

BILL ANALYSIS

H.B. 1097
By: Bonnen
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Validation of the acts and proceedings of the governing boards of navigation districts and public port authorities is necessary to avoid frivolous lawsuits and ensure the timely completion of projects.

Similar legislation has passed the Legislature in five previous sessions. This legislation is similar to those passed by Texas cities. H.B.1097 would prevent work stoppage on projects with minor technicalities. Validating technical errors in proceedings avoids frivolous lawsuits and ensures the timely completion of projects. Without this protection, port contracts can be voided and projects stopped, likely resulting in litigation. In addition, it is plausible that H.B. 1097 would further assist ports by lowering insurance costs and improving credit ratings. H.B. 1097 would affect actions taken before March 1, 2005; however, H.B. 1097 would not pertain to pending litigation or criminal acts.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. DEFINITION: defines "district" as any Texas navigation district or port authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a local government corporation of the district, a port development corporation of the district, or other public port authority, port local government corporation or port development corporation.

SECTION 2. VALIDATION: this Act validates and confirms the following:

- (1) any act or governmental proceeding prior to March 1, 2005, not previously excepted;
- (2) any elected or appointed commissioner or other official of a port prior to effective date of this Act not previously excepted;
- (3) any bond or other obligation prior to effective date of this Act not previously excepted, including any proceeding taken prior to the effective date of this Act and related to such bond or other obligation, regardless of whether such bond or other obligation is:
 - (A) payable from tax revenue or otherwise; or
 - (B) issued on or before the effective date of this Act.

SECTION 3. APPLICABILITY:(a) This Act excludes the following:

- (1) litigation pending as of the effective date of this Act;
 - (2) acts or proceedings related to conveyances by ports of real property transferred to a port by the State if the conveyance violated a restriction or condition to the transfer;
 - (3) acts or proceedings in violation of Tex. Water Code 61.117, relating to state retention of mineral rights on land leased to ports.
- (b) This Act does not validate criminal acts.

SECTION 4. EFFECTIVE DATE: This Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005.

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