

BILL ANALYSIS

Senate Research Center

S.B. 1500
By: Nichols
Transportation
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill is brought forth by the Texas Ports Associations' maritime port members as a clean-up and update of the Water Code under which they are organized. This was brought forth by the port directors/CEOs of 20 Texas ports and impacts Chapter 62. As legal issues arise this 50-year-old code often needs modernizing and updating through technical corrections to the Water Code. It also updates routine purchases and contracts in line with inflation and with today's needs and COVID supply chain disruption response.

Amends Section 60.403(a) of the Water Code to provide that a port commission may authorize the CEO or other designated officer to make routine purchases or contracts up to \$100,000 without a public proposal or approval process.

Amends Section 60.4035 of the Water Code. This provides that the CEO or other designated officer may make emergency purchases or contracts in excess of the customary authorized amount without a public proposal or approval process, but only if necessary to respond to supply chain disruptions or shortages or other operational disruptions or stoppages, without competitive procurement delays, costs or harm to the agency. The port commission must be notified of any such expenditure within 48 hours after the purchase is made.

Adds Section 60.503 to the Water Code providing a framework for the expansion and growth of port terminals and waterway infrastructure. Local businesses, small businesses, and historically underutilized businesses (HUBs) can participate in these activities as contractors, subcontractors, suppliers, and vendors.

Amends Section 62.106(e) of the Water Code to provide that a navigation district may use the condemnation procedures in Chapter 21, Property Code. This is a technical correction. Section 62.106(e) currently refers to the condemnation procedures in formerly in Subchapter F of Chapter 51 of the Water Code; today these procedures are in Chapter 21, Property Code.

Amends Section 62.120 of the Water Code to provide that a navigation district may enter operating contracts and leases with cities and other governmental subdivisions for the operation of the portions of the district's water system as designated by the port commission.

Amends Section 62.122 of the Water Code to provide that a port commission may authorize the sale of its dredge material from a dredge material placement area on terms and conditions the commission considers appropriate or advantageous to the district, following required action by the U.S. Army Corps of Engineers.

As proposed, S.B. 1500 amends current law relating to powers and duties of navigation districts and the boards of trustees of municipal port facilities.

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 Section 60.403, Water Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Prohibits a port commission, an authorized designated officer of the port commission, the executive director of the district or the port authority (executive director), or an authorized representative of the executive director from making routine purchases or contracts in an amount that exceeds \$50,000, provided that a port commission is authorized to delegate authority to 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 prohibited from exceeding \$100,000.

SECTION 2. Amends Section 60.4035(a), Water Code, as follows:

(a) Authorizes the executive director of a district or an officer of a district authorized in writing by the port commission, notwithstanding the competitive bidding requirements and proposal procedures of Subchapter N (Competitive Bidding Requirements) and Subchapter O (Purchase Contracts) and the requirements of certain sections, to make emergency purchases or contracts or emergency amendments to existing purchase orders or contracts in an amount that exceeds the amount authorized under Section 60.403(a) for routine purchases or contracts if necessary for certain purposes, including to respond to an emergency related to (A) supply chain disruptions or shortages or (B) other disruptions or stoppages of the operations of the district, which does not permit the delay incident to the competitive process, or undue cost, without harm to the welfare of the district. Makes nonsubstantive changes.

SECTION 3. Amends Section 60.412(a), Water Code, to make conforming and nonsubstantive changes.

SECTION 4. Amends Subchapter Q, Chapter 60, Water Code, by adding Sections 60.503 and 60.504, as follows:

Sec. 60.503. **COMMUNITY PROGRAMS.** (a) Defines "historically underutilized business," "local business," and "small business."

(b) Authorizes a navigation district, to stimulate business and commercial activity within the district, to develop and administer a program to develop small businesses or historically underutilized businesses; to promote or advertise the district; or to improve the extent to which local businesses, small businesses, and other historically underutilized businesses are awarded district contracts.

(c) Authorizes a navigation district, to develop or administer a program under this section, to contract with another entity, to use district funds or employees, and to accept contributions, gifts, or other resources.

(d) Authorizes a program established under this section to set contract percentage goals for participation by local businesses, small businesses, and historically underutilized businesses in public contract awards by the navigation district.

Sec. 60.504. **RIGHT TO REJECT ALL BIDS.** Authorizes a navigation district that requests bids or proposals under any of the methods provided by Chapter 60 (Navigation District--General Provisions) to reject any and all bids or proposals submitted.

SECTION 5. Amends Section 62.106(e), Water Code, as follows:

(e) Authorizes a navigation district created under Chapter 62 (Article XVI, Section 59, Navigation Districts), to elect to take advantage of the condemnation procedure provided

in Chapter 21 (Eminent Domain), Property Code, rather than Subchapter F (Enforcement) of Chapter 51 of this code.

SECTION 6. Amends Section 62.120(a), Water Code, as follows:

(a) Authorizes a navigation 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 or the navigation and canal commission.

SECTION 7. Amends Section 62.122, Water Code, as follows:

Sec. 62.122. DISPOSITION OF SALVAGE OR SURPLUS PERSONAL PROPERTY.

(a) Authorizes the navigation and canal commission or board of trustees of port facilities (board of trustees) under Chapter 54 (Harbor and Port Facilities in Certain Municipalities), Transportation Code, except as provided by Subsection (b), to periodically dispose of surplus or salvage personal property in the same manner as the commissioners court of a county under Subchapter D (Disposition of Salvage or Surplus Property), Chapter 263, Local Government Code.

(b) Authorizes the navigation and canal commission or board of trustees under Chapter 54, Transportation Code, to take certain actions, including to authorize the sale of its dredge material from a dredge material placement area to any person on such terms and conditions as navigation and canal commission or board of trustees considers appropriate or advantageous to the district, following any required action by the U.S. Army Corps of Engineers. Makes nonsubstantive changes.

SECTION 8. Effective date: upon passage or September 1, 2023.