

BILL ANALYSIS

C.S.H.B. 2478
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Property Code does not address inverse condemnation lawsuits involving the flooding of land upstream from a reservoir.

C.S.H.B. 2478 adds a new chapter to the Property Code specifying the procedures for an inverse condemnation case. The bill defines the parties to an inverse condemnation case, establishes a basis for determining a venue, and allows for the bifurcation of a trial depending upon the finding of a taking.

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 Title 4, Property Code, by adding Chapter 30 as follows:

Authorizes district courts and county courts at law to have concurrent jurisdiction in inverse condemnation cases.

Requires a county court at law to transfer a case to a district court if there is an issue that cannot be adjudicated by the county court.

Authorizes a district court to determine all issues in an inverse condemnation case.

Requires a judge in an inverse condemnation case to order a bench trial to determine if private property was damaged for a public purpose without compensation and to resolve any jurisdictional matters.

Requires a judge to order a jury trial, upon request, if the judge finds that damage to the property occurred.

Requires a judge to dismiss a trial if no damage to the property occurred.

SECTION 2. Act prospective.

SECTION 3. Effective date.

EFFECTIVE DATE

September 1, 2003 unless the Act receives the vote necessary for immediate effect.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2478 deletes the provision that requires that all upstream reservoirs with a flood storage capacity of 5,000 acre feet become necessary parties in an inverse condemnation case alleging damage from flooding.

C.S.H.B. 2478 deletes the venue provision found in the introduced version.

C.S.H.B. 2478 requires a judge to order a jury trial, upon request, if the judge finds that damage to the property occurred. The introduced version authorizes a judge to order a jury trial if the judge finds that damage to the property occurred.