

WATER CODE

TITLE 4. GENERAL LAW DISTRICTS

CHAPTER 60. NAVIGATION DISTRICTS--GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 60.001. DEFINITIONS. In this chapter:

(1) "District" means a navigation district organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(2) "Commission" means the navigation and canal commission.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.002. AUDIT. Subchapter G, Chapter 49, related to audit of districts, shall apply to districts governed by this chapter.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 33, eff. Sept. 1, 1995.

Sec. 60.003. AUTHORITY TO CONTRACT FOR THE OPERATION OR DEVELOPMENT OF A DISTRICT. A district may contract with any person, foreign or domestic, necessary or convenient to the operation or development of the district's ports and waterways.

Added by Acts 1999, 76th Leg., ch. 535, Sec. 1, eff. June 18, 1999.

Sec. 60.004. ACT OR PROCEEDING OF DISTRICT PRESUMED VALID.

(a) An act or proceeding of a district, its governing body, or any local government corporation, development corporation, or nonprofit corporation of the district is conclusively presumed, as of the date it occurred, to be valid and to have occurred in accordance with all applicable statutes and ordinances if:

(1) the second anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that second anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it

occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred; or

(3) a matter that on the second anniversary of the effective date of the act or proceeding:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(B) has been held invalid by a final court judgment.

Added by Acts 2007, 80th Leg., R.S., Ch. 1210 (H.B. 1841), Sec. 1, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. 1531), Sec. 1, eff. June 15, 2007.

Sec. 60.005. EXEMPTION FROM TAXATION AND SPECIAL ASSESSMENTS. The property of a district is public property used for essential public and governmental purposes. The district and the district's property are exempt from all taxes and special assessments imposed by this state or a political subdivision of this state.

Added by Acts 2017, 85th Leg., R.S., Ch. 112 (S.B. 1133), Sec. 1, eff. May 26, 2017.

SUBCHAPTER B. RETIREMENT, DISABILITY, AND DEATH COMPENSATION FUND

Sec. 60.011. CREATION OF RETIREMENT, DISABILITY, AND DEATH COMPENSATION FUND. (a) The commission of any district created under this code or by special law may provide for and administer a retirement, disability, and death compensation fund for district officers and employees and may adopt plans to effectuate this purpose.

(b) The plans may include forms of insurance or annuities, or a combination of both, which the commission considers advisable.

(c) After notice to employees and a hearing, the commission may change the plan or any rule or regulation.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.013. ELIGIBILITY FOR OTHER PENSION FUNDS. The recipients or beneficiaries of a fund created under Section 60.011 of this code shall not be eligible for any other pension retirement funds or direct aid from the State of Texas unless the fund provided for in Section 60.011 of this code is released to the State of Texas as a condition precedent to receiving the other pension aid.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.014. HOSPITALIZATION AND MEDICAL BENEFITS. (a) The commission may include hospitalization and medical benefits for officers and employees as part of the compensation paid to the officers and employees.

(b) The commission may provide for the benefits in Subsection (a) of this section by plan, rule, or regulation, and may change any plan, rule, or regulation from time to time.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

SUBCHAPTER B-1. EMPLOYEE CATASTROPHIC ASSISTANCE PROGRAM

Sec. 60.021. DEFINITIONS. In this subchapter:

(1) "Administrator" means the person designated by the commission or executive director of a district to administer the district's employee catastrophic assistance fund.

(2) "Assistance fund" means an employee catastrophic assistance fund established by a district under this subchapter.

(3) "Employee" means a district employee with 12 or more months of continuous employment with the district who is paid from the general fund of the district, from a special fund of the district, or from special grants paid through the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. 3785), Sec. 1, eff. June 19, 2009.

Sec. 60.022. ESTABLISHMENT OF EMPLOYEE CATASTROPHIC ASSISTANCE PROGRAM. (a) The commission or executive director of a district may establish a program in the district to allow an

employee to voluntarily transfer time earned by the employee as sick leave or vacation leave to a district employee catastrophic assistance fund.

(b) The commission or executive director of a district shall designate a person to administer the district assistance fund.

(c) The commission or executive director of a district shall identify natural or man-made events classified as catastrophic for purposes of this subchapter.

(d) The commission or executive director of a district may adopt rules and prescribe procedures and forms relating to the operation of the district assistance fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. 3785), Sec. 1, eff. June 19, 2009.

Sec. 60.023. EMPLOYEE CONTRIBUTION TO DISTRICT ASSISTANCE FUND. (a) To contribute to the district assistance fund, an employee must submit an application to the administrator in the prescribed form.

(b) On approval by the administrator, in a fiscal year the employee may contribute to the district assistance fund not less than one day or more than 10 days of the employee's combined accrued sick leave and vacation leave time. The administrator shall credit the fund with a dollar amount equivalent to the hourly salary of the employee multiplied by the number of hours contributed by the employee and shall deduct the same number of hours from the accrued sick leave or vacation leave time, as applicable, to which the employee was entitled before the contribution as if the employee had used the time for personal purposes.

(c) An employee who is terminated or who resigns or retires may make a contribution of not more than 10 days of the combined accrued sick leave or vacation leave time earned by the employee, to take effect immediately before the effective date of the termination, resignation, or retirement.

Added by Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. 3785), Sec. 1, eff. June 19, 2009.

Sec. 60.024. TRANSFERS FROM DISTRICT ASSISTANCE FUND TO

EMPLOYEES. (a) An employee may be eligible for a transfer of money from the district assistance fund if, because of a catastrophic event, the employee has suffered unreimbursed losses or expenses.

(b) An eligible employee must apply to the administrator for a transfer of money from the district assistance fund. If the administrator determines that the employee is eligible, the administrator shall approve the transfer of money from the fund to the employee.

(c) An eligible employee may not receive from the district assistance fund more than \$5,000 for any catastrophic event. The administrator shall determine the amount of money that is transferred to the eligible employee.

Added by Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. 3785), Sec. 1, eff. June 19, 2009.

SUBCHAPTER C. ADDITIONAL POWERS AND DUTIES OF CERTAIN DISTRICTS

Sec. 60.031. APPLICATION OF SUBCHAPTER. (a) The provisions of this subchapter shall apply to:

(1) any district not participating with the United States in a navigation project; or

(2) a district participating with the United States in a navigation project if the commission by resolution adopts:

(A) this subchapter; or

(B) sections of this subchapter under which the district will operate.

(b) For the purposes of Subsection (a)(2), a district that contracts with the United States for a navigation project under Subchapter F is considered to be participating with the United States in a navigation project while the contract is in effect.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 4, eff. June 17, 2011.

Sec. 60.032. AUTHORITY TO CONSTRUCT IMPROVEMENTS. The district may construct out of any of its funds, except interest and

sinking funds, turning, storage, or yacht basins, harbors, or any facilities which may, in the judgment of the commission, be necessary or useful in the development and utilization of a waterway project for navigation purposes or in aid of navigation purposes. The district may own or lease dredges and other equipment for the construction or maintenance of those projects.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.033. USE OF EQUIPMENT. (a) This subchapter does not authorize a district to borrow or receive money or to levy taxes for the purpose of building tugs, barges, scows, dredges, pile drivers, or other floating equipment for use on the water of the United States other than water coming under the jurisdiction of the district or water necessarily adjunctive to the use of the district, as set forth in Section 60.031 of this code.

(b) Dredges or other equipment, whether owned or leased, shall be confined to use on water under control of the district or a necessary adjunctive part of the district and may not be used in any work or service on any state or federal waterway which is not a necessary adjunctive part of the district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.034. OIL, GAS, AND MINERAL LEASES. The commission may lease for oil, gas, and minerals rights-of-way, spoil grounds, spoil basins, or any other land owned by a navigation district if it does not interfere with use of or obstruct any natural or artificial waterway of the district used for navigation purposes.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.035. NOTICE OF CERTAIN OIL, GAS, AND MINERAL LEASES. (a) Before a district may enter into a lease under Section 60.034, the district shall have a notice requesting bids on the lease published in a newspaper of general circulation in the district. The notice shall be published at least once a week for two consecutive weeks before the final date for the receipt of bids. Chapter 71, Natural Resources Code, does not apply to a lease made under this section if the lease is made in accordance

with this section and Sections 60.036 and 60.037 of this chapter.

(b) The notice shall include:

- (1) the approximate amount of land offered;
- (2) the general location of the land;
- (3) the time and place for receipt of bids;
- (4) the place where specifications may be obtained;
- (5) information concerning security for the bids; and
- (6) a statement that the commission reserves the right

to reject any or all bids.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. 1395), Sec. 1, eff. June 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. 1395), Sec. 2, eff. June 1, 2017.

Sec. 60.036. SECURITY FOR BID ON OIL, GAS, OR MINERAL LEASES. Each bid submitted shall be accompanied by a certified check, cashier's check, or bidder's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to the first rental payment and bonus offered for the lease over and above the royalty and shall guarantee that the bidder will perform the terms of his bid if it is accepted by the commission.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.037. AWARD AND EXECUTION OF OIL, GAS, AND MINERAL LEASES. (a) The commission may lease all or any part of land advertised for lease under Section 60.035 of this code.

(b) The lease shall be awarded to the highest and best bidder and shall reserve at least one-eighth royalty of all gas, oil, or minerals in or produced on the land. The lease shall contain other provisions reasonably necessary to protect the interests of the district and may not be less favorable to the district than customary commercial leases in the locality.

(c) The chairman and secretary of the commission shall execute the lease under an order, entered in the minutes of the

commission, which shall include the consideration for the lease.
Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.038. SALE OR LEASE OF LAND. (a) A district may 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, may 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) Before a district may sell land, the commission shall determine by resolution that the land is no longer needed for use by the district in connection with the development of a navigation project.

(c) Sale or lease of land shall be made as provided by Sections 60.039-60.042 of this code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1973, 63rd Leg., p. 556, ch. 237, Sec. 3, eff. June 11, 1973; Acts 1975, 64th Leg., p. 801, ch. 310, Sec. 1, eff. May 27, 1975.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 5, eff. June 17, 2011.

Sec. 60.039. SURFACE LEASE. (a) Except as provided by Subsection (c), the commission may lease the surface of land for not more than 50 years by the entry of an order on the minutes of the commission and the execution of a lease in the manner provided by the original order. The lease may not be extended beyond the 50-year period by renewal, extension, or otherwise.

(b) The commission or the executive director of the district, or a person authorized by the commission or the executive director, may enter into a lease for a monthly tenancy or a tenancy from month to month. The lease term may only exceed one year if:

(1) the commission enters an order on the minutes; and
(2) the execution of the lease is in the manner provided by the original order for the lease.

(c) This subsection applies only to a district that operates a port in this state that is wholly located in a county that borders the Gulf of Mexico and that is adjacent to a county that contains an international border and borders the Gulf of Mexico. The district may lease the surface of land for not more than 99 years or may extend a lease to a period not to exceed 99 years only if:

(1) the lease conveys an interest in the surface of the land for residential purposes only;

(2) at the time the lease will be entered into or extended, the district has not less than 50 leases in effect that convey an interest in the land surface for residential purposes only; and

(3) any part of the land owned by the district is subdivided into lots intended for residential use.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 1993, 73rd Leg., ch. 23, Sec. 1, eff. April 6, 1993;

Acts 2003, 78th Leg., ch. 588, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 6, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 539 (H.B. [1716](#)), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 789 (H.B. [2610](#)), Sec. 1, eff. September 1, 2017.

Sec. 60.040. PUBLICATION OF NOTICE FOR SALES, EASEMENTS, AND LEASES IN EXCESS OF 50 YEARS. (a) Before making a sale, easement, or lease of real property for more than 50 years, the district shall publish a notice in the manner provided in Section [60.035](#).

(b) A district may enter into negotiations with one or more potential buyers, easement grantees, or lessees before the publication of the notice without affecting the validity of the sale, easement, or lease.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1993, 73rd Leg., ch. 23, Sec. 2, eff. April 6, 1993;
Acts 2003, 78th Leg., ch. 588, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 539 (H.B. [1716](#)), Sec. 2, eff.
September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 3, eff.
June 1, 2017.

Sec. 60.041. SECURITY FOR BIDS ON REAL PROPERTY TO BE SOLD OR LEASED FOR MORE THAN 50 YEARS. Each bid submitted on real property to be sold or leased for more than 50 years under Section [60.040](#) shall be accompanied by a certified check, cashier's check, or bidder's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to five percent of the bid price for the real property or 100 percent of the first rental payment under the lease and shall guarantee that the bidder will perform the terms of the bid if it is accepted by the district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1993, 73rd Leg., ch. 23, Sec. 3, eff. April 6, 1993;
Acts 2003, 78th Leg., ch. 588, Sec. 3, eff. June 20, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 539 (H.B. [1716](#)), Sec. 3, eff.
September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 4, eff.
June 1, 2017.

Sec. 60.042. AWARD AND EXECUTION OF DEED OR LEASE IN EXCESS OF 50 YEARS. (a) After notice is published under Section [60.040](#), the district may sell or lease in accordance with that section all or any part of the real property to the highest and best bidder for an amount which is not less than the reasonable market value in the locality at the time and place of the sale or lease.

(b) The commission shall adopt a resolution or order confirming the sale or lease. The resolution or order shall include or incorporate by reference the terms of the sale or lease

and the consideration and shall provide that the executive director of the district, or a person authorized by the executive director of the district, is authorized to execute the deed or lease as soon as the successful bidder complies with the terms of the bid.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 1993, 73rd Leg., ch. 23, Sec. 4, eff. April 6, 1993;

Acts 2003, 78th Leg., ch. 588, Sec. 4, eff. June 20, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 5, eff. June 1, 2017.

Sec. 60.043. POWER OVER WATERWAYS. (a) The commission shall have absolute control over channels, or other waterways within the corporate limits of the district and turning basins, yacht basins, and storage basins. The commission may prevent or remove any obstructions of these facilities and fix proper fees, charges, and tolls for their use.

(b) The fees, charges, and tolls charged by the district shall be in addition to charges made, as provided by law, for any facilities used by any ship, boat, vessel, or any other character of craft used for water transportation for commercial purposes. The term commercial purposes shall be limited to any common carrier, contract carrier, or public or private carrier that shall transport or have transported persons, commodities, goods, wares, or merchandise for hire or compensation.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.044. LAW GOVERNING COMMISSION. The commission of any district operating under this subchapter shall be governed by the provisions of Sections 63.087-63.088 and 63.090-63.094 of this code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

SUBCHAPTER D. REGULATORY POWERS

Sec. 60.071. GENERAL RULE-MAKING AUTHORITY. The commission of a district which owns, operates, and maintains wharves, docks,

piers, sheds, warehouses, and other similar terminal facilities which are not located inside the boundaries of any incorporated city, town, or village may pass, amend, and repeal any ordinance, rule, or police regulation which is not contrary to the constitution or laws of this state and which is necessary to protect the property and to promote the health, safety, and general welfare of persons using the property.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.072. SPECIFIC POWERS OF DISTRICTS. To accomplish the purposes stated in Section 60.071 of this code, the commission may exercise the following powers:

(1) control the operation of all types of vehicles using the roads maintained by the district, other than roads dedicated to public use by formal dedication, and prescribe the speed, lighting, and other requirements of these vehicles;

(2) prohibit loitering on docks, wharves, piers, warehouses, sheds, or other properties of the district;

(3) control the operation of all types of vessels using harbors, turning basins, basins, or navigable channels of the district and prescribe the speed, lighting, and other requirements of these vessels;

(4) prohibit smoking and the use of flares, open fires, and inflammable, highly combustible, or explosive substances and materials on docks, wharves, piers, warehouses, sheds, and other properties of the district, or on those parts of the properties and at those times or during those periods as may, in the judgment of the commission, be determined to be dangerous to any of the property or inimical to the safety or general welfare of persons using the property or parts of it;

(5) prevent on any of the property all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarrels, use of abusive, profane, or insulting language, disorderly conduct, and misdemeanor theft and punish offenders;

(6) suppress and prevent any riot, affray, disturbance, or disorderly assembly on any of the property; and

(7) license and regulate or suppress and prevent

hawkers and peddlers utilizing or attempting to utilize the roads and other property of the district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.0725. NUISANCES; POLLUTION. The commission may suppress and prevent nuisances, pollution, and improper disposal of materials on any district property to:

- (1) accomplish the purposes stated in Section 60.071;
- (2) protect other district property; or
- (3) promote the health, safety, and general welfare of persons using other district property.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 7, eff. June 17, 2011.

Sec. 60.073. ENFORCEMENT. The commission may provide by ordinance for the enforcement of the provisions of this subchapter and of any ordinance, rule, or regulation made under this subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.074. STYLE OF ORDINANCES. The style of an ordinance enacted by the commission shall be: "Be it ordained by the navigation and canal commissioners of the _____" (inserting the name of the navigation district).

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.075. PUBLICATION OF ORDINANCE, RULE, OR REGULATION; PROOF OF PUBLICATION. (a) Each ordinance, rule, or regulation enacted by the commission under this subchapter which imposes a fine or other penalty shall be published in every issue of a newspaper of general circulation published in the district for the 10-day period immediately following its adoption. If the only newspaper published in the district is published weekly, the publication shall be made in two consecutive issues of the newspaper.

(b) Proof of publication under Subsection (a) of this section shall be made by the printer or publisher of the newspaper

by affidavit filed with the secretary of the commission and shall be prima facie evidence of publication and adoption of the ordinance, rule, or regulation in all courts of this state.

(c) In lieu of the publication of the entire ordinance, rule, or regulation, the commission may provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance, rule, or regulation and the penalty for violation.

(d) An ordinance, rule, or regulation shall take effect and be in force from and after publication under Subsection (a) of this section unless otherwise provided.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.076. CONFLICT WITH LAW. No ordinance, rule or regulation adopted by a district under this subchapter may conflict with any law, statute, rule, or regulation of this state.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.077. AUTHORITY OF PEACE OFFICERS. (a) In prosecutions involving the enforcement of the provisions of this subchapter or the enforcement of any ordinance, rule, or regulation of the district, any sheriff, constable, or other duly constituted peace officer of the State of Texas or any peace officer employed or appointed by the commission may make arrests, serve criminal warrants, subpoenas, or writs, and perform any other service or duty which may be performed by any sheriff, constable, or other duly constituted peace officer of the State of Texas in enforcing other laws of this state.

(b) A peace officer employed or appointed by the commission has the same powers and duties as a peace officer described by Article 2.12, Code of Criminal Procedure.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 933 (H.B. 3435), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. 1531), Sec. 2, eff. June 15, 2007.

Sec. 60.0775. POLICE RESERVE FORCE. (a) The commission of a district that has established a police force may establish a volunteer police reserve force.

(b) The commission shall establish qualifications and training standards for reserve force members.

(c) The commission may limit the size of the reserve force.

(d) The chief of the district police force shall appoint volunteers to serve as reserve force members. Members are not district employees and serve without pay and at the chief's discretion.

(e) The chief of police may call the reserve force into service at any time the chief considers it necessary to have additional officers to preserve the peace and enforce the law.

(f) A reserve force member who is not a peace officer as described by Article 2.12, Code of Criminal Procedure, may act as a peace officer only during the discharge of official duties. A reserve force member who is a peace officer under that article must hold a permanent peace officer license issued under Chapter 1701, Occupations Code.

(g) The commission must approve an appointment to the reserve force before the person appointed may carry a weapon or otherwise act as a peace officer. On approval of the appointment of a person who is not a peace officer as described by Article 2.12, Code of Criminal Procedure, the person appointed may carry a weapon only when authorized to do so by the chief of police and only when discharging official duties as a peace officer. On approval of the appointment of a person who is a peace officer as described by Article 2.12, Code of Criminal Procedure, the chief of police may:

(1) authorize the person appointed to carry a weapon or act as a peace officer at all times, regardless of whether the person is engaged in the discharge of official duties; or

(2) limit the person's authority to carry a weapon or act as a peace officer to only those times during which the person is engaged in the discharge of official duties.

(h) Reserve police officers may act only to supplement the district's regular police force and may not assume the full-time duties of regular police officers without complying with the

requirements for regular police officers.

(i) A reserve police officer, regardless of whether the reserve police officer is a peace officer as described by Article 2.12, Code of Criminal Procedure, is not:

(1) eligible for participation in:

(A) a program provided by the commission that is normally considered a financial benefit of full-time employment; or

(B) a pension fund created by statute for the benefit of full-time paid peace officers; or

(2) exempt from Chapter 1702, Occupations Code.

(j) After being appointed under this section, a reserve police officer must execute an oath and execute a bond in the amount of \$2,000 payable to the commission. The officer may not perform any duties under this section until the officer files the oath and bond with the commission's secretary.

Added by Acts 2005, 79th Leg., Ch. 173 (H.B. 340), Sec. 1, eff. May 27, 2005.

Sec. 60.078. PENALTIES. A violation of this subchapter or of an ordinance, rule, or regulation adopted by a district under this subchapter is a misdemeanor, and the commission may provide for the punishment of the misdemeanor by a fine of not more than \$500 for each offense or violation.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by:

Acts 2005, 79th Leg., Ch. 758 (H.B. 2966), Sec. 1, eff. September 1, 2005.

Sec. 60.079. JURISDICTION OF VIOLATIONS. Any justice court in the justice precinct in which an offense under this subchapter is alleged to have been committed or in any county court at law in the county where an offense is alleged to have been committed, which county court at law has concurrent original jurisdiction with the justice court, shall have original jurisdiction of any misdemeanor or violation under this subchapter and original jurisdiction of any violation of an ordinance, rule, or regulation made under this subchapter.

SUBCHAPTER E. POWERS OF DISTRICTS FOR IMPROVEMENT OF PORT
FACILITIES

Sec. 60.101. ACQUISITION AND MAINTENANCE OF PORT FACILITIES. (a) Any district may acquire land or interests in land by purchase, lease, or otherwise, may convey the land or interest in the land by lease, installment sale, or otherwise, and may purchase, construct, enlarge, extend, repair, maintain, operate, develop, sell by installment sale, or otherwise, and lease as lessor or as lessee:

- (1) wharves and docks;
- (2) warehouses, grain elevators, other storage facilities, and bunkering facilities;
- (3) port-related railroads and bridges;
- (4) floating plants and facilities;
- (5) lightering, cargo-handling, and towing facilities;
- (6) everything appurtenant to these facilities; and
- (7) all other facilities or aids incidental to or useful in the operation or development of the district's ports and waterways or in aid of navigation and navigation-related commerce in the ports and on the waterways.

(b) To the extent that the district incurs indebtedness, bonded or otherwise, for purposes of financing the above facilities which in turn are sold by installment sale or otherwise, the indebtedness, principal and interest, may be paid only from the loan or bond sale proceeds and from revenues generated from the project financed by the indebtedness, and security for payment of the principal of and interest on indebtedness shall be limited to a pledge of the project's revenues and the project's facilities including enlargements and additions.

(c) An installment sale or a lease under this section is not a loan of the district's credit or a grant of public money. The acquisition and leasing of land and facilities for the purposes included in this section and the operation and industrial and

business development of ports and waterways are a public purpose and a matter of public necessity.

(d) A district may contract with a broker to sell a tract of land in the same manner as the commissioners court of a county under Section [263.008](#), Local Government Code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 411, ch. 84, Sec. 1, eff. May 10, 1983.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 8, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 6, eff. June 1, 2017.

Sec. 60.102. UTILITY RELOCATION. (a) If a district in the exercise of the powers conferred by this subchapter or in the exercise of the power of eminent domain or the police power requires the relocating, raising, lowering, rerouting, or changing in grade, or altering in the construction of any railroad, electric transmission line, telegraph or telephone line, conduit, pole, properties or facilities, or pipeline, the relocating, raising, lowering, rerouting, changing in grade, or altering of construction shall be done at the sole expense of the district.

(b) "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, change in grade, or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting the net salvage value derived from the old facility.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.103. PRESCRIBING FEES AND CHARGES. The commission shall prescribe fees and charges to be collected for the use of the land, improvements, and facilities of the district and for the use of any land, improvements, or facilities acquired under the provisions of this subchapter. The fees and charges shall be reasonable, equitable, and sufficient to produce revenue adequate to pay the expenses mentioned in Section [60.105](#) of this code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.104. POWER TO BORROW MONEY. (a) The commission, for the purposes stated in Subsection (b) of this section, may borrow money from the United States or from any other source and may evidence the debt by issuing notes, warrants, certificates of indebtedness, negotiable bonds, or other forms of obligation of the district payable solely out of the revenue to be derived from land, improvements, and facilities.

(b) The commission may use the money to acquire land and waterways and all improvements on or to the land and waterways and to acquire, purchase, construct, enlarge, extend, repair, maintain, operate, or develop wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering and towing facilities, everything appurtenant to them, and all other facilities or aids incidental to or useful in the operation or development of the district's ports and waterways or in the aid of navigation and commerce in the ports and waterways.

(c) Obligations issued under this subchapter shall not constitute an indebtedness or pledge of credit of the district and may not be paid in whole or in part from any funds raised or to be raised by taxation. Each obligation shall contain a recital to this effect.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.105. EXPENSES TO BE PAID FROM CURRENT REVENUES. (a) The commission shall pay from revenue raised under Section 60.103 of this code:

(1) all expenses necessary to the operation and maintenance of the improvements and facilities, including the cost of the acquisition of properties and materials necessary to maintain the improvements and facilities in good condition and operate them efficiently, the wages and salaries paid to the employees of the district, and other expenses necessary to the efficient operation of the improvements and facilities;

(2) the annual or semiannual interest on any

obligations issued under this subchapter and payable out of the revenue of the improvements and facilities; and

(3) the amount required to be paid annually into the sinking fund for the payment of any obligations issued under this subchapter and payable out of the revenue of the improvements and facilities.

(b) No expenses other than those authorized by Subsection (a) of this section may be paid from the revenue of the improvements and facilities as long as the principal and interest on any obligations issued under this subchapter remain outstanding and unpaid. Any revenue received in excess of that required for the purposes stated in Subsection (a) of this section may be used by the commission to pay the cost of improvements and replacements which are not listed and may establish a depreciation fund.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.106. PLEDGE OF REVENUE FOR PAYMENT OF OBLIGATIONS.

(a) In proceedings to authorize the issuance of obligations under this subchapter, the district may make the obligations payable from and secured by the pledge of all or part of the revenue derived from the ownership or operation of the land, improvements, facilities, or other properties of the district, exclusive of revenue derived from taxation or assessments, or payable from and secured by the pledge of only revenue which may be derived from the ownership or operation of the land, improvements, facilities, or properties acquired with the proceeds of the sale of the obligations.

(b) The obligations may be issued in more than one series and at any time at which they may be required for carrying out the purposes of the district.

(c) Any pledge of revenue may reserve the right under conditions, specified in the pledge, to issue additional obligations which will be on a parity with, senior to, or subordinate to the obligations then being issued.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.107. MORTGAGE AS ADDITIONAL SECURITY. (a) As additional security for the payment of any obligations issued under

this subchapter, the commission may execute in favor of the holders of the obligations an indenture, mortgaging and encumbering the improvements, facilities, and properties acquired with the proceeds of the sale of the obligations. The commission may provide in the indenture for a grant to any purchaser, at a foreclosure sale under the indenture, a franchise to operate the improvements, facilities, and properties for a term of not more than 50 years from the date of purchase, subject to all regulatory laws.

(b) The indenture may contain the terms and provisions the commission considers proper and shall be enforceable in the manner provided by the laws of this state for the enforcement of other mortgages and encumbrances.

(c) Under any sale ordered pursuant to the provisions of an indenture, the purchaser and his successors or assigns shall be vested with a permit and franchise to maintain and operate the improvements, facilities, and properties purchased at the sale and shall have the same powers and privileges as could previously have been exercised by the district in the operation of the improvements, facilities, and properties. The purchaser or his successors and assigns may remove all or part of the improvements, facilities, and properties for diversion to other purposes.

(d) Any laws of this state relating to the granting of franchises are not applicable to either the granting of any franchise or authorizing or executing of any mortgage or encumbrance entered into pursuant to the provisions of this subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.108. ISSUANCE OF OBLIGATIONS. (a) The commission may provide that obligations issued under this subchapter are payable annually or semiannually and may issue the obligations in any denominations and may have them mature serially or at one time not more than 40 years from their date.

(b) The obligations shall be signed by the chairman and secretary of the commission, and the interest coupons attached to the obligations may be executed with the facsimile signatures of these officers. The obligations shall be valid and sufficient for

all purposes even though the officers whose signatures are on the obligations or coupons cease to be officers before delivery to the purchaser.

(c) Any obligations issued under this subchapter shall be in registered or coupon form, and if the obligations are in coupon form, they may be registered with relation to principal only or with relation to both principal and interest.

(d) The commission may sell the obligations in the manner and at the time which it considers expedient and necessary to the interests of the district.

(e) The commission may make principal and interest on the obligations payable at any place or places inside or outside the State of Texas and may make the obligations redeemable before maturity at the premium determined by the commission.

(f) Each issue of obligations authorized under this subchapter shall constitute a separate series which shall be appropriately designated. These obligations constitute negotiable instruments within the meaning of the negotiable instruments law. Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.109. SINKING FUND. (a) A resolution or an order authorizing the issuance of obligations under this subchapter shall provide for the creation of a sinking fund which shall include sums fully sufficient to pay principal of and interest on the obligations. Money deposited in the sinking fund shall be taken from revenue pledged for the payment of the obligations and shall be deposited in the fund as the revenue is collected.

(b) The money in the sinking fund shall be applied solely to the payment of interest on the obligations for the payment of which the fund is created and for the retirement of the obligations at or before maturity in the manner provided by this subchapter.

(c) The commission, at the time obligations are authorized under this subchapter, may provide that all money in the sinking fund which is in excess of the amount required for the payment of the principal of and interest on the outstanding obligations, for a period of time it may determine, shall be spent once each year pursuant to the commission's orders for the purchase of

obligations, if any can be purchased at a price the commission finds reasonable, for the account of which the sinking fund has been accumulated.

(d) If the obligations contain an option permitting retirement before maturity, the commission may provide that the excess sums shall be paid out as authorized by Subsection (b) of this section for the purchase of the obligations, but if the commission is unable to purchase sufficient obligations of the issue to absorb all the surplus, it shall call a sufficient amount of the obligations for redemption to absorb insofar as practicable the entire surplus remaining in the sinking fund.

(e) The commission may provide that any excess in the sinking fund which cannot be applied to the purchase or redemption of obligations shall remain in the sinking fund for payment of principal and interest and for subsequent call for purchase or redemption.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.110. REVENUE SET ASIDE FOR SINKING FUND. (a) A resolution or an order authorizing the issuance of obligations under this subchapter shall provide that the revenue from which the obligations are to be paid shall, from month to month as it accrues and is received, be placed in a sinking fund and disbursed in the manner provided in Section 60.109 of this code.

(b) In determining the amount of revenue to be set aside, the commission shall provide that the amount to be set aside and paid into the fund in any year shall not be less than a fixed sum which shall be at least sufficient to provide for the payment of the principal of and interest on all obligations which mature and become payable each year and shall include a surplus or margin of 10 percent in excess of that amount.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.111. DEPOSIT OF PROCEEDS OF OBLIGATIONS; PAYMENT. (a) The proceeds of the sale of any obligations issued under this subchapter may be deposited in a bank or banks and paid out on terms and conditions agreed on by the purchaser at the sale and the

commission.

(b) The laws of this state relating to the deposit of district funds in the depository of the district shall not apply to the deposit of the proceeds of a sale governed by Subsection (a) of this section.

(c) Any part of the proceeds of the sale of obligations issued under this subchapter which remains unspent after the project for which the obligations were authorized has been completed may be paid into the sinking fund for the payment of the obligations and may be used only for the payment of principal of the obligations or for the purpose of purchasing outstanding obligations in the manner provided by this subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.112. INSURING IMPROVEMENTS TO PROTECT HOLDERS OF OBLIGATIONS. (a) The commission may enter into agreements with purchasers of any obligations issued under this subchapter to insure improvements and facilities, the revenue of which is pledged to the payment of the obligations.

(b) The commission may obtain from insurers of good standing:

(1) insurance against loss or damage by fire, water, or flood;

(2) insurance against loss or damage from any hazards customarily insured against by private companies operating similar properties; and

(3) insurance covering the use and occupancy of the property as is customarily carried by private companies.

(c) The cost of the insurance shall be budgeted as maintenance and operation expense and shall be carried for the benefit of the holders of the obligations.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.113. COMPELLING PERFORMANCE OF DUTIES. A holder of obligations issued under this subchapter or coupons originally attached to the obligations may by any legal proceeding enforce and compel performance of all duties required by this subchapter to be

performed by the commission. The duties which can be the basis of an action under this section shall include:

(1) the establishment and collection of reasonable and sufficient fees or charges for the use of improvements and facilities of the district;

(2) the segregation of the income and revenue from improvements and facilities; and

(3) the application of income and revenue pursuant to the provisions of this subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.114. OBLIGATIONS EXEMPT FROM TAXATION. Any obligations issued under this subchapter shall be exempt from taxation by the State of Texas, any municipal corporation, any county, and or any other political subdivision or taxing district of the state.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.115. REFUNDING OBLIGATIONS. (a) A district issuing obligations under the provisions of this subchapter may authorize issuance of its refunding obligations on terms its commission considers advisable for the purpose of providing for the retirement of outstanding obligations which are either due or to become due.

(b) The refunding obligations either may be exchanged for the same par amounts of outstanding obligations or may be sold and the proceeds of the sale exchanged for the same par amounts of outstanding obligations.

(c) Refunding obligations authorized and issued under Subsection (a) of this section are subject to the provisions of this subchapter relating to the issuance of other obligations and shall be secured in all respects to the same extent and shall be payable from the same revenue as the obligations which they refund.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.116. APPROVAL AND REGISTRATION OF BONDS. (a) Bonds issued under this subchapter shall be submitted to the Attorney

General of Texas for his approval in the same manner and with the same effect as provided for the approval of tax bonds issued by counties of the state.

(b) Bonds issued under this subchapter shall be registered by the Comptroller of Public Accounts of Texas as required for county tax bonds.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.117. BONDS AS INVESTMENTS. Bonds authorized and issued under this subchapter are legal and authorized investments for life insurance companies authorized to do business in Texas.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.118. BOARD OF TRUSTEES OF FACILITY. (a) A district which constructs, purchases, or otherwise acquires or plans to construct, purchase, or otherwise acquire any facility authorized in Section 60.101 of this code to be paid for in whole or in part by the issuance and sale of obligations payable from and secured by a pledge of revenue authorized in this subchapter may vest management and control of the facility during the time the obligations or refunding obligations are secured in whole or in part by the pledge of revenue, in a board of trustees named in the resolution or indenture.

(b) The board of trustees shall consist of not less than five nor more than nine members, and shall be entitled to receive the compensation fixed by the resolution or indenture, which shall not be more than one percent of the gross receipts of the facility in any one year.

(c) The commission shall specify in the resolution or indenture:

(1) the terms of office of the members of the board of trustees;

(2) the powers and duties of the board, including the power to fix fees and charges for the use of the facility;

(3) the manner of exercising the powers and duties;

(4) the manner of selecting the successors of the board of trustees; and

(5) all matters relating to board members' duties and the organizing of the board.

(d) The board of trustees may adopt bylaws regulating the procedure of the board and fixing the duties of its officers, but the bylaws may not contain any provision in conflict with the covenants and provisions contained in the resolution authorizing the bonds or in the indenture.

(e) In all matters relating to powers, duties, obligations, and procedure of the board of trustees which are not covered in the bylaws and the resolution or indenture, the laws and rules governing the commission shall control, where applicable.

(f) When the board is created by the resolution or indenture, it shall have all of the power and authority for the management and operation of any facility which could be exercised by the commission.

(g) By the terms of the resolution or indenture, the commission may make provision for later supplementation of the resolution or indenture to vest the management and control of the facility in a board of trustees having the powers, rights, and duties conferred or imposed by this section.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1971, 62nd Leg., p. 1159, ch. 264, Sec. 1, eff. May 19, 1971.

Sec. 60.119. COVENANTS FOR MANAGEMENT AND OPERATION OF IMPROVEMENTS. (a) A resolution or order authorizing the issuance of obligations under this subchapter may include covenants with the holders of the obligations relating to:

(1) the management and operation of the improvements and facilities;

(2) the collection of fees and charges for the use of the improvements and facilities;

(3) the disposition of the fees and charges;

(4) the issuance of future obligations and creation of future liens and encumbrances against the improvements, facilities, and the revenue from them; and

(5) other pertinent matters, as may be deemed

necessary to insure the marketability of the obligations.

(b) The covenants shall not be inconsistent with the provisions of this subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.120. CONTRACTS, LEASES, AND AGREEMENTS AUTHORIZED.

(a) A district acting under this subchapter may enter into any contract, lease, or agreement necessary or convenient to carry out any of the powers granted in this subchapter, including a contract for purchase, lease for purchase, or other agreement for the use or acquisition of real property, or improvements to real property or the use or acquisition of personal property. The contract, lease, or agreement may be entered into with any person and any government or governmental agency including the United States, the State of Texas, and a public facility corporation organized under Chapter 303, Local Government Code.

(b) Any contract, lease, or agreement entered into under Subsection (a) of this section shall be approved by resolution of the commission and shall be executed by the chairman, the executive director of the district, or an authorized representative of the executive director.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. 1531), Sec. 3, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 9, eff. June 17, 2011.

Sec. 60.121. CONVERSION OF DISTRICT. (a) If the commission of any district organized under Article III, Section 52, of the Texas Constitution, finds it expedient to convert the district into a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, in order to utilize the provisions of this subchapter, the conversion may be accomplished as provided in Subchapter J of this chapter.

(b) All proceedings and hearings held in connection with a conversion shall be adopted and conducted by the commission of the

district instead of by the navigation board of the district.
Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.122. IMPROVEMENTS NOT PAYABLE FROM TAXES. (a) No district, in the operation, maintenance, or repair of any improvements or facilities acquired, purchased, or constructed under the provisions of this subchapter, shall incur any indebtedness or assume any liability or obligation payable out of taxes.

(b) Liabilities and obligations arising from these activities are payable solely out of the revenue from the improvements and facilities which may be applicable as authorized in this subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.123. PILOT AND PILOTAGE LAWS UNAFFECTED. No provision of this subchapter may be construed to amend, repeal, or affect the laws relating to pilots and pilotage or their appointment and remuneration.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.124. GIFTS, GRANTS, AND DONATIONS. A district may accept a gift, grant, donation, or bequest of money, services, equipment, goods, or other tangible or intangible property from any source for any district purpose.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 10, eff. June 17, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 7, eff. June 1, 2017.

SUBCHAPTER F. CONTRACTS WITH THE UNITED STATES

Sec. 60.151. PURPOSE. It is the purpose and intent of this subchapter to confer on districts individually, jointly, or mutually interested in a navigation project, including a project relating to improvements and facilities described in Sections

60.032 and 60.101 of this code, the fullest possible power of contract with regard to navigation or other projects of individual or common interest.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1991, 72nd Leg., ch. 794, Sec. 1, eff. June 16, 1991; Acts 2003, 78th Leg., ch. 588, Sec. 5, eff. June 20, 2003.

Sec. 60.152. AUTHORITY TO ENTER INTO CONTRACT. (a) One or more districts, which are interested in or may, in the judgment of the commission, be benefited by a navigation or other project, may enter into contracts with the United States or with another district, or both, to consummate navigation or other projects of common interest.

(b) The contract may provide for:

(1) the assumption of several, joint, or joint and several liability for construction, completion, and consummation of the project;

(2) the acquisition of property in connection with the project;

(3) the lending and contribution of funds of the district to the United States or to any other district in support or in aid of the project;

(4) the issuance of bonds or notes by one or more of the districts to fund all or part of the project;

(5) the obligation of one or more of the districts to fully or partially reimburse another district that has spent its own funds on the project or has issued bonds or notes to fund the project;

(6) the securing of bonds or notes issued by one district to fund the project with a pledge of payments to be made by one or more of the other districts; and

(7) the assumption of responsibility for valid obligations, incurred in furtherance of the common project, of the United States or of any district.

(c) A contract may provide that a district will make payment under the contract from proceeds from the sale of bonds or notes, from taxes, or from any other income of the district or any

combination of these. A district may make payments under a contract from taxes other than maintenance taxes, after the provisions of the contract have been approved by a majority of the electors voting at an election held for that purpose. A contract election may be held alone or at the same time and in conjunction with an election to authorize bonds. The procedure for calling the election, giving notice, conducting the election, and canvassing the returns is the same as the procedure for a bond election. If the contract is approved, it constitutes an obligation against the taxing power of the district to the extent provided in the contract.

(d) A district all or part of which is in another district may exercise the authority granted a district under this section. Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1991, 72nd Leg., ch. 794, Sec. 2, eff. June 16, 1991; Acts 2003, 78th Leg., ch. 588, Sec. 6, eff. June 20, 2003.

Sec. 60.153. EXECUTION OF CONTRACTS. A contract entered into by a district under this subchapter shall be approved by resolution of the commission and executed by the presiding officer of the commission, the executive director of the district, or an authorized representative of the executive director.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. [1531](#)), Sec. 4, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. [3785](#)), Sec. 2, eff. June 19, 2009.

SUBCHAPTER G. POWERS OF DISTRICT TO PROVIDE IMPROVEMENTS WITHOUT TAXATION

Sec. 60.171. AUTHORITY TO BORROW MONEY AND ENCUMBER PROPERTY AND FRANCHISE. (a) A district organized under the provisions of the constitution or laws of this state and created for the development of deep water navigation may borrow money and may mortgage and encumber part or all of its properties and facilities, the franchise, revenue, and income from the operation of its

properties and facilities and everything pertaining to its properties and facilities to secure the payment of funds to purchase, build, improve, enlarge, extend, or repair any of its wharves, docks, warehouses, levees, bulkheads, canals, waterways, or other aids to navigation.

(b) As additional security, the encumbrance may pledge the net income and revenue from the operation of properties and facilities of the district and may provide for a grant, to a purchaser under sale or foreclosure, of a franchise to operate, subject to all regulatory laws, the encumbered property and facilities for a term of not more than 20 years from the date of purchase.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.172. NOTICE OF HEARING ON INDEBTEDNESS. (a) When, for the purposes authorized by Section 60.171 of this code, a commission proposes to borrow money and mortgage and encumber any part or all of its properties, facilities, franchises, revenue, and income from the operation of its properties and facilities, the commission shall give notice of intention to authorize and issue the evidence of the indebtedness.

(b) The commission shall fix a time and place at which a public hearing concerning the proposed indebtedness shall be held. The date of the hearing shall be not less than 15 days nor more than 30 days from the date of the resolution of the commission giving the notice.

(c) Notice published by the commission under this section shall:

(1) include a statement of the amount and purpose of the proposed indebtedness;

(2) inform all persons of the time and place of hearing; and

(3) inform all persons of their right to appear at the hearing and contend for or protest the creation of the indebtedness.

(d) The secretary of the commission shall post copies of the notice for 10 days before the day of hearing in three public places

in the district and at the door of each county courthouse located in the district.

(e) The notice also shall be published one time not less than five days before the day of the hearing in a newspaper of general circulation in the district. If a newspaper is not published in the district, the notice shall be published in some newspaper published in any county situated in whole or in part within the district.

(f) The duties imposed on the secretary of the commission by this section may be performed by any commission member or the assistant secretary of the commission.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.173. HEARING ON INDEBTEDNESS. (a) At the time and place set for the hearing or on a subsequent date, the commission shall hear and determine all matters concerning the proposed indebtedness, and the hearing may be adjourned from day to day and from time to time as the commission considers necessary.

(b) At the hearing, any person interested may appear before the commission in person or by attorney and contend for or protest the creation of the proposed indebtedness.

(c) The commission may adopt a resolution or order providing for the assumption of the proposed indebtedness and the issuance of the evidence of the indebtedness if at the hearing it is determined by the commission that the proposed improvements are necessary, feasible, practicable, and needed and will benefit the property in the district.

(d) The commission may, in respect to the issuance, sale, and delivery of securities evidencing the indebtedness, adopt all necessary resolutions, orders, certificates, and trust indentures.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.174. ISSUANCE OF OBLIGATIONS. (a) The district may issue evidences of indebtedness secured by encumbrance which mature not more than 20 years after the date of issuance.

(b) The encumbrance and evidences of indebtedness shall include the clause: "The holder hereof shall never have the right

to demand payment of this obligation out of any funds raised or to be raised by taxation."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.175. EXECUTION AND SALE OF OBLIGATIONS. (a) Each note, warrant, or other security evidencing any indebtedness created under the provisions of this subchapter shall be signed by the chairman of the commission, countersigned by the secretary of the commission, and have the seal of the district impressed on it.

(b) Each note, warrant, or other security may be registered as to principal by the trustee named and designated by the commission in the trust indenture executed by the commission to secure payment of the obligation.

(c) The evidences of indebtedness may be sold by the commission on the best terms and for the best price possible.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.176. OBLIGATIONS AS CHARGE ON ENCUMBERED PROPERTY AND FACILITIES. (a) No obligation issued under Section 60.174 of this code shall be a debt of the district issuing the obligation but shall be solely a charge on the encumbered property and facilities.

(b) Revenue and income from the encumbered property and facilities of the district shall not be considered in determining the power of the district to issue any bonds for any purpose authorized by law.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.177. LIEN ON REVENUE; FORECLOSURE OF ENCUMBRANCE. (a) If the revenue and income from the properties and facilities of the district are encumbered under the provisions of this subchapter, the expense of operation and maintenance necessary to render efficient service of the properties and facilities shall be a first lien and charge against the revenue and income. The first lien shall be prior to and superior to the lien of the encumbrance.

(b) No encumbrance shall be foreclosed because of default of the district until the default has existed for a period of 90 days and notice of the default has been served on the commission.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.178. TRUSTEE TO ENFORCE FORECLOSURE; FRANCHISE UNDER FORECLOSURE. (a) The encumbrance may provide for a trustee to enforce foreclosure.

(b) In the event of foreclosure of an encumbrance created under this subchapter, the encumbrance may provide for the grant of a franchise to the purchaser under foreclosure to operate the properties encumbered for a period not to exceed 20 years from the date of default. The district shall have the option at any five-year period for 20 years after default to repurchase the properties on reasonable terms and at reasonable prices to be set forth in the encumbrance.

(c) The provisions of Sections 61.164-61.168 of this code, relating to the grant of franchises by districts, shall not apply to the grant of any franchises under authority of this section.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.179. BORROWING FOR CURRENT EXPENSES. The district may borrow funds and issue warrants to pay current expenses. The warrants issued shall be payable not later than the close of any calendar year for which loans are made and may not exceed in total the anticipated revenue of the district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.180. MANAGEMENT AND CONTROL BY COMMISSION. The management and control of any property and facilities encumbered under the provisions of this subchapter shall, during the time of the encumbrance, be exercised by the commission.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.181. PROCEEDINGS TO BORROW MONEY. (a) The commission shall supervise all proceedings to be taken and acts to be performed under this subchapter concerning the borrowing of money, the mortgaging and encumbering of properties and facilities, the franchise, revenue, and income from the operation of properties and facilities, and the issuance of evidences of indebtedness.

(b) The commissioners court of any county included in whole or in part inside the boundaries of a district and the navigation board established for a district shall not be required to take any action in connection with this subchapter, approve or ratify any proceedings taken by the commission, or approve or ratify any act performed by the commission.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

SUBCHAPTER H. PROMOTION AND DEVELOPMENT FUND IN CERTAIN DISTRICTS

Sec. 60.201. PURPOSE. Districts in this state which operate ports or waterways and harbor and terminal facilities are in keen competition with other ports, waterways, harbors, and terminals outside the state and with privately owned port and terminal facilities inside the state. Well-situated and well-equipped ports and waterways in other nearby states and owners of substantial port and terminal facilities located inside and outside the state are advertising, promoting and developing their competing ports, waterways, harbors, and terminals through expenditure of large amounts of money without any audit or restriction on expenditure of the money. This activity or expenditure is thwarting and impeding the use, progress, and development of the ports, waterways, harbors, and terminals of this state. Continuation of this hardship and injustice can best be met and coped with by more liberal use of some relatively small fund set aside from the gross income from operations of the ports of this state to be used in the manner provided in this subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1993, 73rd Leg., ch. 114, Sec. 1, eff. Aug. 30, 1993.

Sec. 60.202. CREATION OF FUND. A district organized under general or special law may set aside out of current income from its operations a promotion and development fund of not more than five percent of its gross income from operations in each calendar year.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1993, 73rd Leg., ch. 114, Sec. 1, eff. Aug. 30,

1993.

Sec. 60.203. EXPENDITURE OF FUND. Money in the promotion and development fund shall be spent by the commission or as the commission may direct to pay any expenses connected with:

(1) any activity or matter incidental to the advertising, development, or promotion of the district or its ports, waterways, harbors, or terminals;

(2) furthering the general welfare of the district and its facilities; or

(3) the betterment of the district's relations with steamship and rail lines, shippers, consignees of freight, governmental officials, or others interested or sought to be interested in the ports, waterways, harbors, or terminals.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.204. MANAGEMENT AND CONTROL OF PROMOTION AND DEVELOPMENT FUND. (a) The money in the promotion and development fund shall be kept separate from all other funds and accounts of the district, and no money collected from assessing or levying taxes may be mingled with the fund.

(b) The promotion and development fund shall be under the exclusive control of the commission, and the commission shall have full responsibility for auditing, approving, and safeguarding the expenditure of money from the fund.

(c) The county auditor shall exercise his usual supervision and control to assure that the commission sets aside no more than five percent of its gross income from operations in each calendar year in the promotion and development fund. The county auditor may audit disbursements from the fund and shall be entitled to a monthly statement showing the:

(1) date of each disbursement from the fund;

(2) amount disbursed;

(3) person or concern to whom disbursed; and

(4) general purpose of each disbursement.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Amended by Acts 2001, 77th Leg., ch. 183, Sec. 1, eff. May 18, 2001.

Sec. 60.205. OTHER EXPENSES NOT AFFECTED. Since this subchapter authorizes disbursements from the promotion and development fund for unusual purposes and occasions not covered by other law, the setting aside of the fund and disbursements from the fund shall not affect payment of other expenses customarily approved, audited, and paid out of the regular funds of the district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

SUBCHAPTER I. REVENUE BONDS

Sec. 60.221. MODIFICATION OF REVENUE BOND RESOLUTION. If a district adopts a resolution for the issuance of revenue bonds, provision may be made in the resolution for its modification after the issuance of the bonds in the manner and with the consent of the holders of a fixed percentage of the bonds if provided in the resolution before the issuance of the bonds.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

SUBCHAPTER J. CONVERSION OF DISTRICTS

Sec. 60.241. AUTHORITY TO CONVERT. Any district created under the provisions of Article III, Section 52, of the Texas Constitution may be converted into a district operating under Article XVI, Section 59, of the Texas Constitution, in the manner provided in this subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.242. RESOLUTION. (a) The navigation board shall adopt a resolution declaring that in its judgment conversion to a district operating under Article XVI, Section 59, of the Texas Constitution will be in the best interest of the district and will be a benefit to the land and property located in the district.

(b) The resolution shall call a hearing and shall be entered in the minutes of the board.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.243. NOTICE OF RESOLUTION. (a) Notice of the resolution shall be given by publishing notice once a week for two consecutive weeks in a newspaper with general circulation in the county in which the district is located. The first publication shall appear not less than 14 full days before the time set for the hearing.

(b) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the entire resolution; and
- (3) notify interested persons to appear and offer testimony for or against the proposal.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.244. FINDINGS. (a) After the hearing, if the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would be in the best interest of the district and would be a benefit to the land and property located in the district, it shall enter an order making these findings and the district shall become a district operating under Article XVI, Section 59, of the Texas Constitution.

(b) If at the hearing the navigation board finds that conversion of the district into a conservation and reclamation district operating under Article XVI, Section 59, of the Texas Constitution would serve the best interests of the district and would be a benefit to the land and property located in the district, it may, in the alternative to the procedures prescribed in Subsection (a) above, enter an order making this finding, but providing that conversion is not final unless the voters, in the election provided by Section 60.247 of this code, authorize the conversion of the district and the continuation of the existing authority of the district to levy an annual maintenance tax of not to exceed 10 cents on the \$100 valuation of all property in this district.

(c) If the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would not be in the best interest of the district and

would not be a benefit to the land and property located in the district, it shall enter an order making these findings.

(d) The findings of the navigation board are final and are not subject to appeal or review.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 4245, ch. 677, Sec. 1, eff. June 19, 1983.

Sec. 60.245. STATUS OF CONVERTED DISTRICT. A district which is converted under the provisions of this subchapter shall be constituted a district operating under Article XVI, Section 59, of the Texas Constitution and shall be governed by the provisions of Chapter 62 of this code as if it had originally been organized under Article XVI, Section 59, of the Texas Constitution, except the commissioners of a converted district shall be appointed in the manner that initial commissioners are appointed under Sections 62.061 and 62.062 of this code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.246. POWERS OF CONVERTED DISTRICT. (a) Nothing in this subchapter shall be construed to deprive a converted district of any powers conferred on it by the law under which it was organized.

(b) A converted district shall have the additional powers conferred on districts under Sections 61.151, 61.161-61.168, 61.170, and 61.172-61.175 of this code, and the commissioners of a converted district shall constitute a pilot board under the provisions of Chapter 62, Transportation Code.

(c) If there is a conflict between the powers conferred by Section 60.245 of this code and the powers preserved by Subsection (a) of this section, the powers conferred by Section 60.245 shall control.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.278, eff. Sept. 1, 1997.

Sec. 60.247. OPTIONAL ELECTION. (a) If the navigation

board finds in favor of the conversion of the district but pursuant to Subsection (b) of Section 60.244 of this code provides that the conversion is not final, the commissioners court of jurisdiction shall order an election to be held in the district and shall submit to the electors residing in the district the proposition of whether or not the district should be converted and should be authorized to continue to levy an annual tax for the maintenance, operation, and upkeep of the district of not to exceed 10 cents on the \$100 valuation of all property within the district.

(b) The clerk of the commissioners court of jurisdiction shall give notice of the election by posting notices at the courthouse door of the county in which the district is located and at four other public places in the district.

(c) If the district is composed of more than one county, the notices required by Subsection (b) of this section shall be posted in each county.

(d) The notices must be posted for 30 days immediately preceding the time set for election.

(e) The notices must include:

- (1) the time and place of the election;
- (2) the proposition to be voted on; and
- (3) a copy of the election order.

(f) The commissioners court by order shall define the voting precincts in the district and shall name convenient polling places in the precincts.

(g) Immediately after the election, the officers holding the election shall make returns of the results to the commissioners court of jurisdiction, and the commissioners court shall promptly canvass the returns at a regular or special session of the commissioners court following the election.

Added by Acts 1983, 68th Leg., p. 4246, ch. 677, Sec. 2, eff. June 19, 1983.

Sec. 60.248. EFFECT OF ELECTION. If the commissioners court finds that a majority of those voting at the election voted in favor of the proposition, the court shall declare the results of the election to be in favor of conversion of the district and the levy

of the annual maintenance tax and shall enter the results in its minutes. If the commissioners court finds that a majority of those voting at the election voted against the proposition, it shall declare the results of the election to be unfavorable to the conversion of the district and shall enter the results in its minutes.

Added by Acts 1983, 68th Leg., p. 4246, ch. 677, Sec. 2, eff. June 19, 1983.

Sec. 60.249. EFFECT OF OPTIONAL CONVERSION. (a) If the conversion is approved by the voters, as provided in Sections 60.247 through 60.248 of this code, the district shall have the same right, power, and authority as is provided in Sections 60.245 through 60.246 of this code.

(b) The district may continue to levy taxes to fully carry out each purpose of its organization and for the payment of obligations and the maintenance and operation of the district without impairment or change in any of its obligations.

(c) The district shall advise the Texas Natural Resource Conservation Commission of a conversion not later than the 45th day after the results of the election are canvassed by the commissioners court.

Added by Acts 1983, 68th Leg., p. 4246, ch. 677, Sec. 2, eff. June 19, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.332, eff. Sept. 1, 1995.

SUBCHAPTER K. DEPOSITORY

Sec. 60.271. SELECTION OF DEPOSITORY. (a) Except as provided by this section, the commission shall select a depository for the district in the same manner that a municipality selects a municipal depository under Chapter 105, Local Government Code.

(b) The commission in selecting the depository shall act in the same capacity and perform the same duties as the governing body of a municipality in selecting a municipal depository. The chairman of the commission shall act in the same capacity and perform the same duties as the mayor of a municipality. The

treasurer of the district shall act in the same capacity and perform the same duties as the treasurer of a municipality.

(c) A bank, credit union, or savings association may not use personal bonds to secure district funds.

(d) Subchapter B, Chapter 2256, Government Code, does not govern the investment of district funds.

(e) Section 105.074(e), Local Government Code, applies to the designated officer of the district.

(f) The district shall adopt payment procedures consistent with Section 105.074(g), Local Government Code. The designated officer of a district may draw a check on a depository only on a warrant signed by the presiding officer and attested by the secretary of the district, or by a procedure adopted under this section.

(g) In this section, "designated officer" has the meaning assigned by Section 105.001, Local Government Code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.
Amended by Acts 1997, 75th Leg., ch. 1400, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 11, eff. June 17, 2011.

Sec. 60.272. DEPOSITORY BOND. The depository shall have all the powers and duties in the execution of a depository bond and in pledging of collateral in lieu of or in addition to a personal surety or surety company bond as provided by law for a county depository.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

Sec. 60.273. TREASURER'S BOND. After the depository executes the bond and it is approved by the commission, the county treasurer shall be required to execute only such a bond as required by the commission.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

SUBCHAPTER L. REFUNDING BONDS

Sec. 60.301. AUTHORITY TO ISSUE REFUNDING BONDS. The governing body of any district may refund the bonded indebtedness of the district without a vote of the electors of the district in the manner provided by law for counties, cities, and towns and may refund the bonded indebtedness owned by the State Board of Education in the manner provided for independent school districts incorporated for free school purposes only.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

SUBCHAPTER M. TAX BONDS, REVENUE BONDS, AND COMBINATION TAX AND
REVENUE BONDS

Sec. 60.331. CLASSES OF BONDS AUTHORIZED. For the purpose of carrying out any one or more powers of a district, the governing body of any district may issue negotiable bonds of three general classes:

(1) bonds secured by ad valorem taxes;

(2) bonds secured solely by a pledge of all or part of the revenues accruing to the district, including but without limitation those received from sale of water, rendition of services, tolls, charges, and from all sources other than ad valorem taxes;

(3) bonds secured by a combination pledge of revenues and taxes.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.332. ISSUANCE OF BONDS. (a) Any district may issue bonds provided in Subdivision (2), Section 60.331 of this code, by action of its governing body and without the necessity of an election.

(b) Bonds to be issued under Subdivisions (1) and (3), Section 60.331 of this code, can be issued only after authorization at an election held for that purpose throughout the territory comprising the district. The elections shall be conducted substantially in accordance with the procedure prescribed in the

Election Code.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.333. FORM OF BONDS. (a) Bonds of the district shall be authorized by resolution adopted by the governing board and shall be signed by the presiding officer or assistant presiding officer, and attested by the secretary, and the seal of the district shall be impressed on them.

(b) Within the discretion of the district, as evidenced by the resolution, bonds may be issued bearing the facsimile signatures of the officers and the seal of the district may be lithographed or printed thereon.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.334. MATURITY OF BONDS. Bonds shall mature serially or otherwise within the period and at the times which may be prescribed in the resolution, but not to exceed a maximum of 50 years.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.335. REGISTERED AND BEARER BONDS. The bonds may be registered as to principal or as to both principal and interest, and appropriate provisions may be inserted in the resolution authorizing the execution and delivery of bonds for the conversion of registered bonds into bearer bonds and vice versa.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.336. LOST AND DESTROYED BONDS. Provisions may be made in the bond resolution or trust indenture for the substitution of new bonds for those lost or mutilated.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.337. APPROVAL OF CONVERTED OR SUBSTITUTED BONDS. When bonds are approved by the attorney general and registered by the comptroller as prescribed in Section 60.345 of this code, it shall not be necessary to obtain the approval of the attorney general or registration by the comptroller of converted or substituted bonds.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.338. BONDS SECURED BY REVENUES. (a) Bonds secured wholly or in part by a pledge of the revenues of the district may be secured by all or that part of the revenues specified in the resolution authorizing the bonds or in the indenture securing the bonds.

(b) In making any pledge of the revenues, the right under the conditions specified to issue additional bonds which will be on a parity with, senior to, or subordinate to the bonds then being issued, may be expressly reserved.

(c) Within the discretion of the governing body, bonds may be secured further by a lien on all or any part of the physical property of the district.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.339. BONDS PAYABLE FROM TAXES. Where bonds are issued payable wholly from taxes, it is the duty of the governing body at the time of the bonds authorization to levy a tax sufficient to pay the principal of and interest on the bonds as the interest and principal become due, and to provide the reserve funds if prescribed in the resolution authorizing or the trust indenture securing the bonds.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.340. BONDS PAYABLE FROM BOTH TAXES AND REVENUES. (a) Where the bonds are payable both from taxes and from revenues of the district a tax shall be levied at the time of the

authorization of the bonds sufficient to pay the principal and interest and create and maintain the reserve funds.

(b) The rate of tax actually to be collected for any year shall be fixed so as to take into consideration the money which shall have been in the interest and sinking fund from the pledged revenues and which will be available for payment of principal and interest and for the creation of the reserve funds to the extent and in the manner permitted by the resolution authorizing or the trust indenture securing the bonds.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.341. RATES, TOLLS, AND CHARGES. (a) Where bonds are payable wholly from revenues, the governing body shall fix and from time to time revise the rates, tolls, and charges from the sales and services rendered by the district, the revenues from which are pledged, to the end that the rates, tolls, and charges will yield sufficient money:

(1) to pay designated expenses of the district;

(2) to pay the principal of and interest on the bonds as the principal and interest mature; and

(3) to create and maintain funds as prescribed in the resolution authorizing or the trust indenture securing the bonds.

(b) Where the bonds are payable both from taxes and from revenues, the governing body shall fix and from time to time revise the rates, tolls, and charges for sales and services rendered by the district, to the extent pledged, which will be sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture securing them.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.342. USE OF BOND PROCEEDS. (a) From the proceeds of the sale of any issue of bonds the district may set aside an amount for the payment of interest anticipated to accrue for the period specified or during the construction period and for a period after that time as the governing body may determine to be necessary

and may provide for a deposit into reserves or the debt service fund to the extent prescribed in the resolution authorizing or the trust indenture securing the bonds.

(b) Proceeds from the sale of the bonds shall be used for the purposes for which the bonds were authorized and may be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which the district is created, including the expense of issuing and selling the bonds.

(c) No expenditure of proceeds shall be made in violation of provisions contained in the resolution authorizing or the trust indenture securing the bonds.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.343. INTERIM BONDS. Pending the issuance of definitive bonds the governing body may authorize the delivery of negotiable interim bonds or notes eligible for exchange or substitution by use of definitive bonds.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.344. REFUNDING BONDS. (a) The district is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds and interest on them, authorized by this subchapter or any other indebtedness which the district may lawfully assume.

(b) No election shall be necessary in connection with the authorization and issuance of refunding bonds.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.345. APPROVAL AND INCONTESTABILITY OF BONDS. (a) No bonds shall be issued by the district until they shall have been approved by the attorney general.

(b) After the bonds have been approved by the attorney general and registered by the comptroller of public accounts they shall be negotiable and incontestable.

(c) When the bonds of an issue are thus approved and registered, the bonds later delivered by the district in lieu of these bonds, pursuant to Section 60.337 of this code in connection with the exchange of registered for unregistered bonds, or unregistered bonds for registered bonds, or in lieu of lost or mutilated bonds, need not be reapproved by the attorney general or reregistered by the comptroller of public accounts. Nevertheless, the bonds shall likewise be incontestable, and except for the limitations resulting from registration shall be negotiable.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.346. ADDITIONAL SECURITY. (a) Any bonds, including refunding bonds, authorized by this subchapter, and not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers which may be situated either inside or outside the State of Texas.

(b) The trust indenture may contain provisions prescribed by the governing body for the security of the bonds and the preservation of its properties, contracts, and rights. It may contain a provision for the amendment or modification of the trust indenture in the manner which it prescribes.

(c) Without limiting the generality of the provisions which may be contained in the indenture, it may provide that the district shall comply with the requirements of designated consulting engineers for the proper maintenance and operation of the district's properties and for the fixing of adequate tolls, charges, and rates, to assure proper maintenance and operation, and to provide proper debt service for the outstanding bonds in the manner prescribed in the resolution authorizing the issuance of the bonds or in the trust indenture securing the bonds.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.347. INVESTMENT OF BOND PROCEEDS. (a) The proceeds from the sale of any issue of bonds may, within the discretion of

the board, be invested prior to their use for the purposes for which they were issued, in bonds or other direct obligations of, or obligations unconditionally guaranteed by, the United States or in certificates of deposit issued by banks as long as the certificates are secured by such obligations or may be invested in accordance with Subchapter A, Chapter [2256](#), Government Code.

(b) The investments may be sold pursuant to the directions of the governing body as and when needed for their use for the purposes for which the bonds were issued.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973. Amended by Acts 1989, 71st Leg., ch. 750, Sec. 3, eff. June 15, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 60.348. BONDS AS INVESTMENTS. (a) All bonds issued pursuant to this subchapter shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking fund of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas.

(b) The bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas and the bonds shall be lawful and sufficient security for the deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

Sec. 60.349. EFFECT OF SUBCHAPTER. This subchapter shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized by it, without reference to any other laws, or any restrictions or limitations contained therein, except as

specifically provided in this subchapter. When any bonds are being issued under this subchapter, then to the extent of any conflict or inconsistency between any provisions this subchapter shall prevail and control; provided, that any issuer shall have the right to use the provisions of any other laws, not in conflict with the provisions of this subchapter, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this subchapter.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

SUBCHAPTER N. COMPETITIVE BIDDING REQUIREMENTS

Sec. 60.401. APPLICATION OF SUBCHAPTER. (a) This subchapter applies to a port authority district only if the port commission of that district or port authority by resolution adopts this subchapter.

(b) A district may adopt this subchapter for a particular purchase or period or for all purchases and contracts, subject to the commission's right to authorize particular procurements under Subchapter O.

(c) Except as specifically provided by this subchapter, a district that adopts this subchapter is not subject to the purchasing requirements of other laws governing purchases by navigation districts and port authorities.

(d) Chapter 2269, Government Code, does not apply to this subchapter.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 3.08, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(37), eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. 1395), Sec. 8, eff. June 1, 2017.

Sec. 60.402. DEFINITIONS. In this chapter:

(1) "Port authority" means a port authority created or operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(2) "Port commission" means the governing body of a navigation district or port authority.

(3) "Current funds" means funds in the treasury of a district or port authority that are available in the current tax year, revenue that may be anticipated with reasonable certainty to come into the treasury during the current tax year, and emergency funds.

(4) "Bond funds" means money in the treasury of a district or port authority received from the sale of bonds, and proceeds of bonds that have been voted but have not been issued and delivered.

(5) "Item" means any service, equipment, goods, or other tangible or intangible personal property, including insurance and high technology items.

(6) "High technology item" means a service, equipment, or goods of a highly technical nature, including data processing equipment and software and firmware used in conjunction with data processing equipment; telecommunications, radio, and microwave systems; electronic distributed control systems including building energy management systems; and technical services related to those items.

(7) "Public works contracts" means a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property.

(8) "Purchase" means the acquisition of an item by a port authority, a contract for construction, or performance of services.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Sec. 60.403. CONTRACTS: PURCHASES. (a) A port commission, an authorized designated officer of the port commission, the executive director of the district or the port authority, or an authorized representative of the executive director may make routine purchases or contracts in an amount not to exceed \$50,000.

(b) Before a purchase is made, a purchase order or other form of precommitment approval must be signed by the executive director of the district or the port authority or an authorized representative of the executive director. For routine contracts or purchases, the precommitment approval may be in the form of a list of approved routine purchases or contracts signed by the executive director. The signed list shall remain on file in the offices of the district or port authority.

(c) One original, photocopy, or electronic copy of the purchase order shall be delivered to the person from whom the purchase is made and one original, photocopy, or electronic copy shall be retained on file in the district or port authority in accordance with Subtitle C, Title 6, Local Government Code.

(d) If any other type of purchase of the district or port authority is subject to the approval of a county auditor, the list of routine purchases or contracts must be approved by the county auditor before the purchases or contracts may be made.

(e) A district may establish an electronic requisition system to perform some or all of the functions required by Subsections (b), (c), and (d). An electronic requisition system established under this subsection must electronically transmit data to and receive data from the financial system of the district in a manner that meets professional, regulatory, and statutory requirements and standards, including those relating to purchasing, auditing, and accounting.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1995, 74th Leg., ch. 632, Sec. 1, eff. June 14, 1995; Acts 1997, 75th Leg., ch. 262, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 588, Sec. 7, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. [1531](#)), Sec. 5, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 415 (H.B. [1972](#)), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 12, eff. June 17, 2011.

Sec. 60.4035. CONTRACTS: EMERGENCY PURCHASES.

(a) Notwithstanding the competitive bidding requirements and proposal procedures of this subchapter and Subchapter O and the requirements of Sections 60.408(a), (b), (c), (d), and (e), the executive director of a district or an officer of a district authorized in writing by the port commission may 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:

(1) to preserve or protect the public health and safety of the residents of the district;

(2) to preserve the property of the district in the case of a public calamity;

(3) to repair unforeseen damage to the property of the district; or

(4) to respond to security directives issued by:

(A) the federal Department of Homeland Security, including the Transportation Security Administration;

(B) the United States Coast Guard;

(C) the federal Department of Transportation, including the Maritime Administration; or

(D) another federal or state agency responsible for domestic security.

(b) The executive director of a district or the authorized officer of the district shall notify the port commissioners of any purchase made under Subsection (a) not later than 48 hours after the purchase is made.

Added by Acts 2003, 78th Leg., ch. 588, Sec. 8, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 415 (H.B. 1972), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. 3785), Sec. 3, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 26.007, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 13,

eff. June 17, 2011.

Sec. 60.404. COMPETITIVE BIDDING REQUIREMENTS.

(a) If the materials, supplies, machinery, equipment, or other items to be purchased or contracted for are valued at an amount greater than the amount authorized under Section 60.403(a) for routine purchases or contracts, notice shall be published as provided by this section.

(b) A notice of proposed purchase and the time and place the bids will be received and opened must be published once a week for two consecutive weeks before the deadline for receiving the bids in a newspaper with general circulation in each county in which the district is located. If there is no newspaper of general circulation in a county in which the district is located, the notice shall be published in a newspaper of general circulation in the county nearest the county seat of the county in which the district is located or the county in which the greatest amount of the district's territory is located.

(c) The notice must include:

(1) the specifications as prescribed by Subsection (d) of this section or the location at which those specifications may be obtained;

(2) the time and place for receiving and opening bids;

(3) the name and position of the official or employee to whom the bids are to be sent;

(4) whether the purchase will be made on a lump-sum or unit-pricing basis or a combination of a lump-sum basis and a unit-pricing basis;

(5) if a unit-pricing basis is to be used, the information required by Section 60.409(b) of this code; and

(6) the type of bonds required of the bidder.

(d) The specifications must:

(1) describe in detail the item to be acquired;

(2) require that bids be sealed;

(3) require the attachment to the bid of a certified check, cashier's check, or bidders bond, if security is required in connection with the bid; and

(4) indicate whether a small business development program, local preference program, or other contracting program adopted by the district applies to the purchase and, if so, where a copy of the program requirements may be obtained.

(e) A certified check or cashier's check required under Subsection (d)(3) of this section must be drawn on a bank that is a member of the Federal Deposit Insurance Corporation. A bidders bond required by that subsection must be acceptable to and payable to the district or port authority in an amount that is five percent of the total amount of the bid, conditioned that the successful bidder will enter into a contract and give bond if required by the specifications or law.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1989, 71st Leg., ch. 1059, Sec. 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 757, Sec. 22, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 632, Sec. 2, eff. June 14, 1995; Acts 2003, 78th Leg., ch. 588, Sec. 9, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 415 (H.B. [1972](#)), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. [3785](#)), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 26.008, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 14, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 9, eff. June 1, 2017.

Sec. 60.405. COMPETITIVE SEALED PROPOSALS.

(a) Notwithstanding Section [60.404](#), items other than construction services valued at more than the amount authorized by Section [60.403](#)(a) for routine purchases or contracts may be purchased under the procedure provided by this section.

(b) Quotations shall be solicited by the district or the district's broker through a request for proposals from as many sources as are reasonably available. The request for proposals

must specify the relative importance of price and all other factors of evaluation.

(c) Public notice of the request for proposals must be made in the same manner as provided by Section [60.404](#).

(d) The award of the contract shall be made by the commission in open session to the responsible offerer whose proposal is determined to provide the best value to the district giving consideration to evaluation factors set forth in the request for proposals.

(e) If so provided in the request for proposals, information in proposals may not be disclosed to the public until the contract is awarded. After a contract is awarded, proposals shall be open for public inspection, except that information contained in a proposal identified as a trade secret or as confidential shall be kept confidential.

(f) A district may adopt rules relating to negotiations to be conducted with responsible offerers submitting proposals. Offerers must be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. Revisions to proposal and contract terms may be permitted after submission of a proposal and before award of the contract.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 10, eff. June 1, 2017.

Sec. 60.406. COMPETITIVE BIDDING AND PROPOSAL PROCEDURES REQUIRED FOR CERTAIN CONTRACTS.

(a) Except as otherwise provided by Section [60.4035](#) or [60.412](#), before a district or port authority may purchase one or more items under a contract that will require an expenditure of more than the amount authorized under Section [60.403](#)(a) for routine purchases or contracts, the port commission of that district or port authority must comply with the competitive bidding requirements or proposal procedures provided by this subchapter or Subchapter O. All bids must be sealed.

(b) The competitive bidding and proposal requirements provided by this subchapter and Subchapter O apply only to contracts for which payment will be made from current funds or bond funds.

(c) In applying the competitive bidding procedures and proposal procedures, all separate, sequential, or component purchases of items ordered or purchased from the same supplier by the same officer, entity, or department, purchased with the intent of avoiding the requirements of this subchapter or Subchapter O, shall be treated as if they are part of a single purchase and a single contract.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 23, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 632, Sec. 3, eff. June 14, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 415 (H.B. [1972](#)), Sec. 4, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. [3785](#)), Sec. 5, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 26.009, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 15, eff. June 17, 2011.

Sec. 60.407. OPENING SEALED PROPOSALS AND BIDS. (a) An official of the district shall open the bids and competitive sealed proposals on the date specified in the notice. If an error is discovered in the original specifications or the nature of the item to be purchased requires an extension, the date may be extended.

(b) Opened bids and sealed proposals shall be kept on file and made available for public inspection.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 11, eff. June 1, 2017.

Sec. 60.408. CONTRACT AWARD. (a) The bids shall be

presented to the port commission in session.

(b) The port commission may award the contract to the responsible bidder submitting the lowest and best bid, or the port commission may reject any or all bids.

(c) If two responsible bidders submit the lowest and best bid, the port commission shall decide between the two bids by drawing lots in a manner prescribed by rule by the chairman of the port commission.

(d) A contract may not be awarded to a bidder who does not submit the lowest dollar bid meeting specifications unless, before the award, each person with a lower bid is given notice of the proposed award and an opportunity to appear before the port commission and present evidence concerning his responsibility.

(e) A contract valued at more than the amount authorized under Section 60.403(a) for routine purchases or contracts shall be awarded at a regularly scheduled or specially called meeting of the port commission.

(f) A contract valued at more than the amount authorized under Section 60.403(a) for routine purchases or contracts must be in writing, executed for the district or port authority by the district's or port authority's executive or designated officer or by an authorized designated employee of the district or port authority, and filed with the proper officer of the district or port authority.

(g) Before a contract valued at more than the amount authorized under Section 60.403(a) for routine purchases or contracts takes effect or is binding on a district or port authority, the appropriate financial officer of the district or port authority must certify that funds are or will be available to meet the contract when due.

(h) One original, photocopy, or electronic copy of a contract, requisition, or purchase order valued at more than the amount authorized under Section 60.403(a) for routine purchases or contracts must be delivered to the contractor and one original, photocopy, or electronic copy shall be retained on file with the district or port authority in accordance with Subtitle C, Title 6, Local Government Code.

(i) A purchase or contract valued at more than the amount authorized under Section 60.403(a) for routine purchases or contracts that is not in compliance with this subchapter is void and unenforceable.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. 3785), Sec. 6, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 16, eff. June 17, 2011.

Sec. 60.409. PRICING METHOD. (a) A purchase may be proposed on a lump-sum or unit-price basis or a combination of a lump-sum basis and a unit-price basis.

(b) If a district uses unit pricing in its notice, the information furnished proposers or bidders shall specify the approximate quantities estimated on the best available information or other quantities reasonably specified to permit comparison of proposals or bids, and the total contract amount may be based on estimated maximum quantities, but the compensation paid the bidder must be based on the actual quantities purchased.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. 1395), Sec. 12, eff. June 1, 2017.

Sec. 60.410. CHANGES IN PLANS AND SPECIFICATIONS. (a) A port commission may change the plans, specifications, proposal, or quantities of items purchased after a contract has been awarded, but the total contract price may not be changed unless the cost can be paid from available funds.

(b) If a change order involves an increase or decrease in cost less than or equal to the amount authorized in Section 60.403(a) for routine purchases or contracts, a port commission may grant general authority to an employee to approve the change order. However, the original contract price may not be increased by more than 25 percent or decreased by 18 percent or more without

the consent of the contractor.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. [1531](#)), Sec. 6, eff. June 15, 2007.

Sec. 60.411. BOND REQUIREMENTS. (a) If a contract is for the construction of public works or a contract amount exceeds \$50,000, the bid specifications or request for proposal may require the bidder to furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A district or port authority may require that the bond be executed with a surety company:

(1) authorized to do business in this state; and

(2) listed on the United States Department of Treasury List of Approved Sureties.

(b) Not later than the 10th day after the date of the signing of a contract or issuance of a contract or purchase order, the bidder or proposal offerer shall furnish a performance bond to the district or port authority, if required by a district or port authority, for the full amount of the contract if the contract exceeds \$50,000.

(c) If a contract is for \$50,000 or less, a district or port authority may provide in the bid notice or request for proposal that money will not be paid to the contractor until completion and acceptance of the work or fulfillment of the purchase obligation to the district or port authority.

(d) Bidders or proposal offerers for contracts subject to Chapter [2253](#), Government Code, are required to furnish a bond as provided by that article, except that a district or port authority may require that the bond be executed with a surety company listed on the United States Department of Treasury List of Approved Sureties.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1993, 73rd Leg., ch. 170, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. 3785), Sec. 7, eff. June 19, 2009.

Sec. 60.4115. NOTIFICATION OF SAFETY AND ENVIRONMENTAL RECORD OF CONTRACTOR. (a) A person that enters into a contract with a district or port authority shall provide, at the request of the district or port authority, notice to the district or authority of any citation, notice of violation or penalty, or other similar document regarding a serious safety or environmental violation that the person received from an agency or department of this state or of the federal government. The notice must include:

(1) a general description of the conduct that resulted in the citation, violation, penalty, or similar sanction; and

(2) the document from the agency or department that provided notice to the person of the citation, violation, penalty, or similar sanction.

(b) A district or port authority may terminate a contract with a person if the district or authority determines that the person failed to give notice as required by Subsection (a) or misrepresented conduct that resulted in a citation, notice of violation or penalty, or similar sanction. The district or port authority shall compensate the person for services performed before the termination of the contract.

(c) This section applies to all purchasing methods available to a district or port authority.

Added by Acts 2003, 78th Leg., ch. 588, Sec. 10, eff. June 20, 2003.

Sec. 60.412. EXEMPTIONS. (a) A contract for a purchase is exempt from the competitive bidding requirements and proposal procedures of this subchapter and Subchapter O if a contract is for the purchase of:

(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the district or port authority;

(2) an item necessary to preserve or protect the

public health or the safety of the residents of the district or port authority;

(3) an item made necessary by unforeseen damage to the property of the district or port authority;

(4) a personal or professional service;

(5) any work performed and paid for by the day as the work progresses;

(6) any land or right-of-way;

(7) an item that can be obtained only from one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies;

(B) films, manuscripts, or books;

(C) public utility services; and

(D) captive replacement parts or components for equipment;

(8) any item necessary to secure a district or port authority during a period of heightened security as determined by:

(A) the federal Department of Homeland Security, including the Transportation Security Administration;

(B) the United States Coast Guard;

(C) the United States Bureau of Customs and Border Protection;

(D) the Federal Bureau of Investigation;

(E) the federal Department of Transportation, including the Maritime Administration; or

(F) another federal, state, or local agency; or

(9) an item from the United States, including any agency thereof, or from this state, including an agency of this state.

(b) If an item exempt under Subsection (a)(7) of this section is purchased, the person making the purchase must sign a statement as to the existence of only one source for the purchase and a district or port authority must enter the statement into the records of that purchase.

(c) A district or port authority shall comply with Chapter

[2254](#), Government Code, in procuring professional services.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 2003, 78th Leg., ch. 588, Sec. 11, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 426 (S.B. [1786](#)), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. [3785](#)), Sec. 8, eff. June 19, 2009.

Sec. 60.4125. ALTERNATIVE METHODS FOR CERTAIN PURCHASES OR CONTRACTS. (a) Notwithstanding the other provisions of this subchapter or any other law, a district or port authority may make a purchase or enter into a contract valued at more than the amount authorized in Section [60.403](#)(a) for routine purchases or contracts by any method available to a school district, including all procedures and limitations, under Subchapter B, Chapter [44](#), Education Code, that, in the opinion of the port commission, provides the best value to the district or port authority.

(b) Repealed by Acts 2003, 78th Leg., ch. 307, Sec. 2.

(c) Subsection (a) does not apply to contracts when the district or port authority is constructing a project for another political subdivision of the state.

(d) If a purchase or contract made under Subsection (a) is subject to a small business development program adopted by the port commission of the port authority or district, the purchase solicitation must indicate that fact and must also indicate where a copy of the program requirements may be obtained.

Added by Acts 2001, 77th Leg., ch. 738, Sec. 1, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 307, Sec. 2, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 588, Sec. 12, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. [1531](#)), Sec. 7, eff. June 15, 2007.

Sec. 60.413. CRIMINAL PENALTY. (a) Except as provided by Subsection (b) of this section, a district or port authority

officer or employee commits an offense if the person knowingly or intentionally violates a provision of this subchapter. An offense under this subsection is a Class C misdemeanor.

(b) A district or port authority officer or employee commits an offense if the person makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding or proposal procedure requirements of Section 60.404 or 60.405 of this code. An offense under this subsection is a Class B misdemeanor.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Sec. 60.414. APPLICATION OF OTHER LAW. If a district or port authority is subject to the requirements of Subchapter B, Chapter 271, Local Government Code, those requirements are in addition to the requirements of this subchapter.

Added by Acts 1987, 70th Leg., ch. 353, Sec. 1, eff. Aug. 31, 1987.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 26.010, eff. September 1, 2011.

SUBCHAPTER O. PURCHASE CONTRACTS

Sec. 60.451. DEFINITIONS. In this subchapter:

(1) "Architect" has the meaning assigned by Section 1051.001, Occupations Code.

(2) "Contractor" in the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for constructing, rehabilitating, altering, or repairing all or part of the facility at the contracted price.

(3) "Construction manager-agent" means a sole proprietorship, partnership, corporation, or other legal entity that provides consultation to the district regarding construction, rehabilitation, alteration, or repair of a facility.

(4) "Construction manager-at-risk" means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation,

alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the district regarding construction during and after the design of the facility.

(5) "Design-build contract" means a single contract with a design-build firm for the design and construction of a facility.

(6) "Design-build firm" means a partnership, corporation, or other legal entity or team that includes an engineer or architect and builder qualified to engage in building construction in Texas.

(7) "Design criteria package" means a set of documents prepared by a district that provides sufficient information to permit a design-build firm to prepare a response to a district's request for qualifications and any additional information requested, including criteria for selection. The design criteria package must specify criteria the district considers necessary to describe the project and may include, as appropriate:

- (A) the legal description of the site;
- (B) survey information concerning the site;
- (C) interior space requirements;
- (D) special material requirements;
- (E) material quality standards;
- (F) conceptual criteria for the project;
- (G) special equipment requirements;
- (H) cost or budget estimates;
- (I) time schedules;
- (J) quality assurance and quality control requirements;
- (K) site development requirements;
- (L) applicable codes and ordinances;
- (M) provisions for utilities;
- (N) geotechnical baseline reports;
- (O) parking requirements; or
- (P) any other requirements, as applicable.

(8) "District" means a navigation district or port authority created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(9) "Engineer" has the meaning assigned by Section [1001.002](#), Occupations Code.

(10) "Facility" means real property, including buildings, associated structures, utilities, docks, wharves, channels, dredge material placement areas, marine terminal improvements, railroads on or adjacent to the marine terminal, roads and bridges on or adjacent to the marine terminal, and improved or unimproved land. The term also includes roads or bridges that are incidental to a larger project.

(11) "Fee" in the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means the payment a construction manager-agent or construction manager-at-risk receives for the manager's overhead and profit in performing the manager's services.

(12) "General conditions" in the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means on-site management, administrative personnel, insurance, bonds, equipment, utilities, and incidental work, including minor field labor and materials.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Sec. 60.452. APPLICABILITY OF SUBCHAPTER; OTHER LAW. (a) This subchapter does not apply to a contract solely for professional services rendered, including services of an architect, attorney, or fiscal agent.

(b) If a district elects to make a procurement under this subchapter, this subchapter prevails over any other law relating to a purchase contract for goods and services by the district that is in conflict with or inconsistent with this subchapter.

(c) Chapter [2269](#), Government Code, does not apply to this subchapter.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. [1886](#)), Sec. 17, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. [628](#)), Sec. 3.09, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(38), eff. September 1, 2013.

Sec. 60.453. AUTHORITY TO ADOPT RULES. The commission of a district may adopt rules and procedures for the acquisition of goods or services.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Sec. 60.454. PURCHASING CONTRACT METHODS. Notwithstanding any other provision of this chapter or other law, a district contract valued at more than the amount authorized in Section 60.403(a) for routine purchases or contracts in the aggregate for each 12-month period may be made by the method below that, in the opinion of the district's commission, provides the best value for the district:

- (1) a design-build contract to construct, rehabilitate, alter, or repair facilities;
- (2) a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager-agent or construction manager-at-risk;
- (3) competitive sealed proposals for construction, repair, rehabilitation, or alteration of a facility, and nonconstruction items;
- (4) a job order contract for the construction, repair, rehabilitation, or alteration of a facility;
- (5) a request for proposals, if the contract is for items other than construction services;
- (6) competitive sealed bids;
- (7) an interlocal contract as provided by Chapter 791, Government Code;
- (8) the reverse auction procedure as defined by Section 2155.062(d), Government Code;
- (9) a contract with the United States, including any agency thereof; or
- (10) a contract with this state, including an agency of this state.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 426 (S.B. 1786), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. 2918), Sec. 15, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. 1531), Sec. 8, eff. June 15, 2007.

Sec. 60.455. RIGHT TO REJECT ALL BIDS. A district that requests bids or proposals under any of the methods provided by this subchapter may reject any and all bids or proposals submitted.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Sec. 60.456. NOTICE REQUIREMENTS. For a contract entered into by a district under any of the methods provided by this subchapter, the district shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation in each county in which the district is located once each week for two consecutive weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in any county in which the district is located, the notice shall be published in a newspaper of general circulation in the county nearest the county seat of the county in which the district is located or the county in which the greatest amount of the district's territory is located. In a two-step procurement process, the time and place the second-step bids, proposals, or responses will be received are not required to be published separately.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Sec. 60.457. DELEGATION. (a) The commission of a district may, as it considers appropriate, delegate its authority under this subchapter regarding an action authorized or required by this subchapter to be taken by a district to a designated person, representative, or committee. In procuring construction services, the district shall provide notice of the delegation and the limits

of the delegation in the request for bids, proposals, or qualifications, or in an addendum to the request. If the district fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the commission in an open meeting is advisory only.

(b) A commission may not delegate the authority to act regarding an action authorized or required by this subchapter to be taken by the commission of a district.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Sec. 60.458. PURCHASE CONTRACT AWARD CRITERIA. Except as provided by this subchapter, in determining to whom to award a contract, the district may consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the district's needs;
- (5) the vendor's past relationship with the district;
- (6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses and on the district's small business development program, local preference program, or other contracting program adopted by the district, if any;
- (7) the total long-term cost to the district to acquire the vendor's goods or services; and
- (8) any other relevant factor specifically listed in the request for bids or proposals.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. [1395](#)), Sec. 13, eff. June 1, 2017.

Sec. 60.459. EVALUATION OF BIDS AND PROPOSALS FOR CONSTRUCTION SERVICES. (a) The commission of a district that is considering a construction contract using a method specified by

Section 60.454 must, before advertising, determine which method provides the best value for the district.

(b) The district shall base its selection among offerors on criteria authorized to be used under Section 60.458. The district shall publish in the request for bids, proposals, or qualifications the specific criteria that will be used to evaluate the offerors and the relative weights given to the criteria.

(c) The district shall document the basis of its selection and shall make the evaluations public not later than the later of:

(1) the 30th day after the date of the award of the contract; or

(2) the next scheduled commission meeting.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 426 (S.B. 1786), Sec. 3, eff. September 1, 2005.

Sec. 60.460. DESIGN-BUILD CONTRACTS FOR FACILITIES. (a) A district may award a design-build contract for the construction, rehabilitation, alteration, or repair of a facility provided that the contracting district and the design-build firm follow the procedures provided by this section.

(b) The district shall designate an engineer or architect independent of the design-build firm to act as its representative for the duration of the work on the facility. If the district's engineer or architect is not a full-time employee of the district, the district shall select the engineer or architect as provided by Section 2254.004, Government Code.

(c) The district shall prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. The district shall also prepare a design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires engineering or architectural services that constitute the practice of engineering within the meaning of

Chapter 1001, Occupations Code, or the practice of architecture within the meaning of Chapter 1051, Occupations Code, those services shall be provided in accordance with the applicable law. An engineer shall have responsibility for compliance with the engineering design requirements and all other applicable requirements of Chapter 1001, Occupations Code. An architect shall have responsibility for compliance with the requirements of Chapter 1051, Occupations Code.

(d) The district shall evaluate statements of qualifications and select a design-build firm in two phases:

(1) In phase one, the district shall prepare a request for qualifications and evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each offeror must certify to the district that each engineer or architect who is a member of its team was selected based on demonstrated competence and qualifications, in the manner provided by Section 2254.004, Government Code. The district shall qualify a maximum of five offerors to submit additional information and, if the district chooses, to interview for final selection.

(2) In phase two, the district shall evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview. The district may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, construction cost, engineering and architectural design, or other factors as appropriate. The district shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications. The district shall select the design-build firm that submits the proposal offering the best value for the district on the basis of the published selection criteria and on its ranking

evaluations. The district shall first attempt to negotiate a contract with the selected offeror. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(e) Following selection of a design-build firm under Subsection (d), that firm's engineers or architects shall complete the design, submitting all design elements for review and determination of scope compliance to the district or the district's engineer or architect before or concurrently with construction.

(f) The district shall provide or contract for, independently of the design-build firm, the inspection services, the testing of construction materials, and the verification testing services necessary for acceptance of the facility by the district. The district shall select those services for which it contracts in accordance with Section [2254.004](#), Government Code.

(g) The design-build firm shall supply a signed and sealed set of as-built construction documents for the project to the district at the conclusion of construction.

(h) A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract under this subchapter that includes design services only. If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the district must each be in an amount equal to the project budget, as specified in the design criteria package. The design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the district to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.

(i) The district shall pay an unsuccessful design-build firm that submits a response to the district's request for

additional information on engineering or architectural design under Subsection (d)(2) the stipulated amount of up to one-half of one percent of the final contract price for any reasonable costs incurred in preparing that proposal. After payment of the stipulated amount, the district may make use of any design contained in the proposal, including the technologies, techniques, methods, processes, and information contained in the design. The use by the district of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the district and does not confer liability on the recipient of the stipulated amount under this section. The methodology for computing the stipulated amount must be stated in the request for additional information under Subsection (d)(2).

(j) The district may use a design-build firm to assist the district in obtaining a permit necessary for a facility, but the district is responsible for obtaining the permit.

(k) A successful design-build firm shall not be eligible for another design-build contract with the district for a period of 12 months after the date the successful design-build firm's contract has been completed if:

(1) the successful design-build firm's contract value exceeds \$5 million; or

(2) the design-build firm is awarded design-build contracts by a district that total more than \$5 million in a 12-month period.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Sec. 60.461. CONTRACTS FOR FACILITIES: CONSTRUCTION MANAGER-AGENT. (a) A district may award a contract to a construction manager-agent for the construction, rehabilitation, alteration, or repair of a facility provided that the construction manager-agent and the district follow the procedures prescribed by this section.

(b) A district may, under the contract between the district and the construction manager-agent, require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this section, and on-site

management and other services specified in the contract. A construction manager-agent represents the district in a fiduciary capacity.

(c) Before or concurrently with selecting a construction manager-agent, the district shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with Chapter 1001 or 1051, Occupations Code, as applicable. If the engineer or architect is not a full-time employee of the district, the district shall select the engineer or architect as provided by Section 2254.004, Government Code. The district's engineer or architect may not serve, alone or in combination with another person, as the construction manager-agent unless the engineer or architect is hired to serve as the construction manager-agent under a separate or concurrent procurement conducted in accordance with this subchapter. This subsection does not prohibit the district's engineer or architect from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable laws.

(d) A district shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner as provided for the selection of engineers or architects under Section 2254.004, Government Code.

(e) A district contracting with a construction manager-agent shall procure, in accordance with applicable law, and in any manner authorized by this chapter, a general contractor, trade contractors, or subcontractors who will serve as the prime contractor for their specific portion of the work.

(f) The district or the construction manager-agent shall procure in accordance with Section 2254.004, Government Code, and in any manner authorized by this chapter, all of the testing of construction materials, the inspection services, and the verification testing services necessary for acceptance of the facility by the district.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Sec. 60.462. CONTRACTS FOR FACILITIES: CONSTRUCTION

MANAGER-AT-RISK. (a) A district may award a contract to a construction manager-at-risk for the construction, rehabilitation, alteration, or repair of a facility provided that the construction manager-at-risk and the district follow the procedures prescribed by this section.

(b) Before or concurrently with selecting a construction manager-at-risk, the district shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with Chapter 1001 or 1051, Occupations Code, as applicable. If the engineer or architect is not a full-time employee of the district, the district shall select the engineer or architect in accordance with Section 2254.004, Government Code. The district's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction manager-at-risk.

(c) The district shall provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials, and the verification testing services necessary for acceptance of the facility by the district. The district shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

(d) The district shall select the construction manager-at-risk in either a one-step or two-step process. The district shall prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, and estimated budget, the time and place for receipt of proposals or qualifications, as applicable, a statement as to whether the selection process is a one-step or two-step process, and other information that may assist the district in its selection of a construction manager-at-risk. The district shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the

capability of the construction manager-at-risk. If a one-step process is used, the district may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions.

(e) If a two-step process is used, the district may not request fees or prices in step one. In step two, the district may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions.

(f) At each step, the district shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the district shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date of opening the proposals, the district shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(g) The district shall select the offeror that submits the proposal that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(h) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the district must each be in an amount equal to the project budget, as specified in the request for proposals or qualifications. The construction manager-at-risk shall deliver the bonds not later than the 10th day after the date the construction manager-at-risk executes the contract unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the district to ensure that the construction manager-at-risk will

furnish the required performance and payment bonds when a guaranteed maximum price is established.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Sec. 60.463. SELECTING CONTRACTOR FOR CONSTRUCTION SERVICES THROUGH COMPETITIVE SEALED PROPOSALS. (a) In selecting a contractor for construction, rehabilitation, alteration, or repair services for a facility through competitive sealed proposals, a district shall follow the procedures prescribed by this section.

(b) The district shall select or designate an engineer or architect to prepare construction documents for the project. The selected or designated engineer or architect has full responsibility for complying with Chapter 1001 or 1051, Occupations Code, as applicable. If the engineer or architect is not a full-time employee of the district, the district shall select the engineer or architect as provided by Section 2254.004, Government Code.

(c) The district shall provide or contract for, independently of the contractor, the inspection services, the testing of construction materials, and the verification testing services necessary for acceptance of the facility by the district. The district shall select those services for which it contracts in accordance with Section 2254.004, Government Code, and shall identify them in the request for proposals.

(d) The district shall select a contractor through competitive sealed proposals in either a one-step or two-step process. The district shall prepare a request for competitive sealed proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes construction documents, selection criteria, project scope, schedule, the time and place for receipt of proposals or qualifications, as applicable, a statement as to whether the selection process is a one-step or two-step process, and other information that contractors may require to respond to the request. The district shall state in the request for proposals or qualifications, as applicable, the selection criteria that will be used in selecting the successful offeror. If a one-step process is

used, the district may request, as part of the offeror's proposal, proposed prices.

(d-1) If a two-step process is used, the district may not request prices in the first step. In the second step, the district may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including proposed prices.

(e) At each step, the district shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the district shall read aloud the prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date of opening the proposals, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

(e-1) Notwithstanding Subsection (e), if the district demonstrates 45 days is not sufficient time for thorough evaluation, the district may specify in the request for competitive sealed proposals a deadline, not later than the 90th day after the date of opening the proposals, to evaluate and rank each proposal submitted in relation to the published selection criteria.

(f) The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

(g) In determining best value for the district, the district is not restricted to considering price alone, but may consider any other factor stated in the selection criteria.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 513 (H.B. 769), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1330 (S.B. 1531), Sec. 9, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1191 (H.B. 3785), Sec. 9, eff. June 19, 2009.

Acts 2017, 85th Leg., R.S., Ch. 427 (S.B. 1395), Sec. 14, eff. June 1, 2017.

Sec. 60.464. JOB ORDER CONTRACTS FOR FACILITIES CONSTRUCTION OR REPAIR. (a) A district may award job order contracts for the construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks.

(b) The district may establish contractual unit prices for a job order contract by:

(1) specifying one or more published construction unit price books and the applicable divisions or line items; or

(2) providing a list of work items and requiring the offerors to bid or propose one or more coefficients or multipliers to be applied to the price book or work items as the price proposal.

(c) The district shall advertise for, receive, and publicly open sealed proposals for job order contracts.

(d) The district may require offerors to submit, in addition to information on rates, other information, including experience, past performance, and proposed personnel and methodology.

(e) The district may award job order contracts to one or more job order contractors in connection with each solicitation of bids or proposals.

(f) An order for a job or project under the job order contract must be signed by the district's representative and the contractor. The order may be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities or may be a unit price order based on the quantities and line items delivered.

(g) The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

(h) The base term of a job order contract is for the period and with any renewal options that the district sets forth in the request for proposals. If the district fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals.

(i) If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering within the meaning of Chapter 1001, Occupations Code, or the practice of architecture within the meaning of Chapter 1051, Occupations Code, the district shall select or designate an architect or engineer to prepare the construction documents for the facility. If the architect or engineer is not a full-time employee of the district, the district shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

Added by Acts 2003, 78th Leg., ch. 307, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 18, eff. September 1, 2007.

SUBCHAPTER Q. MISCELLANEOUS PROVISIONS

Sec. 60.501. SAFETY AND SECURITY PROCEDURES; NO NEW DUTIES. The adoption and use by a district of a safety or security code, policy, or manual does not create any new or additional legal duties of the district not existing under common law or statutory law.

Added by Acts 2005, 79th Leg., Ch. 426 (S.B. 1786), Sec. 4, eff. September 1, 2005.

SUBCHAPTER R. CHARITABLE CONTRIBUTIONS

Sec. 60.551. DEFINITIONS. In this subchapter:

(1) "Charitable organization" means an organization

that:

(A) is organized for charitable purposes under Chapter 22, Business Organizations Code, or holds a certificate of authority issued under that chapter;

(B) is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code and to which contributions are deductible for income tax purposes under Section 170 of that code;

(C) complies with all applicable federal nondiscrimination law, including Chapter 21, Title 42, United States Code;

(D) complies with all state statutes and rules relating to charitable organizations;

(E) is not a private foundation; and

(F) provides funds or programs for eligible services that directly or indirectly benefit the recipients.

(2) "District employee charitable campaign" means a campaign conducted in communities or areas in which district employees solicit contributions to an eligible charitable organization.

(3) "Eligible charitable organization" means a charitable organization eligible to participate in the district employee charitable campaign as provided by Section 60.561.

(4) "Eligible services" means services provided by a charitable organization that:

(A) benefit residents of this state, including children, youth, adults, elderly individuals, ill or infirm individuals, or individuals with a mental or physical disability, and consist of:

(i) human care, medical or other research in the field of human health, education, social adjustment, or rehabilitation;

(ii) relief for victims of natural disaster or other emergencies; or

(iii) assistance to impoverished individuals in need of food, shelter, clothing, or other basic needs; or

(B) benefit this state, and consist of activities to:

(i) safeguard public health and the environment; or

(ii) help solve environmental problems.

(5) "Federation or fund" means a fund-raising entity that:

(A) is a charitable organization;

(B) acts as an agent for at least five charitable organizations;

(C) is not organized exclusively to solicit contributions from district employees; and

(D) is supported by voluntary contributions by the public and is:

(i) incorporated in this state and has an established physical presence in this state in the form of an office or service facility that is staffed at least 20 hours a week; or

(ii) incorporated outside this state, includes at least 10 affiliated charitable organizations, and has existed at least three years.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.552. AUTHORIZATION OF CAMPAIGN. (a) The commission or the executive director of a district may establish a program in the district to allow district employees to participate in a charitable campaign as provided by this subchapter.

(b) The commission or executive director of a district may adopt rules relating to the operation of a district employee charitable campaign as described in this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.553. DEDUCTION AUTHORIZED. (a) A district employee may authorize a deduction each pay period from the employee's salary or wage payment for a charitable contribution as provided by this subchapter.

(b) An authorization must direct the district to distribute the deducted funds to a participating federation or fund.

(c) A deduction under this subchapter must be in the form prescribed by the district.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.554. VOLUNTARY PARTICIPATION. (a) Participation by a district employee in a state employee charitable campaign is voluntary. The district shall inform district employees that deductions are voluntary.

(b) The district shall adopt rules establishing a process for hearing employee complaints regarding coercive activity in a district employee charitable campaign.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.555. DESIGNATION OF AN ELIGIBLE CHARITABLE ORGANIZATION. (a) A district employee may designate in the authorization an eligible charitable organization to receive the deductions.

(b) If a district employee does not designate an eligible charitable organization, the employee's deductions shall be distributed to each participating federation or fund and eligible local charitable organization in the proportion that the deductions designated for that charitable organization bear to the total of designated deductions in the district employee charitable campaign.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.556. CONFIDENTIALITY. (a) Except as necessary to administer this subchapter or on written authorization of the employee, the following information is confidential:

(1) whether a district employee has authorized a deduction under this subchapter;

(2) the amount of the deduction; and

(3) the name of a federation or fund or charitable organization that a district employee has designated to receive contributions.

(b) The designation of a charitable organization by a district employee is not confidential if the employee executes a written pledge card or other document indicating that the employee wishes to receive an acknowledgement from the charitable organization.

(c) The district shall provide notice to district employees of the confidentiality provisions described by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.557. REVOCATION OR CHANGE OF AUTHORIZATION. (a) A district employee may revoke or change an authorization by giving notice to the district.

(b) The notice must be in the form and manner prescribed by the district.

(c) A revocation or change takes effect on the date designated by the district, but not later than the 45th day after the date the district employee gives notice.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.558. DURATION OF DEDUCTION. (a) A deduction under this subchapter begins on the date designated by the district employee.

(b) A deduction under this subchapter, unless revoked or changed under Section 60.557, ends on the date designated by the district.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.559. FAIR AND EQUITABLE MANAGEMENT OF CAMPAIGN. A district employee charitable campaign must be managed fairly and equitably in accordance with this subchapter and the rules, policies, and procedures established by the district.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.560. CAMPAIGN POLICY AND MANAGEMENT.

(a) The executive director of the district shall oversee the district employee charitable campaign and the district's employees who conduct the campaign.

(b) The executive director of the district and employees designated by the executive director of the district shall:

(1) determine the eligibility of a federation or fund and its affiliated agencies for participation in the district employee charitable campaign;

(2) develop a campaign plan, budget, and materials to be used in the campaign;

(3) coordinate and facilitate the campaign;

(4) ensure that all district employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(5) perform other duties required by rules relating to the district employee charitable campaign.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.561. ELIGIBILITY OF CHARITABLE ORGANIZATIONS, FEDERATIONS, AND FUNDS FOR PARTICIPATION. (a) To be eligible to participate in a district employee charitable campaign, a charitable organization must:

(1) be governed by a voluntary board of citizens that meets at least twice each year to set policy and manage the affairs of the organization;

(2) if the organization's annual budget:

(A) does not exceed \$100,000, provide a completed Internal Revenue Service Form 990 and an accountant's review that offers full and open disclosure of the organization's internal operations; or

(B) exceeds \$100,000, be audited annually in accordance with generally accepted auditing standards of the

American Institute of Certified Public Accountants; and

(3) not spend more than 25 percent of its annual revenue for administrative and fund-raising expenses.

(b) A federation or fund that seeks participation in a district employee charitable campaign must apply on behalf of itself and its affiliated agencies to the district during the eligibility determination period specified by the district. The district shall review each application and may approve a federation or fund for statewide participation only if the federation or fund qualifies as a charitable organization. The district may approve an affiliated charitable organization for participation only if the organization qualifies as a charitable organization.

(c) The district may use outside expertise and resources available to it, and rely on a certification of a charitable organization, or determination of qualification by a statewide employee charitable campaign under Section [659.146](#), Government Code, to assess the eligibility of a charitable organization that seeks to participate in a district employee charitable campaign.

(d) An appeal from a decision of the district shall be conducted in the manner prescribed by the commission. The appeals process must permit a charitable organization that is not approved for participation to apply for participation in a district employee charitable campaign.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 17, eff. June 17, 2011.

Sec. 60.562. FUND-RAISING PRACTICES. The fund-raising practices of a participating charitable organization must:

- (1) be truthful and consumer-oriented; and
- (2) protect against:
 - (A) unauthorized use of a list of contributors to the organization;
 - (B) payment of commissions, kickbacks, finder fees, percentages, bonuses, or overrides for fund-raising;
 - (C) mailing of unordered merchandise or tickets with a request for money in return; and
 - (D) general phone solicitation of the public.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.563. LIMITATION ON USE OF CONTRIBUTIONS. (a) A participating charitable organization may use contributions under this subchapter only to provide eligible services or to fund a charitable organization that provides eligible services.

(b) A participating charitable organization may not use contributions under this subchapter to:

(1) directly or indirectly fund litigation; or

(2) make expenditures that would require the organization to register under Chapter 305, Government Code, if the organization were not an entity exempt from registration under that chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. 2770), Sec. 17, eff. June 17, 2011.

Sec. 60.564. MISAPPLICATION OF CONTRIBUTIONS; AUDIT.

(a) The district may obtain an audit of any participating charitable organization that the district reasonably believes has misapplied contributions under this subchapter.

(b) If an audit under this section reveals gross negligence or intentional misconduct on the part of a participating charitable organization, the district shall remove the charitable organization from the campaign. A charitable organization removed under this subsection is not eligible to participate in a district employee charitable campaign before the fifth anniversary of the date the charitable organization was removed.

(c) If an audit under this section reveals intentional misconduct on the part of a charitable organization, the district shall forward its findings to the appropriate law enforcement agency.

(d) The district may bring an action to recover misapplied contributions.

(e) If an investigation or lawsuit results in a recovery of misapplied contributions and there is not a judgment distributing the amounts recovered, the district shall determine the manner of

refunding contributions to the appropriate district employees.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1027 (H.B. [2770](#)), Sec. 17,
eff. June 17, 2011.