

By: Smith of Harris

H.B. No. 4119

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of the construction and operation of  
3 barge terminals by political subdivisions.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 245.004, Local Government Code, is  
6 amended to read as follows:

7 Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

8 (1) a permit that is at least two years old, is issued  
9 for the construction of a building or structure intended for human  
10 occupancy or habitation, and is issued under laws, ordinances,  
11 procedures, rules, or regulations adopting only:

12 (A) uniform building, fire, electrical,  
13 plumbing, or mechanical codes adopted by a recognized national code  
14 organization; or

15 (B) local amendments to those codes enacted  
16 solely to address imminent threats of destruction of property or  
17 injury to persons;

18 (2) municipal zoning regulations that do not affect  
19 landscaping or tree preservation, open space or park dedication,  
20 property classification, lot size, lot dimensions, lot coverage, or  
21 building size or that do not change development permitted by a  
22 restrictive covenant required by a municipality;

23 (3) regulations that specifically control only the use  
24 of land in a municipality that does not have zoning and that do not

1 affect landscaping or tree preservation, open space or park  
2 dedication, lot size, lot dimensions, lot coverage, or building  
3 size;

4 (4) regulations for sexually oriented businesses;

5 (5) municipal or county ordinances, rules,  
6 regulations, or other requirements affecting colonias;

7 (6) fees imposed in conjunction with development  
8 permits;

9 (7) regulations for annexation that do not affect  
10 landscaping or tree preservation or open space or park dedication;

11 (8) regulations for utility connections;

12 (9) regulations to prevent imminent destruction of  
13 property or injury to persons from flooding that are effective only  
14 within a flood plain established by a federal flood control program  
15 and enacted to prevent the flooding of buildings intended for  
16 public occupancy;

17 (10) construction standards for public works located  
18 on public lands or easements; ~~or~~

19 (11) regulations to prevent the imminent destruction  
20 of property or injury to persons if the regulations do not:

21 (A) affect landscaping or tree preservation,  
22 open space or park dedication, lot size, lot dimensions, lot  
23 coverage, building size, residential or commercial density, or the  
24 timing of a project; or

25 (B) change development permitted by a  
26 restrictive covenant required by a municipality; or

27 (12) a permit application, authorization, or

1 regulation for establishing or operating a public or private barge  
2 terminal in a public waterway at a distance of 500 feet or less from  
3 an existing park, public boat ramp, or residential development  
4 adjacent to the waterway.

5 SECTION 2. The change in law made by this Act to Section  
6 245.004, Local Government Code, applies to:

7 (1) a barge terminal for which an application is  
8 submitted or an authorization or regulation is effective on or  
9 after the effective date of this Act; and

10 (2) a proposed barge terminal:

11 (A) that has not, before the effective date of  
12 this Act, received all necessary permits to engage in operation as a  
13 barge terminal; and

14 (B) the construction of which has not been  
15 completed before the effective date of this Act.

16 SECTION 3. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2009.