

Port of Houston Authority

End of Session Report for the 77th Texas Legislature

Port of Houston Authority Bills:

Local Government Corporation. SB 637 by Senator Ken Armbrister and Representative Peggy Hamric. SB 637 allows the Port to create a local government corporation to sell its expertise to foreign ports. Signed by the Governor on Saturday, June 16. Effective June 16, 2001. Please see separate section in the report for more detail.

Design-Build. SB 925 by Senator Buster Brown, Senator Carlos Truan and Representative Joe E. Moreno. SB 925 gives Texas Ports the same design-build authority school districts have (Subchapter B, Chapter 44, Education Code). This will allow, at the Port Commission's discretion, the use of design-build contracting and procurement. This bill had a tough fight in both the Senate and the House. The Governor signed SB 925 on June 13th. Effective September 1, 2001. Please see separate section in the report for more detail.

Coffee/Cocoa Bills. SB 1574 and SJR 47 by Senator Mario Gallegos and Representative Joe E. Moreno. SB 1574 and SJR 47 exempt from ad valorem taxation green coffee and raw cocoa stored in Harris County. The Greater Houston Coffee Association (the Port of Houston Authority is a member) is attempting to make the Port of Houston and Harris County a Coffee Exchange Port on New York Board of Trade. This would bring in thousands of tons of coffee to Houston, as well as new coffee businesses. The tax on coffee stored in Texas prevented the New York Board of Trade from considering the coffee association's request for designation.

Representative Moreno faced a fierce House floor fight over these two bills. Assisting Representative Moreno to pass this legislation on the floor were Representative Peggy Hamric, Representative Kyle Janek, Representative Ron Wilson, Representative Senfronia Thompson, Representative John Davis, Representative Dennis Bonnen, Representative Robert Talton, Representative Beverly Woolley, Representative Ken Yarbrough and most of the Harris County Delegation.

Representative Moreno has requested a signing ceremony with the Governor for the coffee bill. This is expected to take place sometime in July or August. We will have a week or so notice from the Governor's Office. This would be a good opportunity for the Port of Houston Authority to show Representative Moreno our appreciation. The Governor signed SB 1574 on Thursday, June 14. SJR 47, the Constitutional Amendment, will be on the November ballot. If the ballot proposition passes, the tax exemption will be effective January 1, 2002. Please see separate section in the report for more detail.

Validation Act for Ports. SB 670 by Senator Buster Brown and Representative Tom Uher. SB 670 is legislation that is passed each session to validate technical errors in commission actions to prevent frivolous lawsuits. Signed by the Governor on April 11, 2001. Effective September 1, 2001. Please see separate section in the report for more detail.

Other Texas Ports Association Bills (PHA Neutral Position):

TPA's State Port Funding Bill. SB 1282 by Senator Eddie Lucio, Senator David Bernsen, Representative Rene Oliveria and Representative Gene Seaman. A House Amendment stripped out all \$10 million in state funding from the bill. It only allows funding from gifts,

donations, grants, etc. SB 1282 puts the fund in the Department of Economic Development, which barely survived being Sunset. The Port of Houston Authority was neutral on this legislation. The Governor signed SB 1282 on Friday, June 15th. Effective September 1, 2001. Please see separate section in the report for more detail.

TPA Sales Tax Exemption on Rental Equipment Used on a Port Project. SB 529 by Senator David Bernsen. This bill would have exempted the rental of equipment by a private contractor from all sales tax if the equipment were to be used exclusively for infrastructure improvement at a port. The Port of Houston Authority was neutral on this legislation. SB 529 was voted out of the Senate Committee on Finance in late April. The bill was not voted on by the full Senate.

Other bills of interest:

Environmental Management System Bill. HB 2997 by Representative Bill Callegari (Freshman Representative from Katy) and Senator Buster Brown. A State Comptroller bill that would help our EPA-PHA Environmental Management System program. The Governor signed HB 2997 on Friday, June 15, 2001. Effective September 1, 2001.

The Texas Emissions Reduction Plan (TERP). SB 5 by Senator Buster Brown and Representative Steve Wolens. Creates the TERP Fund with \$133 million in fees including a 1% fee on purchased, rented or leased diesel equipment, a \$10 charge for commercial vehicle inspections, a 10% surcharge on commercial vehicle registration, a 2.5% surcharge on the sale or lease of on-road diesel vehicle that are from the model year 1996 or earlier and a \$225 registration fee on cars from out of state. A surcharge for diesel fuel was not included in the bill. The fund can be used, among other things, to replace diesel equipment, provide for an emissions credit program, and subsidize the purchase low emission vehicles. SB 5 gets the Houston-Galveston non-attainment area out of the construction ban and the requirement for the early purchase of Tier 2 and 3 diesel engines. The Governor signed SB 5 on June 15th. Effective September 1, 2001. Most provisions in the bill will Sunset in 2008. Please see separate section in the report for more detail.

TNRCC Sunset Legislation. HB 2912 by Representative Fred Bosse and Senator Chris Harris. The Texas Natural Resource Conservation Commission Sunset Reauthorization. The Governor signed HB 2912 on June 15th. Effective September 1, 2001

West Galveston Island Conservation District. SB 1686 by Senator Mike Jackson and Representative Craig Eiland. Allows the creation of a conservation district to enhance infrastructure and appearance of West Galveston Island. Although not the intent, provisions in the bill could have allowed the creation of a new public port in Galveston. The bill was amended to prohibit the district from creating a new public port to address the PHA's concerns. The Governor signed SB 1686 on June 17th. Effective June 17, 2001.

P&D Audit Bill. SB 1680 by Senator Mike Jackson, Representative John Davis, Representative Rick Noriega, Representative Robert Talton, Representative Joe E. Moreno, Representative Fred Bosse, Representative Ruben Hope, and Representative Joe Deshotel. SB 1680 allows, but does not require the Harris County Auditor to audit the P&D fund. The PHA supported this bill. Signed by the Governor May 18, 2001. Effective May 18, 2001. Please see separate section in the report for more detail.

PHA Sunset Bill. HB 564 and SB 1679 by Representative Rick Noriega and Senator Mike Jackson. Would have put the PHA under Sunset Review. Did not receive a hearing before the deadlines.

Port Advertising Bill. HB 2573 by Representative Rick Noriega. The bill that would have prohibited the PHA from spending P&D money 90 days before an election affecting the Port. Did not receive a hearing before the deadlines.

Port and Vendor Disclosure Bill. HB 2748 by Representative John Davis. The bill would have required the disclosure of conflicts of interests to the Harris County Clerk by both the vendor and the commissioner. Did not receive a hearing before the deadlines.

Truck Inspection Bill. HB 3375 by Representative Robert Talton. The legislation that would have required DPS to have a truck inspection facility at the Port of Houston Authority's Bayport and Barbours Cut Terminals. Port staff took Representative Talton on a tour of Barbours Cut and negotiated interim study language regarding ownership of intermodal equipment. The legislation missed the deadlines to pass out of committee.

Municipal Design-Build. SB 510 by Senator Ken Armbrister and Representative Gary Walker. SB 510 gives municipalities limited design-build authority. Unfortunately, a last minute amendment to the bill on the House Floor changed the definition of facilities not eligible to be built with design-build in the education code to include docks and wharves. Since the Ports' design-build bill (SB 925) gives ports the same powers as a school district in the Education Code, this change tightens the uses of design-build for ports. Ports still will have design-build authority, but the definition of what can be built will be tighter. The Governor signed SB 510 on June 16, 2001. Effective September 1, 2001.

County Noise Ordinances. HB 833 by Representative Kevin Bailey. Would have required noise levels in unincorporated areas of the county measured from residential property to be below 58 decibels from 10 PM to 7 AM, 65 decibels from 7 AM to 10 PM, and a maximum of 68 decibels on commercial property. The PHA had concerns regarding its operations. The legislation missed the deadlines to pass out of committee.

Coastal Coordination Council. HB 906 by Representative Fred Bosse and Senator Eddie Lucio. HB 906 is the Sunset reauthorization of the Coastal Coordination Council. The bill was amended to address a concern over how many members of the council it would take to dispute a matter as outside the policies of the council. The bill had changed current law to allow one member. The amendment reverted the requirement to current law of 3 members. The Governor signed HB 906 on May 14, 2001. Effective September 1, 2001.

Two Man Railroad Crews. HB 2606 by Representative Clyde Alexander. HB 2606 would have required trains to operate in Texas with two man crews. Passed the House and was not able to get a hearing in the Senate before the deadline.

Sovereign Immunity. HJR 22 by Representative Ron Wilson. HJR 22 would have eliminated the state and political subdivisions' sovereign immunity powers, which limit their liability in tort cases. The constitutional amendment was amended to apply only to the Texas A&M bonfire accident and the Prairie View A&M van crash accident. Failed to pass the House.

Intermodal Safety. SB 220 by Senator Florence Shapiro and Representative Clyde Alexander. The filed version of SB 220 had a requirement for the tender (would include the PHA) of intermodal equipment to certify its safety and roadability. The bill was amended to remove this section entirely and replace it with a requirement for the DPS to set up a database to record intermodal equipment inspection violations. The other sections of the bill give the Harris County Sheriff's Department the power to do

inspections and changes the method of weighing a commercial vehicle. The Governor signed SB 220 on June 15th. Effective September 1, 2001.

Conclusion:

Five pieces of legislation were filed on behalf of PHA interests: 1. Validation bill, 2. LGC Bill, 3. Design-Build, 4. Constitutional Amendment for the Green Coffee and Raw Cocoa Tax Exemption and 5. Enabling legislation for the Green Coffee and Raw Cocoa Tax Exemption. All five bills have passed the Legislature; the Governor signed four and one is going to a statewide vote in November.

There was not a committee hearing on the legislation that was filed that would have put the Port of Houston Authority under Sunset review, required vendor and commissioner notification to the County Clerk of conflicts of interest, or limited P&D expenditures prior to an election.