

BILL ANALYSIS

C.S.H.B. 1705
By: Bonnen
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current practice, a local port authority or navigation district is required to act as a sponsor for any dredging activities performed by the Army Corps of Engineers. As a local sponsor they are responsible for providing placement for dredged materials. Under current law, it is unclear as to who assumes liability for discharges arising from these activities under the Solid Waste Disposal Act. C.S.H.B. 1705 provides protection from liability for release of hazardous waste to navigation districts and port authorities for dredging and placement of dredged materials to facilitate navigation.

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

C.S.H.B 1705 amends the Health and Safety Code to provide that a port authority or navigation district is not a person responsible for the release or threatened release of hazardous waste from a facility or at a site solely for its activities related to construction or maintenance of waterways to facilitate navigation under certain conditions. To be so exempt the port authority or navigation district must: (1) be acting in their own jurisdiction by virtue of their function as a sovereign, (2) require that dredged materials be sampled and analyzed before placement or storage of those materials on land or submerged land, and (3) not accept dredged materials that are hazardous waste after performing due diligence.

The bill clarifies that the port authority or navigation district is not relieved of liability if they cause or contribute to the generation of hazardous waste.

EFFECTIVE DATE

Immediately, if the Act receives a two-thirds vote of all the members elected to each house. Otherwise the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill addresses political subdivisions created under Section 59, Article XVI, or Section 52, Article III, Texas Constitution, while the substitute specifically addresses navigation districts and port authorities. The substitute removes the section that exempted navigation districts and port authorities from the Solid Waste Act entirely. The substitute provides that navigation districts and port authorities are not responsible for the release of hazardous waste, rather than solid waste. The substitute adds the conditions that a navigation district and port authority must fulfill to not be held responsible for the release of hazardous waste. The substitute adds the clarification that the port authority or navigation district is not relieved of liability if they cause or contribute to the generation of hazardous waste. The substitute clarifies which activities are related to the construction or maintenance of waterways to facilitate navigation.