

By: Geren

H.B. No. 803

A BILL TO BE ENTITLED

1 AN ACT

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  
9 RIGHTS. (a) In a condemnation proceeding initiated by a  
10 municipality 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 municipality proposes to condemn the fee title  
15 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 municipality to develop or use the rights to groundwater  
19 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) This section does not:

11            (1) authorize groundwater rights appraised separately  
12 from the real property under this section to be appraised  
13 separately from real property for property tax appraisal purposes;  
14 or

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

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

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