

By: Woolley

H.B. No. 16

A BILL TO BE ENTITLED

AN ACT

relating to limits on the use of the power of eminent domain.

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. LIMITATIONS ON USE OF EMINENT DOMAIN

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 confer a private benefit on a particular private party;

(3) is for economic development purposes, unless the economic development is a secondary purpose resulting from

1 municipal community development or municipal urban renewal  
2 activities under Chapter 373 or 374, Local Government Code, or  
3 Section 311.005(a)(1)(I), Tax Code, to eliminate an existing  
4 affirmative harm on society from slum or blighted areas; or

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

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

13 (1) transportation projects, including railroads,  
14 ports, airports, or public roads or highways;

15 (2) water supply, wastewater, flood control, and  
16 drainage projects;

17 (3) the operations of a common carrier or energy  
18 transporter;

19 (4) the provision of utility services;

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

23 (6) public infrastructure.

24 SECTION 2. Section 203.052, Transportation Code, is amended  
25 by adding Subsection (c) to read as follows:

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

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

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

8                   (A) provides services to and directly benefits  
9 users of a toll project; and

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

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

15           (b) The interim committee consists of:

16                   (1) five members of the senate appointed by the  
17 lieutenant governor; and

18                   (2) five members of the house of representatives  
19 appointed by the speaker of the house of representatives.

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

25           (d) The interim committee shall:

26                   (1) study the use of the power of eminent domain,  
27 including the use of the power of eminent domain for economic

1 development purposes; and

2 (2) prepare a report of the committee's study for the  
3 80th Legislature.

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

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

14 SECTION 5. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect on the 91st day after the last day of the  
19 legislative session.