

By: Keffer of Eastland, Seaman, et al.

H.B. No. 1117

A BILL TO BE ENTITLED

AN ACT

relating to the clarification by a county of the existence of a public interest in certain roads.

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

SECTION 1. Subtitle C, Title 6, Transportation Code, is amended by adding Chapter 258 to read as follows:

CHAPTER 258. CLARIFICATION OF EXISTENCE OF PUBLIC INTEREST IN ROAD BY ADOPTION OF COUNTY ROAD MAP

Sec. 258.001. CLARIFICATION OF PUBLIC INTEREST IN ROAD.

Notwithstanding Chapter 281, a county may clarify the existence of a public interest in a road as provided by this chapter.

Sec. 258.002. ADOPTION OF COUNTY ROAD MAP. (a) The commissioners court of a county may propose a county road map that includes each road in which the county claims the existence of a public interest:

(1) under Chapter 281 or other law; or

(2) as a result of having continuously maintained the road with public funds beginning before September 1, 1981.

(b) A commissioners court that proposes a county road map under this section shall hold a public meeting at which a person asserting a private right, title, or interest in a road in which the county has claimed the existence of a public interest may appear before the commissioners court to protest the county's claim. A person asserting a private right, title, or interest in a road may

1 also file a written protest with the county judge at any time before
2 the public meeting. The commissioners court shall appoint a jury of
3 view consisting of five property owners who have no interest in the
4 outcome of the protest to determine, by a majority vote after a
5 public hearing and an examination of the county's road maintenance
6 records and other information, the validity of the county's claim
7 of the existence of a public interest in the road. A county has a
8 valid claim of the existence of a public interest in a road if it
9 provides written records or other information documenting the
10 county's continuous maintenance of the road beginning before
11 September 1, 1981. The determination of the jury of view is binding
12 on the commissioners court, and the commissioners court shall
13 revise the proposed county road map accordingly.

14 (c) The commissioners court shall publish at least once a
15 week in a newspaper of general circulation in the county for at
16 least four consecutive weeks preceding the date of the public
17 meeting a notice:

18 (1) advising the public that the commissioners court
19 has proposed a county road map including each road in which the
20 county claims the existence of a public interest;

21 (2) identifying a location at the courthouse at which
22 the proposed map will be available to the public during regular
23 business hours; and

24 (3) stating the date and location of the public
25 meeting.

26 (d) The commissioners court shall display the proposed map
27 at the location and during the time described in the notice from the

1 date on which notice is first published through the date on which
2 the commissioners court formally adopts the proposed map. The map
3 must be legible, and the map scale must be that not less than one
4 inch equals 2,000 feet.

5 (e) The commissioners court may formally adopt the proposed
6 map, as revised after public comment and a determination by the jury
7 of view, only at a public meeting held before the 90th day following
8 the date of the initial public meeting required by Subsection (b).

9 (f) The county clerk shall keep a county road map adopted
10 under this section in a place accessible to the public.

11 (g) The failure to include on a county road map adopted
12 under this section a road in which the county has previously
13 acquired a public interest by purchase, condemnation, dedication,
14 or a court's final judgment of adverse possession does not affect
15 the status of the omitted road.

16 (h) In this section, "continuous maintenance" means grading
17 or other routine road maintenance beginning before September 1,
18 1981, and continuing until the date of protest.

19 Sec. 258.003. CONCLUSIVE EVIDENCE. Except as provided by
20 Section 258.004, a county road map adopted under Section 258.002 is
21 conclusive evidence of:

22 (1) the public's right of access over a road included
23 on the map; and

24 (2) the county's authority to spend public money to
25 maintain a road included on the map.

26 Sec. 258.004. CONTEST. (a) A person asserting a private
27 right, title, or interest in a road in which the existence of a

1 public interest is asserted under this chapter may contest the
2 inclusion of the road in the county road map by filing a suit in a
3 district court in the county in which the road is located not later
4 than the second anniversary of the date on which the county road map
5 including the road was adopted.

6 (b) The county has the burden of proving that the county has
7 continuously maintained, as that term is defined by Section
8 258.002, the road in question.

9 Sec. 258.005. TRANSFER OF INTEREST. (a) The commissioners
10 court shall include a notice of its intention to consider adoption
11 of the county road map with the ad valorem tax statements for the
12 year before the adoption of a county road map under Section 258.002.
13 The notice must include a list of all roads in which the county will
14 claim the existence of a public interest by adoption of the map, the
15 date the commissioners court will hold the public meeting required
16 by Section 258.002(b), and a statement that a landowner has a right
17 to protest under Section 258.002(b). If a property owner tenders a
18 warranty deed to the county for property included in the
19 right-of-way of a county road, the commissioners court shall accept
20 and file the warranty deed.

21 (b) The commissioners court shall include a notice of the
22 adoption of the county road map with the ad valorem tax statements
23 for the year after the year in which the county adopts a map under
24 Section 258.002. The notice must include a list of all roads in
25 which the county has claimed the existence of a public interest by
26 adoption of the map, the date of the adoption, and the date on which
27 the statute of limitations will bar a landowner from filing a suit

1 in district court to dispute the county's claim.

2 Sec. 258.006. TAX ABATEMENT; REVERSION OF INTEREST. (a) A
3 private right, title, or interest, other than a mineral interest,
4 held by a person in land underlying a road in which the county has
5 successfully asserted the existence of a public interest under this
6 chapter is exempt from ad valorem taxation by any taxing authority.

7 (b) A right, title, or interest described in Subsection (a)
8 reverts completely to the person who held the right, title, or
9 interest at the time the county successfully asserted the existence
10 of the public interest in the land if the county ceases to maintain
11 the road, and the person is liable for all ad valorem taxes levied
12 on that right, title, or interest on or after the reversion.

13 (c) To levy and collect an ad valorem tax on a right, title,
14 or interest described in Subsection (a) that has reverted to the
15 landowner under Subsection (b), the taxing authority must obtain
16 from the county an order stating that the county has ceased to
17 maintain the road. The owner of the right, title, or interest will
18 be liable for any ad valorem tax levied on the right, title, or
19 interest on or after the date of the county's order.

20 Sec. 258.007. EXPIRATION OF CHAPTER. This chapter expires
21 September 1, 2009.

22 SECTION 2. This Act takes effect September 1, 2003.