that an Article XVI, Section 59, navigation district may elect to use is the condemnation procedure provided in Property Code provisions relating to eminent domain. The bill extends the authorization for such a district to enter into operating contracts and leases with cities and other governmental subdivisions for the operation of the portions of the district's water system which are designated by the navigation board to also apply with respect to portions of the water system designated by the navigation and canal commission.

C.S.H.B. 2606 extends the authority of a navigation and canal commission to take the following actions to a board of trustees of a municipal port facility:

- periodically dispose of surplus or salvage personal property in the same manner as the commissioners court of a county; and
- authorize the destruction or disposition of certain salvage or surplus property as worthless.

The bill authorizes a navigation and canal commission or such a board of trustees to authorize, following any required action by the U.S. Army Corps of Engineers, the sale of dredge material from a dredge material placement area to any person on such terms and conditions as the commission or board of trustees considers appropriate or advantageous to the district.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 2606 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits the following provisions that were present in the introduced:

- a provision establishing that a navigation district that elects to operate under Government Code provisions relating to public and private facilities and infrastructure is not prohibited from entering into an agreement for or procuring such facilities and infrastructure under other statutory authority;
- an authorization for a navigation district to contract with a person for the joint construction, financing, ownership, and operation of port facilities as necessary to accomplish any purpose or function permitted by the district or purchase an interest in a project used for such a purpose or function;
- an authorization for a navigation district to enter into a contract with a person on terms and conditions the port commission considers desirable to do the following:
  - develop land and property within the district through the purchase, construction, or installation of port facilities so that all of the land and property may receive the services of the facility;
  - maintain and operate a port of the district or a public or private entity that furthers the district's purpose; and
  - exercise any other right, power, or duty granted to the district;
- provisions authorizing a navigation district to develop and administer a community and economic development program; and
- an authorization for a district that requests bids or proposals to reject any and all bids or proposals that were submitted.

Both the introduced and the substitute authorize a port commission to delegate authority to an authorized designated officer of the port commission, the executive director of the navigation district or port authority, or an authorized representative of the executive director to make routine purchases or contracts in an amount not to exceed \$100,000. However, whereas the introduced also removed the existing authorization for an authorized designated officer of the port commission, the executive director, or an authorized representative of the executive director to make routine purchases or contracts in an amount not to exceed \$50,000, the substitute does not.

Both the introduced and the substitute provide for the authority of a navigation district to make purchases and contracts to respond to certain emergencies and exempt a contract for the purchase of an item for such response from competitive bidding requirements and proposal procedures. However, whereas the introduced described the applicable emergency as an

emergency for which the public exigency does not permit the delay incident to the competitive process, the substitute describes the applicable emergency as an emergency related to supply chain disruptions or shortages or other disruptions or stoppages in the operation of the district which does not permit the delay incident to the competitive process or would result in undue costs to the district.

Both the introduced and the substitute authorize the sale of dredge material by a navigation and canal commission or a board of trustees of a municipal port facility on terms and conditions considered appropriate or advantageous to the district. However, the substitute specifies that the sale may only be authorized following any required action by the U.S. Army Corps of Engineers, while the introduced did not include this specification.