

BILL ANALYSIS

Senate Research Center

S.B. 635
By: Lucio
Ports, Select
5/24/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Port of Harlingen (POH) Authority is the second largest port in Cameron County and generates around \$1 billion worth of revenue for the State of Texas each year. Although the port has been in operation since 1926, S.B. 635 seeks to further establish the authority of the POH.

Specifically, S.B. 635 amends the Special District Local Laws Code by adding subchapters to current statute and defining certain powers and duties under the POH. The powers and duties include the port's ability to authorize the imposition of a tax and redefines its territory of authority by keeping the original territory, but excluding any portion of Willacy County.

(Original Author's/Sponsor's Statement of Intent)

S.B. 635 amends current law relating to the terms and qualifications of the members of the port commission of, and the powers, duties, and territory of, the Port of Harlingen Authority; and authorizes the imposition of a tax.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 5013, Special District Local Laws Code, by designating Sections 5013.001 and 5013.002 as Subchapter A and adding a subchapter heading, to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Amends Section 5013.001, Special District Local Laws Code, as follows:

Sec. 5013.001. New heading: DEFINITIONS. Defines "port commission," "port commissioner," and "treasurer" for Chapter 5013 (Port of Harlingen Authority). Makes nonsubstantive changes.

SECTION 3. Amends Subchapter A, Chapter 5013, Special District Local Laws Code, as added by this Act, by adding Section 5013.0025, as follows:

Sec. 5013.0025. AUTHORITY TERRITORY. Provides that the Port of Harlingen Authority (authority) is composed of the original territory of the Arroyo Colorado Navigation District of Cameron and Willacy Counties, as it may have been amended by Subchapter H (Annexation), Chapter 62 (Article XVI, Section 59, Navigation Districts), Water Code, or other law, except the territory does not include any portion of Willacy County.

SECTION 4. Amends Chapter 5013, Special District Local Laws Code, by adding Subchapter B, and adding a heading to Subchapter B, to read as follows:

SUBCHAPTER B. PORT COMMISSION

SECTION 5. Transfers Section 5013.003, Special District Local Laws Code, to Subchapter B, Chapter 5013, Special District Local Laws Code, as added by this Act, redesignates it as Section 5013.051, and amends it, as follows:

Sec. 5013.051. GOVERNING BODY. (a) Creates this subsection from existing text. Provides that the navigation and canal commission of the authority is called the port commission and is composed of five port commissioners, rather than is composed of port commissioners.

(b) Requires the port commissioners to be elected by the voters of the district at large to positions numbered one through five.

(c) Provides that port commissioners serve staggered four-year terms, with port commissioners elected in odd-numbered years.

SECTION 6. Amends Chapter 5013, Special District Local Laws Code, by adding Subchapters C and D, as follows:

SUBCHAPTER C. POWERS AND DUTIES

Sec. 5013.101. TREASURER. (a) Provides that the port commission is required to hire or appoint a treasurer, and is authorized to terminate or suspend the employment or appointment of the treasurer.

(b) Provides that the treasurer has the power and duties of a treasurer under Chapters 60 (Navigation Districts -- General Provisions) and 62, Water Code.

(c) Requires the treasurer to pay all authority expenses from authority funds, notwithstanding Section 62.152 (Payment of Expenses), Water Code.

Sec. 5013.102. SALES AND LEASES. (a) Provides that the provisions of Subchapter C (Additional Powers and Duties of Certain Districts), Chapter 60, Water Code, apply to all sales and leases entered into by the authority, except as provided by this section.

(b) Authorizes the authority to enter into a surface lease for a period of not more than 99 years, notwithstanding Section 60.039 (Surface Lease), Water Code.

(c) Provides that the authority is not required to publish notice for sale, easement, or lease for a period of not more than 99 years, notwithstanding Section 60.040 (Publication of Notice for Sales, Easements, and Leases in Excess of 50 Years), Water Code.

(d) Provides that Sections 60.041 (Security for Bids on Real Property to be Sold or Leased for More Than 50 Years) and 60.042 (Award and Execution of Deed or Lease in Excess of 50 Years), Water Code, do not apply to a bid on real property to be sold by the authority.

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 5013.151. MAINTENANCE AND OPERATION TAX; TAX RATE. (a) Authorizes the authority to impose an ad valorem tax at a rate not to exceed 10 cents on each \$100 valuation of all taxable property in the authority for the maintenance, operation, and upkeep of the authority and the improvements constructed by the authority.

(b) Authorizes the authority to change the rate or suspend collection of the tax authorized by this section in the manner provided by law for official action by the authority, subject to the limitation prescribed by Subsection (a).

(c) Provides that Section 62.160 (Maintenance Tax), Water Code, does not apply to the authority.

Sec. 5013.152. SELECTION OF DEPOSITORY. (a) Requires the authority to select a depository for the authority in the manner provided by Section 60.271 (Selection of Depository), Water Code, except as provided by this section.

(b) Requires the authority to select a depository in a manner to ensure that authority funds are fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

(c) Authorizes the authority to select more than one institution to serve as a depository in order to comply with the requirement under Subsection (b).

SECTION 7. (a) Defines "authority," "port commission," and "port commissioner."

(b) Requires a port commissioner of the authority who is serving on the day before the effective date of this Act to serve until a successor qualifies following an election under Subsection (c) of this section.

(c) Requires the port commission, on the uniform election date in November 2021, to hold an election to elect two port commissioners, numbered four and five.

(d) Requires the three port commissioners serving on the effective date of this Act to draw lots to assign port commissioner numbers one through three and determine which two port commissioners are required to serve a term expiring December 1, 2023, and which port commissioner is required to serve a term expiring December 1, 2025.

(e) Requires the port commission, on the uniform election date in November 2023, to hold an election to elect two port commissioners to terms of four years.

(f) Requires the port commission, on the uniform election date in 2025, to hold an election to elect three port commissioners to terms of four years.

SECTION 8. Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 9. Effective date: upon passage or September 1, 2021.