

BILL ANALYSIS

H.B. 1841
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.

In the last six legislative sessions, legislation validating the acts and proceedings of navigation districts and port authorities has passed. H.B. 1841 differs slightly from that legislation in that it contains a presumption that all acts and proceedings of a navigation district or port authority and their local government corporations, development corporations, or non-profit corporations are valid as of the second anniversary of their effective date; with certain exceptions. This approach eliminates the necessity of passing a validation statute for ports every session. H.B. 1841 is very similar to a “presumption of validity” statute (Local Govt. Code sec 51.003) passed by cities in 1999.

H.B. 1841 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. 1841 would further assist ports by lowering insurance costs and improving credit ratings. H.B. 1841 would not pertain to acts or proceedings 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. Adds Sec. 60.004 to Subchapter A, Chapter 60, Water Code which states that an act or proceeding of a district, its governing body, its local government corporations, its development corporations or its non-profit corporations is presumed to be valid on the second anniversary of the effective date of the act if a lawsuit has not been filed on or before that second anniversary date. The presumption of validity would not be applicable to a void act or proceeding, a criminal act or proceeding, or an act declared invalid by a court.

SECTION 2. Effective date

EFFECTIVE DATE

September 1, 2007.