

BILL ANALYSIS

C.S.S.B. 7
By: Janek
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.

The purpose of CS.S.B. 7 is to prohibit the taking of private property by eminent domain for economic development, with certain limited exceptions.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. *Amends Subtitle E, Title 10, Government Code, by adding Chapter 2206, as follows:*

Makes this section applicable to the use of eminent domain under the laws of this state by any governmental or private entity and names specific entities that are included.

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.

Creates limitations on the prohibitions of this section regarding 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.

SECTION 2. *Amends Subchapter A, Chapter 552, Government Code, by adding Section 552.0037, as follows:*

Establishes that Chapter 552, Government Code, applies to certain information that relates to the taking of private property by an entity through the use of eminent domain.

SECTION 3. *Amends Section 203.052, Transportation Code, by adding Subsection (c), as follows:*

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

SECTION 4. 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.

SECTION 5. 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.

SECTION 6. Effective Date.

EFFECTIVE DATE

Effective date is the 91st day after the last day of the legislative session, or immediately if approved by two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

COMPARISON OF SUBSTITUTE TO ORIGINAL

C.S.S.B. 7 adds provisions that prohibits taking for a public use that is merely a pretext to confer a private benefit on a particular private party.

C.S.S.B. 7 adds a provision that prohibits a taking that is for economic development purposes pursuant to Section 373.002(b)(5) Local Government Code.

C.S.S.B. 7 adds a separate provision that permits a taking for ports.

C.S.S.B. 7 adds a provision that defines a common carrier and an energy transporter for purposes of permitting certain takings.

C.S.S.B. 7 removes a provision that permits a taking for other public infrastructure.

C.S.S.B. 7 removes a provision that permits a taking for a library, museum, auditorium or similar facility.

C.S.S.B. 7 adds a provision that permits a taking for a purpose authorized by Chapter 181, Utilities Code.

C.S.S.B. 7 adds a provision that permits a taking for an underground storage operations subject to Chapter 91, Natural Resources Code.

C.S.S.B. 7 removes the term "radioactive" with respect to waste disposal project.

C.S.S.B. 7 adds provisions relating to the use of eminent domain for a governmental entity to condemn certain leasehold estates to the filed version.

C.S.S.B. 7 adds a provision relating to the application of public information provisions to information related to certain takings of private property to the filed version.

C.S.S.B. 7 removes provisions relating to concurrent jurisdiction and venue in condemnation proceedings.

C.S.S.B. 7 removes provisions relating to the appointment of the chair of the interim committee from the filed version, and adds provisions relating to co-chairs of the interim committee.

C.S.S.B. 7 amends provisions relating to the report to be filed by the interim committee.

C.S.S.B. 7 removes provisions related to certain facilities for which eminent domain power may be exercised in conjunction with certain transportation projects.

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C.S.S.B. 7 adds certain provisions regarding the effect of this Act on eminent domain proceedings that are pending on or after the effective date of the bill.