

1-1 By: Armbrister S.B. No. 947
1-2 (In the Senate - Filed March 3, 2005; March 14, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 6, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 6, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 947 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the release of hazardous waste in connection with
1-11 dredging and placement or storage of dredged materials by a port
1-12 authority or navigation district.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 361.271, Health and Safety Code, is
1-15 amended by adding Subsections (g), (h), and (i) to read as follows:

1-16 (g) A port authority or navigation district created under
1-17 Section 59, Article XVI, or Section 52, Article III, Texas
1-18 Constitution, is not a person responsible under this chapter for
1-19 the release or threatened release of hazardous waste from a
1-20 facility or at a site solely for its activities related to
1-21 construction or maintenance of waterways to facilitate navigation
1-22 if, in performing those activities:

1-23 (1) the port authority or navigation district is
1-24 acting in the jurisdiction of the port authority or navigation
1-25 district by virtue of the authority's or district's function as
1-26 sovereign;

1-27 (2) the port authority or navigation district requires
1-28 that dredged materials be sampled and analyzed before placement or
1-29 storage of those materials on land or submerged land; and

1-30 (3) the port authority or navigation district, after
1-31 exercising due diligence, does not accept dredged materials that
1-32 are hazardous waste.

1-33 (h) Subsection (g) may not be construed to relieve a port
1-34 authority or navigation district of liability if the port authority
1-35 or navigation district causes or contributes to the generation of
1-36 hazardous waste.

1-37 (i) As used in Subsection (g), activities related to
1-38 construction or maintenance of waterways to facilitate navigation
1-39 include:

1-40 (1) the dredging of materials from navigable waters or
1-41 the banks of navigable waters in the jurisdiction of the port
1-42 authority or navigation district;

1-43 (2) the placement or storage of dredged materials on
1-44 land or submerged land; and

1-45 (3) the construction, operation, or maintenance of a
1-46 placement area for dredged material.

1-47 SECTION 2. The change in law made by this Act does not apply
1-48 to an act or governmental proceeding of a port authority or
1-49 navigation district created under Section 59, Article XVI, or
1-50 Section 52, Article III, Texas Constitution, that is the subject of
1-51 litigation pending on the effective date of this Act.

1-52 SECTION 3. This Act takes effect immediately if it receives
1-53 a vote of two-thirds of all the members elected to each house, as
1-54 provided by Section 39, Article III, Texas Constitution. If this
1-55 Act does not receive the vote necessary for immediate effect, this
1-56 Act takes effect September 1, 2005.

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