

By: Geren

H.B. No. 803

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the assessment of damages in a condemnation proceeding
3 based on the market value of groundwater rights as property apart
4 from the land.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter C, Chapter 21, Property Code, is
7 amended by adding Section 21.0421 to read as follows:

8 Sec. 21.0421. ASSESSMENT OF DAMAGES: GROUNDWATER RIGHTS.

9 (a) In a condemnation proceeding initiated by a political
10 subdivision under this chapter, the special commissioners or court
11 shall admit evidence relating to the market value of groundwater
12 rights as property apart from the land in addition to the local
13 market value of the real property if:

14 (1) the political subdivision proposes to condemn the
15 fee title of real property; and

16 (2) the special commissioners or court finds, based on
17 evidence submitted at the hearing, that the real property may be
18 used by the political subdivision to develop or use the rights to
19 groundwater for a public purpose.

20 (b) The evidence submitted under Subsection (a) on the
21 market value of the groundwater rights as property apart from the
22 land shall be based on generally accepted appraisal methods and
23 techniques, including the methods of appraisal under Subchapter A,
24 Chapter 23, Tax Code.

1 (c) If the special commissioners or court finds that the
2 right to groundwater may be developed or used for public purposes,
3 the special commissioners or court may assess damages to the
4 property owner based on:

5 (1) the local market value of the real property,
6 excluding the value of the groundwater in place, at the time of the
7 hearing; and

8 (2) the market value of the groundwater rights as
9 property apart from the land at the time of the hearing.

10 (d) In assessing damages based on the market value of
11 groundwater rights under Subsection (c)(2), the special
12 commissioners or court shall consider:

13 (1) the amount of groundwater the political
14 subdivision can reasonably be expected to produce from the property
15 on an annual basis;

16 (2) the number of years the political subdivision can
17 reasonably be expected to produce groundwater from the property;

18 (3) the quality of the groundwater;

19 (4) the location of the real property in relation to
20 the political subdivision for conveyance purposes;

21 (5) any potential environmental impact of producing
22 groundwater from the real property;

23 (6) whether or not the real property is located within
24 the boundaries of a political subdivision that can regulate the
25 production of groundwater from the real property;

26 (7) the cost of alternative water supplies to the
27 political subdivision; and

1 (8) any other reasonable factor that affects the
2 market value of a groundwater right.

3 (e) This section does not:

4 (1) authorize groundwater rights appraised separately
5 from the real property under this section to be appraised
6 separately from real property for property tax appraisal purposes;
7 or

8 (2) subject real property condemned for the purpose
9 described by Subsection (a) to an additional tax as provided by
10 Section 23.46 or 23.55, Tax Code.

11 SECTION 2. (a) This Act takes effect September 1, 2003.

12 (b) The change in law made by this Act does not affect any
13 litigation pending on the effective date of this Act that relates to
14 the assessment of damages in a condemnation proceeding under
15 Chapter 21, Property Code.