

BILL ANALYSIS

S.B. 1227
By: Duncan
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

When a political subdivision exercises eminent domain, Chapter 21 of the Texas Property Code requires proof that the condemnation of a property is necessary to fulfill a public purpose and that a voluntary purchase of the property was not possible. The court will allow the condemnation to proceed when it is satisfied that these two requirements have been met. Some believe that the current law does not provide a high enough burden of proof when a political subdivision moves to condemn water rights and ask that the political subdivision demonstrate to the court reasonable evidence that the condemnation was the only reasonable alternative to secure water for the political subdivision.

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

S.B. 1227 adds a new section to Chapter 21 of the Texas Property Code. This new section will require a political subdivision condemning the rights to groundwater or surface water to prove that they have: 1) prepared a drought contingency plan; 2) developed and implemented a water conservation plan that will result in the highest practicable levels of water conservation and efficiency achievable in the political subdivision's jurisdiction; 3) pursued the availability of other feasible and practicable water supply alternatives; 4) made a bona fide good faith effort to voluntarily buy or lease the water rights the political subdivision proposes to condemn; and 5) made a showing that the political subdivision needs the water to provide for the domestic needs of the political subdivision within the next 10-year period.

A court shall deny the right to condemn unless the political subdivision submits proof to the court that the political subdivision has met the requirements in SECTION 1 of the legislation.

EFFECTIVE DATE

September 1, 2003