

By: Janek, et al.

S.B. No. 7

Substitute the following for S.B. No. 7:

By: Mowery

C.S.S.B. No. 7

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; or

(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 to eliminate an existing affirmative harm on society
3 from slum or blighted areas under:

4 (A) Chapter 373 or 374, Local Government Code,
5 other than an activity described by Section 373.002(b)(5), Local
6 Government Code; or

7 (B) Section 311.005(a)(1)(I), Tax Code.

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

11 (1) transportation projects, including railroads,
12 airports, or public roads or highways;

13 (2) ports;

14 (3) water supply, wastewater, flood control, and
15 drainage projects;

16 (4) the provision of utility services;

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

20 (6) the operations of:

21 (A) a common carrier subject to Chapter 111,
22 Natural Resources Code, and Section B(3)(b), Article 2.01, Texas
23 Business Corporation Act; or

24 (B) an energy transporter, as that term is
25 defined by Section 186.051, Utilities Code;

26 (7) a purpose authorized by Chapter 181, Utilities
27 Code;

1 (8) underground storage operations subject to Chapter
2 91, Natural Resources Code; or

3 (9) a waste disposal project.

4 (d) This section does not affect the authority of a
5 governmental entity to condemn a leasehold estate on property owned
6 by the governmental entity.

7 SECTION 2. Subchapter A, Chapter 552, Government Code, is
8 amended by adding Section 552.0037 to read as follows:

9 Sec. 552.0037. CERTAIN ENTITIES AUTHORIZED TO TAKE PROPERTY
10 THROUGH EMINENT DOMAIN. Notwithstanding any other law, information
11 collected, assembled, or maintained by an entity that is not a
12 governmental body but is authorized by law to take private property
13 through the use of eminent domain is subject to this chapter in the
14 same manner as information collected, assembled, or maintained by a
15 governmental body, but only if the information is related to the
16 taking of private property by the entity through the use of eminent
17 domain.

18 SECTION 3. Section 203.052, Transportation Code, is amended
19 by adding Subsection (c) to read as follows:

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

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

25 (2) the purpose is to provide a location between the
26 main lanes of a highway or between a highway and a department rail
27 facility for a gas station, convenience store, or similar facility

1 that:

2 (A) provides services to and directly benefits
3 users of a toll project; and

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

7 SECTION 4. (a) An interim committee is created to study the
8 use of the power of eminent domain.

9 (b) The interim committee consists of:

10 (1) five members of the senate appointed by the
11 lieutenant governor; and

12 (2) five members of the house of representatives
13 appointed by the speaker of the house of representatives.

14 (c) The speaker of the house of representatives shall
15 designate one member of the house of representatives appointed to
16 the committee to act as co-chair. The lieutenant governor shall
17 designate one senator appointed to the committee to act as
18 co-chair.

19 (d) The interim committee shall:

20 (1) study the use of the power of eminent domain,
21 including the use of the power of eminent domain for economic
22 development purposes; and

23 (2) prepare a report of the committee's study for the
24 80th Legislature.

25 (e) The report required by Subsection (d)(2) of this section
26 must be filed with the lieutenant governor and speaker of the house
27 of representatives not later than December 1, 2006.

1 SECTION 5. Chapter 2206, Government Code, as added by this
2 Act, applies only to the taking of private property by eminent
3 domain for which a condemnation petition is filed on or after the
4 effective date of this Act. A taking for which a condemnation
5 petition is filed before the effective date of this Act is governed
6 by the law in effect immediately before that date, and that law is
7 continued in effect for that purpose.

8 SECTION 6. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect on the 91st day after the last day of the
13 legislative session.