

By: Janek

S.B. No. 7

A BILL TO BE ENTITLED

AN ACT

relating to limiting the use of eminent domain to take private property.

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

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

6 (4) is to raise revenue to meet the cost of a public
7 project if the property being taken is not otherwise necessary for
8 the safe or convenient operation of that public project, except
9 that this subdivision does not affect the distribution of surplus
10 toll revenue as otherwise provided by law.

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

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

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

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

20 (4) the provision of utility services; or

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

24 SECTION 2. Section 21.001, Property Code, is amended to
25 read as follows:

26 Sec. 21.001. CONCURRENT JURISDICTION. District courts and
27 county courts at law have concurrent jurisdiction in eminent domain

1 cases in every county in the state, notwithstanding any other law.

2 A county court has no jurisdiction in eminent domain cases.

3 SECTION 3. Section 21.013, Property Code, is amended to
4 read as follows:

5 Sec. 21.013. VENUE; FEES AND PROCESSING FOR ACTION [~~SUIT~~]
6 FILED IN DISTRICT COURT. (a) The venue of a condemnation proceeding
7 is the county in which the owner of the property being condemned
8 resides if the owner resides in a county in which part of the property
9 is located. Otherwise, the venue of a condemnation proceeding is any
10 county in which at least part of the property is located.

11 (b) Except where otherwise provided by law, a party
12 initiating a condemnation proceeding [~~in a county in which there is~~
13 ~~one or more county courts at law with jurisdiction~~] shall file the
14 petition with any clerk authorized to handle such filings for a
15 [~~that~~] court that has jurisdiction in eminent domain cases [~~or~~
16 ~~courts~~].

17 (c) [~~A party initiating a condemnation proceeding in a~~
18 ~~county in which there is not a county court at law must file the~~
19 ~~condemnation petition with the district clerk.~~] The filing fee
20 shall be due at the time of filing in accordance with Section
21 51.317, Government Code.

22 (d) District and county clerks shall assign an equal number
23 of eminent domain cases in rotation to each court with jurisdiction
24 that the clerk serves.

25 SECTION 4. Section 203.052, Transportation Code, is amended
26 by adding Subsection (c) to read as follows:

27 (c) The commission may not condemn property for a purpose

1 described in Subsection (b)(9) unless:

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

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

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

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

14 SECTION 5. (a) An interim committee is created to study
15 the use of the power of eminent domain.

16 (b) The interim committee consists of:

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

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

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

26 (d) The interim committee shall:

27 (1) study the use of the power of eminent domain,

1 including the use of the power of eminent domain for economic
2 development purposes; and

3 (2) prepare a report of the committee's study for the
4 80th Legislature.

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

8 SECTION 6. Sections 21.001 and 21.013, Property Code, as
9 amended by this Act, apply only to a condemnation proceeding
10 initiated on or after the effective date of this Act. A
11 condemnation proceeding initiated before the effective date of this
12 Act is governed by the law in effect immediately before that date,
13 and that law is continued in effect for that purpose.

14 SECTION 7. 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.