

BILL ANALYSIS

Senate Research Center
79R11533 SGA-F

C.S.S.B. 947
By: Armbrister
Natural Resources
4/4/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, there is no specific law that applies to government sponsored dredging and placement of materials as a government function. In order to ensure that Texas waterways are navigable, dredging of encroaching sediments is necessary. The dredging is usually conducted by the United States Corps of Engineers, but they must have a local sponsor, which is required to be a governmental entity and must provide placement areas for dredged sediments. Local government sponsors are concerned about their liability for the placement of the dredged sediments. Port authorities need clarification that their actions in sponsoring the dredging and facilitating the placement of sediments are within the exemption for political subdivisions.

C.S.S.B. 947 clarifies that Texas ports will not incur liability by virtue of conducting their governmental functions by accepting dredge material as required to keep waterways open for interstate commerce.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 361.271, Health and Safety Code, by adding Subsections (g), (h), and (i) as follows:

(g) Provides that a port authority or navigation district created under Section 59, Article XVI, or Section 52, Article III, Texas Constitution, is not a person responsible under this chapter 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 if in performing those activities:

- (1) the port authority or navigation district is acting in the jurisdiction of the port authority or navigation district by virtue of the authority's or district's function as sovereign;
- (2) the port authority or navigation district requires that dredged materials be sampled and analyzed before placement or storage of those materials on land or submerged land; and
- (3) the port authority or navigation district, after exercising due diligence, does not accept dredged materials that are hazardous waste.

(h) Prohibits Subsection (g) from being construed to relieve a port authority or navigation district of liability if the port authority or navigation district causes or contributes to the generation of hazardous waste.

(i) Provides that as used in Subsection (g), activities related to construction or maintenance of waterways to facilitate navigation include:

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

- (2) the placement or storage of dredged materials on land or submerged land; and
- (3) the construction, operation, or maintenance of a placement area for dredged material.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2005.