

By: Callegari

H.B. No. 2478

A BILL TO BE ENTITLED

AN ACT

relating to inverse condemnation cases.

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

SECTION 1. Title 4, Property Code, is amended by adding Chapter 30 to read as follows:

CHAPTER 30. INVERSE CONDEMNATION

Sec. 30.001. CONCURRENT JURISDICTION. District courts and county courts at law have concurrent jurisdiction in inverse condemnation cases. A county court has no jurisdiction in inverse condemnation cases.

Sec. 30.002. TRANSFER OF CASES. If an inverse condemnation case is pending in a county court at law and the court determines that the case involves an issue of title or any other matter that cannot be fully adjudicated in that court, the judge shall transfer the case to a district court.

Sec. 30.003. DISTRICT COURT AUTHORITY. A district court may determine all issues in an inverse condemnation case, including whether property has been taken or damaged for a public purpose without compensation and the assessment of damages, in any suit in which this state, a political subdivision of this state, a person, an association of persons, or a corporation is a party.

Sec. 30.004. STANDARD PROCEDURE. (a) The judge of a court in which an inverse condemnation petition is filed shall order a bench trial to:

1           (1) determine whether the property owned by the  
2 plaintiff was taken or damaged for a public purpose without  
3 compensation; and

4           (2) resolve any jurisdictional matters.

5           (b) If the judge determines that the taking of or damage to  
6 the property occurred, the judge may conduct a jury trial on  
7 valuation issues.

8           (c) If the judge determines that the taking of or damage to  
9 the property has not occurred, the judge shall dismiss the  
10 petition.

11           Sec. 30.005. NECESSARY PARTIES IN CERTAIN CASES. (a) In an  
12 inverse condemnation suit alleging a taking of or damage to  
13 property as a result of flooding caused by a release of water from a  
14 reservoir, all upstream reservoirs with a flood storage capacity of  
15 5,000 acre feet or more are necessary parties and must be joined as  
16 parties.

17           (b) If an upstream reservoir is not joined as required under  
18 Subsection (a), the court shall order that the reservoir be joined  
19 as a party.

20           Sec. 30.006. VENUE IN CERTAIN CASES. An inverse  
21 condemnation action arising from flooding, the impoundment of  
22 water, the discharge of water into a natural watercourse, or the  
23 construction or operation of dams for flood control shall be  
24 brought in the county in which the principal office of the defendant  
25 is located.

26           SECTION 2. The change in law made by this Act applies only  
27 to an inverse condemnation action filed on or after the effective

1 date of this Act. An inverse condemnation action filed before the  
2 effective date of this Act is governed by the law in effect on the  
3 date the action was filed, and the former law is continued in effect  
4 for that purpose.

5 SECTION 3. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2003.