

BILL ANALYSIS

C.S.S.B. 62
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Texas Constitution permits condemnation of land for public use. Previous to the United States Supreme Court ruling in *Kelo et al. v. City of New London et al*, public use was understood to be for parks, roads, and other objectives. In light of this recent ruling allowing the taking of private property for economic development purposes, the scope of public use needs to be redefined.

C.S.S.B. 62 prohibits the taking of private property by eminent domain for economic development, with certain limited exceptions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

C.S.S.B 62 provides for the limitation on the use of eminent domain by any governmental entity for private parties or economic development purposes. The bill sets forth the governmental and private entities to which the limitation on use of eminent domain applies under the laws of this state, including a local or special law. The bill prohibits a governmental or private entity from taking private property through the use of eminent domain if the taking meets certain criteria as set forth in the bill. The bill provides that the limitation provisions do not affect the authority of an entity authorized by law to take private property through the use of eminent domain for purposes or projects that meets certain criteria as set forth by the bill.

The bill establishes limitations on the eminent domain authority of the Texas Transportation Commission and sets forth certain criteria if eminent domain is to be exercised.

The bill creates an interim committee to study the use of the power of eminent domain, provides for the membership and designation of chair and vice chair of the interim committee, and sets forth reporting requirements.

The bill provides that Chapter 2206, Government Code, as added by this Act, applies only to the taking of private property by eminent domain for which a condemnation petition is filed on or after the effective date of this Act. The bill provides that a taking for which a condemnation petition is filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

COMPARISON OF SUBSTITUTE TO ORIGINAL

C.S.S.B. 62 removes the term "regulated" with respect to an energy transporter from the engrossed version.

C.S.S.B. 62 removes provisions relating to concurrent jurisdiction and venue in condemnation proceedings.

C.S.S.B. 62 removes certain provisions regarding the effect of this Act on eminent domain proceedings that are pending on or after the effective date of the bill.

C.S.S.B. 62 79(1)

EFFECTIVE DATE

Upon passage or November 1, 2005.