

By: Mowery

H.B. No. 1194

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibiting the removal of a barrier on a road placed by
3 a person contesting the interest in the road claimed by a county or
4 certain governmental entities.

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

6 SECTION 1. Chapter 258, Transportation Code, is amended by
7 adding Section 258.0045 to read as follows:

8 Sec. 258.0045. PROHIBITION AGAINST REMOVING BARRIER ON
9 CONTESTED ROAD. (a) This section applies only:

10 (1) while a contest is pending in a district court
11 under Section 258.004, if the person contesting the public interest
12 in the road filed the contest not later than the 180th day after the
13 date the person knew or should have known that the county was
14 asserting an interest in the road; or

15 (2) before a map under this chapter is formally
16 adopted, if the person protested the county's claim under Section
17 258.002(b).

18 (b) A county may not remove a barrier on the contested
19 portion of road placed by the person asserting the private right,
20 title, or interest unless:

21 (1) the contested portion of the road is fenced on both
22 sides along its entire length; or

23 (2) the district court has granted a temporary
24 injunction in favor of the county and the county has posted a bond

1 in the amount determined by the court to be sufficient to protect
2 the landowner from the potential damage to the landowner's
3 property, business operations, crops, and livestock if the county
4 does not prevail at the trial on the merits.

5 SECTION 2. Chapter 281, Transportation Code, is amended by
6 adding Section 281.008 to read as follows:

7 Sec. 281.008. PROHIBITION AGAINST REMOVING BARRIER ON
8 CONTESTED ROAD. (a) While a suit is pending under Section 281.007,
9 the county may not remove a barrier on the contested portion of road
10 placed by the person asserting the private right, title, or
11 interest unless:

12 (1) the contested portion of the road is fenced on both
13 sides along its entire length; or

14 (2) the district court has granted a temporary
15 injunction in favor of the county and the county has posted a bond
16 in the amount determined by the court to be sufficient to protect
17 the landowner from the potential damage to the landowner's
18 property, business operations, crops, and livestock if the county
19 does not prevail at the trial on the merits.

20 (b) This section applies only if the person contesting the
21 public interest in the road filed the contest not later than the
22 180th day after the date the person knew or should have known that
23 the county was asserting an interest in the road.

24 SECTION 3. Subchapter B, Chapter 2007, Government Code, is
25 amended by adding Section 2007.027 to read as follows:

26 Sec. 2007.027. PROHIBITION AGAINST REMOVING BARRIER ON
27 CONTESTED ROAD. In a suit brought under this chapter to determine

1 whether a public interest asserted by a governmental entity in a
2 private road is valid, the governmental entity may not remove a
3 barrier on the contested portion of road placed by the person
4 contesting the public interest unless:

5 (1) the contested portion of the road is fenced on both
6 sides along its entire length; or

7 (2) the district court has granted a temporary
8 injunction in favor of the governmental entity and the governmental
9 entity has posted a bond in the amount determined by the district
10 court to be sufficient to protect the landowner from the potential
11 damage to the landowner's property, business operations, crops, and
12 livestock if the governmental entity does not prevail at the trial
13 on the merits.

14 SECTION 4. The changes in law made by this Act apply only to
15 a contest or suit that is brought on or after the effective date of
16 this Act. A contest or suit that was brought before the effective
17 date of this Act is governed by the law in effect immediately before
18 the effective date of this Act, and the former law is continued in
19 effect for that purpose.

20 SECTION 5. This Act takes effect September 1, 2005.