

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 755
By: Hinojosa
Transportation
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Navigation districts created or operating under Article XVI, Section 59, of the Texas Constitution are subject to Chapter 62 of the Water Code. Chapter 62 was codified nearly 50 years ago and many of its administrative sections are out of date and are no longer consistent with how navigation districts and other local governments operate today.

S.B. 755 clarifies, updates, and improves certain statutes related to the management of navigation districts. It will also harmonize the amendments made to Section 62.153 of the Water Code by the 85th Legislature. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 755 amends current law relating to the administration, powers, and duties of certain navigation districts.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the navigation and canal commission in SECTION 1 (Section 62.0725, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 62, Water Code, by adding Section 62.0725, as follows:

Sec. 62.0725. EXECUTIVE DIRECTOR. (a) Authorizes the navigation and canal commission (commission) to employ an executive director of the navigation district operating under the provisions of Article XVI, Section 59, of the Texas Constitution (district). Requires the commission, if the commission employs an executive director, to prescribe the duties and compensation of the executive director.

(b) Authorizes the commission, by rule, order, or resolution, to delegate to an executive director the full authority necessary to manage the affairs of the district subject only to orders of the commission, including the authority to employ persons necessary for the operation of the district and to determine the compensation of those persons or perform any act on behalf of the district, as authorized by the commission.

(c) Authorizes the duties of an executive director to be performed by a general manager or chief executive officer.

SECTION 2. Amends the heading to Section 62.077, Water Code, to read as follows:

Sec. 62.077. COUNSEL.

SECTION 3. Amends Section 62.077(c), Water Code, to require the fees of counsel, rather than the amount of compensation for employees and fees of counsel, to be determined by the commission.

SECTION 4. Amends Section 62.113, Water Code, as follows:

Sec. 62.113. FORM OF CONTRACTS. Requires that all contracts made by the district, rather than the commission, be in writing and signed by the contractors, the executive director of the district, an authorized representative of the executive director, or a person to whom the duties of executive director have been delegated, rather than signed by the contractors and at least two of the commissioners, the executive director of the district, or an authorized representative of the executive director.

SECTION 5. Amends the heading to Section 62.115, Water Code, to read as follows:

Sec. 62.115. SUPERVISION OF WORK.

SECTION 6. Amends Section 62.115(a), Water Code, as follows:

(a) Requires that all work contracted for by the district, rather than the commission, unless done under the supervision of the United States, be done under the supervision of a representative of the district, rather than be done under the supervision of the district engineer.

SECTION 7. Amends Sections 62.116(a) and (b), Water Code, as follows:

(a) Requires that a representative of the district, rather than the commission, inspect the progress of work being done under a contract, and requires the district's chief financial officer, rather than the commission, on completion of the contract, to draw a warrant on the county treasurer or issue a check payable to the contractor or the contractor's assignee for the amount of the contract price. Requires the warrant or check to be paid out of the construction and maintenance fund or the operating fund of the district. Makes a nonsubstantive change.

(b) Authorizes the district, rather than the commission, if the district considers it advisable, to contract for work to be paid for in partial payments as the work progresses. Requires that the amount of work completed at the time of the partial payment be shown by a certificate of a representative of the district, rather than by a certificate of the district engineer. Deletes existing text prohibiting the partial payments from exceeding in the aggregate eighty percent of the total amount to be paid under the contract.

SECTION 8. Amends Section 62.122(a), Water Code, as follows:

(a) Authorizes the commission to authorize the executive director to sell, destroy, donate, or otherwise dispose of the district's surplus or salvage of personal property by any method the executive director or the executive director's designee determines is in the best interest of the district. Deletes existing text authorizing the commission, except as provided by Subsection (b) (relating to the authorization of the commission to authorize the destruction or disposition of salvage or surplus property as worthless), to periodically dispose of surplus or salvage personal property in the same manner as the commissioners court of a county under Subchapter D (Disposition of Salvage or Surplus Property), Chapter 263, Local Government Code.

SECTION 9. Amends Section 62.152, Water Code, as follows:

Sec. 62.152. New heading: PAYMENT OF EXPENSES. Authorizes the district, rather than commission, to draw warrants or issue checks:

- (1) to pay for services, rather than legal services;
- (2) to pay the compensation of employees, rather than the salary of the engineer, his assistant, and any other employees; and
- (3) makes no changes to this subdivision.

SECTION 10. Reenacts and amends Section 62.153, Water Code, as amended by Chapters 398 (S.B. 1131) and 427 (S.B. 1395), Acts of the 85th Legislature, Regular Session, 2017, as follows:

Sec. 62.153. DUTIES OF DISTRICT TREASURER; AUTHORITY OF DESIGNATED OFFICER. (a) Makes nonsubstantive changes to this subsection.

(b) Redesignates existing text of existing Subdivision (5) as Subsection (b). Provides that the district treasurer is not required to sign a check drawn on a depository selected under Section 62.156 (Selection of Depository), unless the district treasurer is the designated officer of the district, as defined by Section 60.271(g) (relating to the definition of designated officer). Makes nonsubstantive changes.

(c) Creates this subsection from existing text. Makes no further changes to this subsection.

SECTION 11. Repealer: Section 62.076 (District Engineer), Water Code.

Repealer: Section 62.077(a) (relating to the authorization of the commission to employ assistant engineers and other employees), Water Code.

Repealer: Section 62.115(b) (relating to the requirement that the district engineer make a detailed report to the commission of the work after it is completed), Water Code.

SECTION 12. Provides that, to the extent of any conflict, this Act controls over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 13. Effective date: upon passage or September 1, 2019.