

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Port of Port Arthur Navigation District of Jefferson County, Texas (Port of Port Arthur) is proposing the addition of boundaries to the Port of Port Arthur for the sole purpose of attributing waterborne cargo volumes, originating or departing within those boundaries, to the Port of Port Arthur (special purpose boundaries). The Port of Port Arthur shall not have taxation powers within these special purpose boundaries. The purpose of the proposed modification is to ensure that tonnage from private and public facilities along the Neches River that has historically been attributed to the Port of Beaumont will be counted as part of the Port of Port Arthur's United States Army Corps of Engineers (USACE) tonnage numbers. The proposed modification will have no tax impact and no community impact and will strictly serve to ensure that tonnage volume that has historically been allocated to the Port of Beaumont will be allocated to the Port of Port Arthur. The proposed modification will not affect the rights or powers of any other political subdivision or municipality in the state.

USACE measures the volume of cargo moving through United States ports in terms of tons, or "tonnage," based on each port's statistical boundaries. These numbers are used to rank ports in the United States, which can be used as a marketing tool for each respective port district. The tonnage associated with a port can also qualify that port for federal funding as an energy transfer port based on the volume of petrochemical products moved across the waterway annually, which would qualify the Port of Port Arthur for federal Harbor Maintenance Trust Funds, per 33 U.S. Code Section 2238c.

Federal Harbor Maintenance Trust Funds distributed to qualifying ports enable said ports to carry out expanded uses or environmental remediation related to dredging berths and federal navigation per the eligible uses as defined in the Water Resources Development Act, and obtain all applicable licenses necessary to carry out such work. Activities for which these funds may be used include (A) maintenance dredging of a non-federal berth in a harbor that is accessible to a federal navigation project and that benefits commercial navigation at the harbor; (B) maintenance dredging and disposal of legacy contaminated sediment and sediment unsuitable for open water disposal, if "(i) such dredging and disposal benefits commercial navigation at the harbor; and (ii) such sediment is located in and affects the maintenance of a Federal navigation project or is located in a berth that is accessible to a Federal navigation project"; and (C) other eligible uses, as defined by the Water Resources Development Act, Section 2106.

USACE statistical boundaries are defined by:

Port limits defined by legislative enactments of state, county, or city governments; or the corporate limits of a municipality.

Since 1969, the boundaries of the Port of Port Arthur Navigation District, used by USACE to capture tonnage attributed to the Port of Port Arthur. In 2020, USACE reviewed these boundaries and noted that there has been no state legislative action that provides for tonnage within the aforementioned boundaries to be attributed to the Port of Port Arthur and therefore, changes to how the tonnages have historically been allocated may be required. The proposed modifications to the Port of Port Arthur's statistical boundaries would result in the increase of approximately five million tons of cargo to the Port of Port Arthur's tonnage numbers annually. The significance of this increase in tonnage relates to economic development efforts and federal funding. The Port of Port Arthur would increase from 19th in the nation in terms of tonnage to

15th in the nation. This would qualify the Port of Port Arthur to receive federal energy transfer port funds, which are critical to ensuring the public facilities are dredged. The increase in tonnage would also put the region at an advantage when competing for development projects.

The proposed special purpose boundaries ensure there is no overlap with another port district, with the exception of the Sabine-Neches Navigation District, which is classified as a waterway and navigation district. In the absence of the special purpose boundaries being added to the Port of Port Arthur, the tonnage within that area would not be attributed to a port along the waterway, thus resulting in an inaccurate depiction of the volume handled by the region's seaports and inconsistencies with how other ports in Texas and the nation are measured. In coordination with the Port of Beaumont Navigation District of Jefferson County, Texas, the Sabine-Neches Navigation District, and the Orange County Navigation District, the Port of Port Arthur proposes that boundary modifications be made to expand the statistical area captured by USACE per the attached Jefferson County metes and bounds document.

See the attached maps and metes and bounds showing the Port of Port Arthur's district boundaries and proposed special purpose boundaries.

The proposed special purpose boundaries represent a slight modification from the historically used USACE tonnage boundaries. The modifications allow for the portion of the Neches River between the Port Arthur city limit and the Rainbow Bridge to be allocated to the Port of Port Arthur Navigation District, for USACE tonnage calculation purposes, therefore enhancing the Port of Port Arthur's opportunities to receive federal funds per 33 U.S. Code Section 2238c.

The Sabine-Neches Navigation District, Port of Beaumont Navigation District, and the Orange County Navigation District and Port District are in support of the proposed legislation.

As proposed, S.B. 1986 amends current law relating to adding a special purpose territory to the Port of Port Arthur Navigation District of Jefferson County, Texas.

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 Chapter 197, Acts of the 58th Legislature, Regular Session, 1963, by adding Section 1A, as follows:

Sec. 1A. (a) Defines "special purpose area" to mean the territory described by Subsection (e) of this section.

(b) Authorizes waterborne commercial cargo and vessel movements originating in or departing from the special purpose area to be attributed as waterborne commercial cargo or vessel movements originating in or departing from the Port of Port Arthur Navigation District of Jefferson County, Texas (district) for the purpose of reporting to the United States Army Corps of Engineers under applicable federal law.

(c) Provides that the inclusion in the district of the special purpose area does not affect any powers or duties exercised in the special purpose area by the Sabine-Neches Navigation District or the Port of Beaumont Navigation District of Jefferson County, Texas.

(d) Prohibits the district from imposing a tax in the special purpose area.

(e) Sets forth the boundaries of the special purpose area.

SECTION 2. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3. Effective date: upon passage or September 1, 2021.