

By: Janek

S.B. No. 62

Substitute the following for S.B. No. 62:

By: Harper-Brown

C.S.S.B. No. 62

A BILL TO BE ENTITLED

AN ACT

relating to limiting the use of eminent domain to take private property for private parties or economic development purposes and to certain eminent domain procedures.

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

SECTION 1. Subtitle E, Title 10, Government Code, is amended by adding Chapter 2206 to read as follows:

CHAPTER 2206. LIMITATION ON USE OF EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES

Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

(1) a state agency, including an institution of higher education as defined by Section 61.003, Education Code;

(2) a political subdivision of this state; or

(3) a corporation created by a governmental entity to act on behalf of the entity.

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

(1) confers a private benefit on a particular private party through the use of the property;

(2) is for a public use that is merely a pretext to

1 confer a private benefit on a particular private party;

2 (3) is for economic development purposes, unless the
3 economic development is a secondary purpose resulting from
4 municipal community development or municipal urban renewal
5 activities under Chapter 373 or 374, Local Government Code, or
6 Section 311.005(a)(1)(I), Tax Code, to eliminate an existing
7 affirmative harm on society from slum or blighted areas; or

8 (4) is to raise revenue to meet the cost of a public
9 project if the property being taken is not otherwise necessary for
10 the successful or safe operation of that public project, provided,
11 however, that nothing in this section shall prohibit the
12 distribution of surplus toll revenue as otherwise allowed by law.

13 (c) This section does not affect the authority of an entity
14 authorized by law to take private property through the use of
15 eminent domain for:

16 (1) transportation projects, including railroads,
17 ports, airports, or public roads or highways;

18 (2) water supply, wastewater, flood control, and
19 drainage projects;

20 (3) the operations of a common carrier or energy
21 transporter;

22 (4) the provision of utility services;

23 (5) a sports and community venue project approved by
24 voters at an election held on or before December 1, 2005, under
25 Chapter 334 or 335, Local Government Code; or

26 (6) public infrastructure.

27 SECTION 2. Section 203.052, Transportation Code, is amended

1 by adding Subsection (c) to read as follows:

2 (c) The commission may not condemn property for a purpose
3 described in Subsection (b)(9) unless:

4 (1) subject to the provisions of Section 227.041(b-1),
5 the purpose is for a gas station, convenience store, or similar
6 facility; or

7 (2) the purpose is to provide a location between the
8 main lanes of a highway or between a highway and a department rail
9 facility for a gas station, convenience store, or similar facility
10 that:

11 (A) provides services to and directly benefits
12 users of a toll project; and

13 (B) is not located within 10 miles of an
14 intersection of the toll project and a segment of another state
15 highway that is designated as an interstate highway.

16 SECTION 3. (a) An interim committee is created to study the
17 use of the power of eminent domain.

18 (b) The interim committee consists of:

19 (1) five members of the senate appointed by the
20 lieutenant governor; and

21 (2) five members of the house of representatives
22 appointed by the speaker of the house of representatives.

23 (c) The lieutenant governor shall designate one senator
24 appointed to the interim committee to act as chair. The speaker of
25 the house of representatives shall designate one member of the
26 house of representatives appointed to the committee to act as vice
27 chair.

1 (d) The interim committee shall:

2 (1) study the use of the power of eminent domain,
3 including the use of the power of eminent domain for economic
4 development purposes; and

5 (2) prepare a report of the committee's study for the
6 80th Legislature.

7 (e) The report required by Subsection (d)(2) of this section
8 must be filed with the lieutenant governor and speaker of the house
9 of representatives not later than January 1, 2007.

10 SECTION 4. Chapter 2206, Government Code, as added by this
11 Act, applies only to the taking of private property by eminent
12 domain for which a condemnation petition is filed on or after the
13 effective date of this Act. A taking for which a condemnation
14 petition is filed before the effective date of this Act is governed
15 by the law in effect immediately before that date, and that law is
16 continued in effect for that purpose.

17 SECTION 5. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect November 1, 2005.