

A low-angle photograph of the Texas State Capitol building in Austin, Texas. The image shows the iconic white dome with its golden top, surrounded by classical architectural details like columns and arches. The sky is a clear, bright blue with a few wispy white clouds. In the bottom right corner, a Texas state flag is visible on a pole. The overall scene is bright and clear, suggesting a sunny day.

Legislative

2005 Session in Austin

When the gavels pounded the podiums in the house and senate chambers last January, the Lone Star State's 150 representatives and 31 senators immediately began grappling with ways to develop solutions for a host of incredibly pressing issues confronting the state. It all made for a very hectic 140-day session with often heated negotiations and bargaining campaigns continuing right up to the last minute.

In the midst of the whirlwind, the Port of Houston Authority worked diligently with the state's lawmakers to achieve passage of key legislation to enhance the operational policies, procedures and security measures at the world's sixth largest seaport.

Wrap-Up

Delivers for Houston's Port

Dredging

As a state-chartered port authority, the PHA is statutorily authorized and required to construct and maintain waterways to permit and aid navigation. This includes acting as a governmental sponsor of dredging operations to ensure continued viability of state waterways and to sponsor placement for material removed from waterways.



HB 1705 by Rep. Dennis Bonnen and Sen. Ken Armbrister was filed to clarify that Texas ports are not intended to incur liability by virtue of conducting their governmental function of accepting dredged material for placement in dredged material disposal sites owned by ports. Texas ports require that materials placed in their disposal sites be tested in order to prevent the placement of contaminated materials in the sites.

This clarifying legislation amends the Texas health and safety code by releasing political subdivisions from liability for releases or threatened releases of solid waste arising from dredging, placement, or storage of any materials from or on land and waters within their jurisdiction. The

language is consistent with the Resource Conservation and Recovery Act (RCRA) and with other state laws that specify that when dredged materials are placed on land as a result of routine maintenance, those materials do not meet the definition of a solid waste.

“This clarification is consistent with and furthers the intent of the legislature and the state environmental agency’s stated positions,” stated PHA Chairman Jim Edmonds.

To the extent dredged materials are found to be impacted by operations of industries that discharge into the waterways, the rights of the state and the political subdivision to pursue those industries and generators who may have caused the impacts are not precluded by this legislation.

Driver's License Magnetic Strip

HB 1009 by Rep. Frank Corte and Sen. Mario Gallegos will allow Texas ports to use devices to read the magnetic strips on drivers’ licenses in order to provide a temporary pass to port visitors. The Maritime Transportation Security Act of 2002 and other federal regulations require ports to control access and maintain an accounting of who is on the property. Ports that violate these regulations may be subject to punitive fines or immediate shut down by the U.S. Coast Guard.

Numerous employees, truckers, laborers, vendors, stevedores, and other maritime professionals travel to work at or visit ports every day. These regular visitors



will have a port-issued identification card. However, Texas ports also receive hundreds of first-time or infrequent visitors every day. “The magnetic strip will allow ports an efficient method to limit access to port areas and allow port operations personnel to track visitors for security purposes,” Chairman Edmonds explained.

To protect privacy, the data gathered from the magnetic strip will be considered confidential and its unauthorized release is a Class A misdemeanor. HB 1009 was signed into effect by Governor Rick Perry on May 30, 2005.

Freight Rail Districts

Ninety years ago, Houstonians bragged about being the city where 14 rail lines converge on the sea. The multiple rail lines that wind across Harris County developed in what was once farmland and seemingly good locations for rail lines have since become the middle of neighborhoods and business districts.



A recent study authorized by Harris County and co-sponsored by the PHA identified more than 750 public at-grade crossings (where rail lines cross public streets) throughout the county. These sites were estimated to cause more than 30,000 vehicle hours of delay per day. In addition, emissions from idling vehicles slowed by at-grade crossings were found to contribute to the area’s poor air quality.

Several entities have begun working together to identify projects to help improve the overall traffic mobility and air quality of the region. The most effective solutions, such as reducing the number of at-grade crossings and

relocating rail lines, were also found to be the most costly. Alternatively, a program is being prepared to consolidate train traffic to specific corridors that will be expanded in capacity and grade-separated from roadways. Harris County’s congressional delegation, led by House Majority Leader Tom DeLay, is working to earmark federal funds to assist in rail improvement projects. A multi-jurisdictional authority will be needed to receive these funds as well as affect and coordinate the consolidation and improvement of freight rail lines in the region and receive community input.

HB 2958 was filed by Rep. Peggy Hamric and Sen. Jon Lindsay to modify existing laws authorizing the creation of freight rail districts in Harris County and its surrounding counties. The district is created by the adoption of concurrent order by the counties and a concurrent ordinance by the City of Houston. These orders and ordinance also provide for the board of directors of the district and the presiding officer.

“Ultimately, we hope to transfer the traffic from 11 existing rail lines onto just high capacity lines with grade separations from roadways,” Edmonds explained. “The project will eliminate the at-grade crossings for the main rail corridors, so that cars and trains can get to their destinations without holding each other back. The gains in safety and efficiency are long overdue, and seeing this project through is one of my most important goals.”

The freight rail corridor program managed by the district will reduce roadway congestion and help lower air emissions resulting from vehicle idling at crossings. Additionally, fewer interactions between vehicles and trains will help improve safety. The program will also reduce the likelihood that kids will cross rail lines while walking to and from their schools. Ultimately, the improved movement of freight trains through the Houston area will attract more economic development.

Competitive Sealed Proposals (CSPs)

HB 769 by Rep. Wayne Smith and Sen. Kyle Janek makes a minor change in the CSP law by allowing Texas ports more time to adequately evaluate and rank proposals for projects. The change allows the notice of a request for CSPs to specify a date no later than the 90th day after the date of opening the proposals for the rank and evaluate period.

“This change allows more time to better assess CSPs on projects that attract many proposals or include proposals that are voluminous,” said Edmonds. “If the port does not expect a voluminous response, then the current 45-day rank-and-evaluate period remains in effect,” he said.

Validation

The Texas Ports Association requested validation of the acts and proceedings of the governing board of navigation districts and public port authorities. HB 1097 by Rep. Dennis Bonnen and Sen. Tommy Williams would prevent work stoppage on projects that would otherwise be hampered by minor technicalities, as well as reduce frivolous litigation and ensure the timely completion of projects.

“Validation acts lower insurance costs for errors and omissions policies and increase the bond rating of ports,” Edmonds said.

Signed by Gov. Perry on May 27, 2005, the validation law takes effect on September 1, 2005.

General Port Legislation

SB 1786 by Sen. Mario Gallegos and Rep. Peggy Hamric will assist navigational districts and ports throughout the state in several ways.

First, it clarifies the ability of Texas ports to contract not only with other local governments, but also with the state and the federal government when necessary to procure goods and services. The present procurement statute only expressly allows such procurements from local governments, but, in fact, ports purchase needed items from the state and federal government as well. Since the state and federal governments are bound by procurement statutes requiring competitive bidding similar to the type of bidding required when ports buy directly from private entities, there is no reason not to clarify the Texas ports’ ability to buy from these governmental agencies as well as from local governmental agencies. This is an important provision for Homeland Security purchases and for co-contracting with the U.S. Army Corps of Engineers for dredging projects.

Under present law, when a Texas port obtains construction services from a private entity by CSPs, it must “make public” its evaluations of the proposals received within seven days after the date of the award of the contract. The Gallegos/Hamric legislation extends the time to the latest of the 30th day after the date of the award of the contract or the next scheduled commission meeting.

“This technical change is needed because the minutes of a commission meeting, which indicate the commission’s final ranking and evaluation of the proposals received, do not become final, approved and official until they are approved at the next commission meeting,” Edmonds explained. “This amendment does not impact information to the public since the vote by the port commission is done in public at an open meeting. This provision will accurately reflect that the results of the commission meeting are officially public when the minutes are approved at the next commission meeting.”

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Also, the Gallegos/Hamric bill includes language that reflects how ports should be encouraged to not only comply with existing laws pertaining to safety and security, but also to “raise the bar” and go beyond mere compliance with such laws. The legislation allows this without creating new legal duties by adopting a safety or security policy.

The legislation also contains language that makes it possible for ports to contract with entities in adjacent counties and to use bond proceeds in order to finance projects in adjacent counties so infrastructure projects may be built in the region of a port without artificially restricting them to projects solely within the boundaries of the county in which the port lies.

“This will allow ports to contract with neighboring ports, cities or counties to complete economic development projects that benefit the whole state,” Edmonds said.

Overall, Edmonds summed up the 2005 state legislative session as very successful. “I am sincerely thankful for all of the hard work of the Harris County delegation and the rest of the port area’s legislators in Austin. What’s good for the Port of Houston is good for all of Houston, Harris County and the entire state.” ■