

BILL ANALYSIS

Senate Research Center
88R10871 MP-F

S.B. 818
By: Alvarado
Transportation
3/13/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 818 clarifies, updates, and improves statutes related to navigation districts and port authorities that involve real property leases, sales, exchanges, and easement grants.

This bill will help navigation districts and port authorities more efficiently and effectively conduct real estate transactions, to the betterment of Texas businesses and consumers. Currently, their authority to dispose of their real property does not explicitly include the power to (i) exchange property for other property or (ii) convey other lesser property interests. These changes would clarify that, like other property owners, they are able to carry out those actions, as well to impose use restrictions on property subject to sale or exchange. These changes will better enable them to effectively develop their facilities for moving cargo efficiently, as well as better fulfill their public purposes when selling or exchanging land parcels.

Additionally, navigation districts and port authorities must generally follow notice and bidding requirements to sell or exchange property. In certain circumstances, in connection with the construction of infrastructure to provide electric or communication services, this may require a cumbersome process that assumes there are multiple service providers to bid on the service property. Likewise, to rationalize property boundaries or resolve survey conflicts or encroachment issues, they have to carry out similar notice and bidding processes, even though there may only be one potential counterparty, i.e., the abutting landowner.

Excepting these specific instances from the notice and bidding requirements will reduce the need to carry out unneeded bureaucratic processes.

As proposed, S.B. 818 amends current law relating to the disposition of real property interests by navigation districts and port authorities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 60.038, Water Code, to read as follows:

Sec. 60.038. DISPOSITION OF INTERESTS IN REAL PROPERTY.

SECTION 2. Amends Section 60.038, Water Code, by amending Subsections (a), (b), and (c) and adding Subsections (e), (f), and (g), as follows:

(a) Authorizes a district to sell, exchange, or lease real property or any interest in real property owned by it, whether the real property was 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 former Article 8225, Revised Civil Statutes of Texas, 1925, or granted by the State of Texas in any general or special act, are authorized to 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 (Limitations on Sales and Use of State Lands and Flats). Authorizes the 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 under this section. Deletes existing text authorizing a district to sell or lease all or any part of land owned by it, whether the 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, are authorized 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.

(b) Requires the navigation and canal commission, except as provided by Subsection (e), before a district is authorized to sell or exchange real property, rather than sell land, to determine by resolution that the real property, rather than land, is no longer needed for use by the district in connection with the development of a navigation project.

(c) Requires that a sale or exchange of real property, except as provided by Subsection (e), (f), or (g), be made as provided by Sections 60.040 (Publication of Notice for Sales, Easements, and Leases in Excess of 50 Years), 60.041 (Security for Bids on Real Property to Be Sold or Leased for More Than 50 Years), and 60.042 (Award and Execution of Deed or Lease in Excess of 50 Years). Deletes existing text requiring that a sale or lease of land be made as provided by Sections 60.039 (Surface Lease)-60.041 of this code.

(e) Authorizes a district to 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 (Definitions), Utilities Code, or a telecommunications utility, as that term is defined by Section 51.002 (Definitions), Utilities Code, to promote a public purpose related to the development of the district. Requires the district to determine the terms and conditions of the transaction so as to achieve the public purpose and be consistent with the requirements of Title 2 (Public Utility Regulatory Act), Utilities Code.

(f) Authorizes a district to donate, exchange, convey, sell, or lease a real property interest under Subsection (e) for less than its fair market value and without complying with the notice and bidding requirements of Sections 60.040, 60.041, and 60.042.

(g) 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 district. Authorizes a district to 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, 60.041, and 60.042.

SECTION 3. Effective date: upon passage or September 1, 2023.