

**BILL ANALYSIS**

H.B. 2178  
By: Mowery  
Land & Resource Management  
Committee Report (Unamended)

**BACKGROUND AND PURPOSE**

Currently, the governing body of a municipality has the power to enact zoning regulations in accordance with its comprehensive plan. When the governing body of municipality changes the zoning regulations from the comprehensive plan, these changes may adversely affect property value.

H.B. 2178 prohibits the governing body of a municipality from changing the zoning classification of a property that results in a diminution of more than 10 percent of the property's value and provides for proceedings related to such a diminution.

**RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

**ANALYSIS**

SECTION 1. Amends Section 211.003, Local Government Code, by adding a new Subsection (d) as follows:

Prohibits the governing body of a municipality from changing the zoning classification of a property that results in a diminution of more than 10 percent of the property's value unless:

The owner of the property waives any right to object to the proposed change or fails to file a written objection and a copy of an appraisal report stating the appraiser's opinion of the value of the property before and after the proposed change in zoning classification before the 90th day after the date the governing body notifies the property owner of the date the governing body will vote on the proposed change; or

The governing body compensates the property owner for the diminution in value resulting from the zoning reclassification by an agreement or a proceeding relating to eminent domain.

SECTION 2. Amends Subchapter A, Chapter 21, Property Code, by amending Section 21.003 and adding Section 21.004 as follows:

Authorizes district courts to hear cases under the provisions of this bill.

Establishes that a proceeding filed for the purpose of determining the diminution of a property's value is a condemnation or eminent domain proceeding for the sole purpose of satisfying the filing requirements of an eminent domain proceeding.

Provides that in a proceeding authorized by this bill the condemnor or acquiring

entity is the municipality, the condemned property is the property for which the zoning is to be reclassified, and the condemnation is the change in the zoning classification.

Provides that the special commissioners or district court is authorized to determine all issues relating to such a proceeding.

Requires each party to provide to the other parties a copy of each appraisal report supporting that party's opinion within 10 days before the proceeding begins.

Authorizes a municipality to change the zoning classification at any time after the special commissioners' have made an award.

SECTION 3. Amends Subchapter B, Chapter 21, Property Code, by adding Section 21.0121, as follows:

Authorizes the governing body of a municipality or other political subdivision to begin condemnation proceedings in court if it wants to change the zoning classification and can not agree with the owner on damages. Specifies what the petition must include.

SECTION 4. Amends the heading of Section 21.021, Property Code, as follows:

POSSESSION PENDING LITIGATION; ZONING RECLASSIFICATION

SECTION 5. Amends Section 21.021(a), Property Code, to make conforming changes.

SECTION 6. Amends Section 21.047, Property Code, as follows:

Requires special commissioners to allocate costs as follows:

If the award is greater than the amount offered, the condemnor must pay costs and reasonable and necessary attorney's fees.

If the award is less than or equal to the amount offered the property owner may have to pay costs.

SECTION 7. Amends Subchapter C, Chapter 21, Property Code, by adding Section 21.0485 as follows:

If the property owner prevails in a suit, the condemnor must pay the award within 2 years of the final judgement.

SECTION 8. Amends Subchapter D, Chapter 21, Property Code, by adding Section 21.066, as follows:

A property owner who prevails in a suit under this chapter may develop the property under the zoning rules applicable before the proposed change in lieu of receiving the award.

If a property owner chooses to develop the property, the municipality must authorize it and waive any fees.

SECTION 9. Effective date.

**EFFECTIVE DATE**

September 1, 2003.