

By: Orr, Hegar

H.B. No. 3017

Substitute the following for H.B. No. 3017:

By: Mowery

C.S.H.B. No. 3017

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the procedure for initiating and the award of certain
3 costs in eminent domain proceedings.

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

5 SECTION 1. Section 21.0111, Property Code, is amended by
6 amending Subsection (a) and adding Subsection (a-1) to read as
7 follows:

8 (a) An [A—governmental] entity described by Section
9 21.012(a) with eminent domain authority that wants to acquire real
10 property for a public use shall perform an appraisal of the property
11 before an offer to purchase is made and shall disclose to the
12 property owner at the time an offer to purchase is made any and all
13 existing appraisal reports produced or acquired by the
14 [governmental] entity relating specifically to the owner's
15 property and used in determining the final valuation offer, unless
16 the property to be acquired is less than 2,000 square feet in area,
17 in which case an appraisal must be performed only at the request of
18 the property owner. For the purposes of this subsection, an
19 appraisal performed or an existing appraisal report disclosed under
20 this subsection must appraise the specific real property and real
21 property rights the entity wants to condemn and is not sufficient if
22 the appraisal or report is a generalized valuation of similarly
23 situated property to be acquired by the entity. The appraisal must
24 also consider the effect of the proposed condemnation on the value

1 of any portion of the property not condemned.

2 (a-1) An offer to purchase made under Subsection (a) may not
3 include an offer for any real property or real property rights that
4 the condemning entity does not have the authority and intention to
5 acquire through condemnation.

6 SECTION 2. Section 21.012, Property Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) For purposes of this section, if a condemning entity and
9 a property owner are unable to agree on the damages, evidence that
10 the condemning entity's offer to purchase was based on an appraisal
11 performed in accordance with Section 21.0111(a) is prima facie
12 evidence that the offer to purchase and the resulting negotiations
13 were conducted in good faith.

14 SECTION 3. Subchapter D, Chapter 21, Property Code, is
15 amended by adding Section 21.066 to read as follows:

16 Sec. 21.066. ASSESSMENT OF COSTS AND ATTORNEY'S FEES. (a)
17 If a court hearing a suit under this chapter finds that the
18 condemning entity did not make the offer to purchase or engage in
19 the resulting negotiations in good faith, the court may order the
20 condemning entity to pay all costs of defending against the
21 condemning entity's exercise of eminent domain under this chapter,
22 including any reasonable attorney's and expert witness's fees
23 incurred by the property owner.

24 (b) An award of fees under this section, in the aggregate,
25 may not exceed \$250,000.

26 SECTION 4. Section 101.061, Government Code, is amended to
27 read as follows:

1 Sec. 101.061. DISTRICT COURT FEES AND COSTS. The clerk of
2 a district court shall collect fees and costs as follows:

3 (1) filing fee in action with respect to a fraudulent
4 court record or fraudulent lien or claim filed against property
5 (Sec. 12.005, Civil Practice and Remedies Code) . . . \$15;

6 (2) fee for service of notice of action with respect to
7 a fraudulent court record or fraudulent lien or claim filed against
8 property (Sec. 12.005, Civil Practice and Remedies Code) . . . not
9 to exceed \$20, if notice delivered in person, or the cost of
10 postage, if service is by registered or certified mail;

11 (3) court cost in certain civil cases to establish and
12 maintain an alternative dispute resolution system, if authorized by
13 the county commissioners court (Sec. 152.004, Civil Practice and
14 Remedies Code) . . . not to exceed \$10;

15 (4) appellate judicial system filing fees for:

16 (A) First or Fourteenth Court of Appeals District
17 (Sec. 22.2021, Government Code) . . . not more than \$5;

18 (B) Second Court of Appeals District (Sec.
19 22.2031, Government Code) . . . not more than \$5;

20 (C) Fourth Court of Appeals District (Sec.
21 22.2051, Government Code) . . . not more than \$5;

22 (D) Fifth Court of Appeals District (Sec.
23 22.2061, Government Code) . . . not more than \$5; and

24 (E) Thirteenth Court of Appeals District (Sec.
25 22.2141, Government Code) . . . not more than \$5;

26 (5) additional filing fees:

27 (A) for each suit filed for insurance contingency

1 fund, if authorized by the county commissioners court (Sec. 51.302,
2 Government Code) . . . not to exceed \$5;

3 (B) for each civil suit filed, for court-related
4 purposes for the support of the judiciary and for civil legal
5 services to an indigent:

6 (i) for family law cases and proceedings as
7 defined by Section 25.0002, Government Code (Sec. 133.151, Local
8 Government Code) . . . \$45; or

9 (ii) for any case other than a case
10 described by Subparagraph (i) (Sec. 133.151, Local Government
11 Code) . . . \$50;

12 (C) to fund the improvement of Dallas County
13 civil court facilities, if authorized by the county commissioners
14 court (Sec. 51.705, Government Code) . . . not more than \$15; and

15 (D) on the filing of any civil action or
16 proceeding requiring a filing fee, including an appeal, and on the
17 filing of any counterclaim, cross-action, intervention,
18 interpleader, or third-party action requiring a filing fee, to fund
19 civil legal services for the indigent:

20 (i) for family law cases and proceedings as
21 defined by Section 25.0002, Government Code (Sec. 133.152, Local
22 Government Code) . . . \$5; or

23 (ii) for any case other than a case
24 described by Subparagraph (i) (Sec. 133.152, Local Government
25 Code) . . . \$10;

26 (6) for filing a suit, including an appeal from an
27 inferior court:

- 1 (A) for a suit with 10 or fewer plaintiffs (Sec.
2 51.317, Government Code) . . . \$50;
- 3 (B) for a suit with at least 11 but not more than
4 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;
- 5 (C) for a suit with at least 26 but not more than
6 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;
- 7 (D) for a suit with at least 101 but not more
8 than 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;
- 9 (E) for a suit with at least 501 but not more than
10 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or
- 11 (F) for a suit with more than 1,000 plaintiffs
12 (Sec. 51.317, Government Code) . . . \$200;
- 13 (7) for filing a cross-action, counterclaim,
14 intervention, contempt action, motion for new trial, or third-party
15 petition (Sec. 51.317, Government Code) . . . \$15;
- 16 (8) for issuing a citation or other writ or process not
17 otherwise provided for, including one copy, when requested at the
18 time a suit or action is filed (Sec. 51.317, Government
19 Code) . . . \$8;
- 20 (9) for records management and preservation (Sec.
21 51.317, Government Code) . . . \$10;
- 22 (10) for issuing a subpoena, including one copy (Sec.
23 51.318, Government Code) . . . \$8;
- 24 (11) for issuing a citation, commission for
25 deposition, writ of execution, order of sale, writ of execution and
26 order of sale, writ of injunction, writ of garnishment, writ of
27 attachment, or writ of sequestration not provided for in Section

- 1 51.317, or any other writ or process not otherwise provided for,
2 including one copy if required by law (Sec. 51.318, Government
3 Code) . . . \$8;
- 4 (12) for searching files or records to locate a cause
5 when the docket number is not provided (Sec. 51.318, Government
6 Code) . . . \$5;
- 7 (13) for searching files or records to ascertain the
8 existence of an instrument or record in the district clerk's office
9 (Sec. 51.318, Government Code) . . . \$5;
- 10 (14) for abstracting a judgment (Sec. 51.318,
11 Government Code) . . . \$8;
- 12 (15) for approving a bond (Sec. 51.318, Government
13 Code) . . . \$4;
- 14 (16) for a certified copy of a record, judgment,
15 order, pleading, or paper on file or of record in the district
16 clerk's office, including certificate and seal, for each page or
17 part of a page (Sec. 51.318, Government Code) . . . \$1;
- 18 (17) for a noncertified copy, for each page or part of
19 a page (Sec. 51.318, Government Code) . . . not to exceed \$1;
- 20 (18) jury fee (Sec. 51.604, Government
21 Code) . . . \$30;
- 22 (19) for filing a report of divorce or annulment (Sec.
23 194.002, Health and Safety Code) . . . \$1;
- 24 (20) for filing a suit in Comal County (Sec. 152.0522,
25 Human Resources Code) . . . \$4;
- 26 (21) additional filing fee for family protection on
27 filing a suit for dissolution of a marriage under Chapter 6, Family

1 Code, if authorized by the county commissioners court (Sec. 51.961,
2 Government Code) . . . not to exceed \$15;

3 (22) fee on filing a suit for dissolution of a marriage
4 for services of child support department in Harris County, if
5 authorized by the county commissioners court (Sec. 152.1074, Human
6 Resources Code) . . . not to exceed \$12;

7 (23) fee on filing a suit requesting an adoption in
8 Montague County (Sec. 152.1752, Human Resources Code) . . . \$25;

9 (24) court cost on citation for contempt of court for
10 failure to comply with child support order in Nueces County, if
11 authorized by the commissioners court (Sec. 152.1844, Human
12 Resources Code) . . . not to exceed \$10;

13 (25) fee on filing a suit for divorce in Orange County
14 (Sec. 152.1873, Human Resources Code) . . . not less than \$5;

15 (26) court costs on citation for contempt of court in
16 Orange County for failure to comply with a child support order or
17 order providing for possession of or access to a child (Sec.
18 152.1873, Human Resources Code) . . . amount determined by
19 district clerk;

20 (27) fee on filing a suit requesting an adoption in
21 Orange County (Sec. 152.1874, Human Resources Code) . . . not less
22 than \$25;

23 (28) fee on filing a suit requesting an adoption in
24 Wichita County (Sec. 152.2496, Human Resources Code) . . . \$100;

25 (29) additional filing fee to fund the courthouse
26 security fund, if authorized by the county commissioners court
27 (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

1 (30) additional filing fee for filing documents not
2 subject to certain filing fees to fund the courthouse security
3 fund, if authorized by the county commissioners court (Sec.
4 291.008, Local Government Code) . . . \$1;

5 (31) additional filing fee to fund the courthouse
6 security fund in Webb County, if authorized by the county
7 commissioners court (Sec. 291.009, Local Government
8 Code) . . . not to exceed \$20;

9 (32) court cost in civil cases other than suits for
10 delinquent taxes to fund the county law library fund, if authorized
11 by the county commissioners court (Sec. 323.023, Local Government
12 Code) . . . not to exceed \$35;

13 (33) when administering a case for the Rockwall County
14 Court at Law (Sec. 25.2012, Government Code) . . . civil fees and
15 court costs as if the case had been filed in district court;

16 (34) at a hearing held by an associate judge in Dallas
17 County, a court cost to preserve the record, in the absence of a
18 court reporter, by other means (Sec. 54.509, Government
19 Code) . . . as assessed by the referring court or associate judge;
20 [~~and~~]

21 (35) at a hearing held by an associate judge in Duval
22 County, a court cost to preserve the record (Sec. 54.1151,
23 Government Code, as added by Chapter 1150, Acts of the 78th
24 Legislature, Regular Session, 2003) . . . as imposed by the
25 referring court or associate judge; and

26 (36) court costs and attorney's and expert witness's
27 fees in an eminent domain proceeding (Sec. 21.066, Property

1 Code) . . . as taxed by the court and reasonable, respectively.

2 SECTION 5. Section 101.081, Government Code, is amended to
3 read as follows:

4 Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS. The
5 clerk of a statutory county court shall collect fees and costs as
6 follows:

7 (1) court cost in certain civil cases to establish and
8 maintain an alternative dispute resolution system, if authorized by
9 the county commissioners court (Sec. 152.004, Civil Practice and
10 Remedies Code) . . . not to exceed \$10;

11 (2) appellate judicial system filing fees:

12 (A) First or Fourteenth Court of Appeals District
13 (Sec. 22.2021, Government Code) . . . not more than \$5;

14 (B) Second Court of Appeals District (Sec.
15 22.2031, Government Code) . . . not more than \$5;

16 (C) Fourth Court of Appeals District (Sec.
17 22.2051, Government Code) . . . not more than \$5;

18 (D) Fifth Court of Appeals District (Sec.
19 22.2061, Government Code) . . . not more than \$5; and

20 (E) Thirteenth Court of Appeals District (Sec.
21 22.2141, Government Code) . . . not more than \$5;

22 (3) an official court reporter fee, County Court at
23 Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . . \$3;

24 (4) a court reporter fee when testimony is taken in a
25 county court at law in McLennan County (Sec. 25.1572, Government
26 Code) . . . \$3;

27 (5) a stenographer fee, if a record or part of a record

1 is made:

2 (A) in a county court at law in Hidalgo County
3 (Sec. 25.1102, Government Code) . . . \$20; and

4 (B) in a county court at law in Nolan County (Sec.
5 25.1792, Government Code) . . . \$25;

6 (6) jury fee (Sec. 51.604, Government
7 Code) . . . \$22;

8 (7) an additional filing fee:

9 (A) for each civil case filed to be used for
10 court-related purposes for the support of the judiciary, if
11 authorized by the county commissioners court (Sec. 51.702,
12 Government Code) . . . \$40;

13 (B) to fund the improvement of Dallas County
14 civil court facilities, if authorized by the county commissioners
15 court (Sec. 51.705, Government Code) . . . not more than \$15; and

16 (C) for filing any civil action or proceeding
17 requiring a filing fee, including an appeal, and on the filing of
18 any counterclaim, cross-action, intervention, interpleader, or
19 third-party action requiring a filing fee, to fund civil legal
20 services for the indigent (Sec. 133.153, Local Government
21 Code) . . . \$5;

22 (8) for filing an application for registration of
23 death (Sec. 193.007, Health and Safety Code) . . . \$1;

24 (9) fee for judge's services on an application for
25 court-ordered mental health services (Sec. 574.031, Health and
26 Safety Code) . . . not to exceed \$50;

27 (10) fee for prosecutor's services on an application

1 for court-ordered mental health services (Sec. 574.031, Health and
2 Safety Code) . . . not to exceed \$50;

3 (11) for filing a suit in Comal County (Sec. 152.0522,
4 Human Resources Code) . . . \$4;

5 (12) additional filing fee to fund contingency fund
6 for liability insurance, if authorized by the county commissioners
7 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

8 (13) civil court actions (Sec. 118.052, Local
9 Government Code):

10 (A) filing of original action (Secs. 118.052 and
11 118.053, Local Government Code):

12 (i) garnishment after judgment (Sec.
13 118.052, Local Government Code) . . . \$15; and

14 (ii) all others (Sec. 118.052, Local
15 Government Code) . . . \$40;

16 (B) filing of action other than original (Secs.
17 118.052 and 118.054, Local Government Code) . . . \$30; and

18 (C) services rendered after judgment in original
19 action (Secs. 118.052 and 118.0545, Local Government Code):

20 (i) abstract of judgment (Sec. 118.052,
21 Local Government Code) . . . \$5; and

22 (ii) execution, order of sale, writ, or
23 other process (Sec. 118.052, Local Government Code) . . . \$5;

24 (14) probate court actions (Sec. 118.052, Local
25 Government Code):

26 (A) probate original action (Secs. 118.052 and
27 118.055, Local Government Code):

1 (i) probate of a will with independent
2 executor, administration with will attached, administration of an
3 estate, guardianship or receivership of an estate, or muniment of
4 title (Sec. 118.052, Local Government Code) . . . \$40;

5 (ii) community survivors (Sec. 118.052,
6 Local Government Code) . . . \$40;

7 (iii) small estates (Sec. 118.052, Local
8 Government Code) . . . \$40;

9 (iv) declarations of heirship (Sec.
10 118.052, Local Government Code) . . . \$40;

11 (v) mental health or chemical dependency
12 services (Sec. 118.052, Local Government Code) . . . \$40; and

13 (vi) additional, special fee (Secs. 118.052
14 and 118.064, Local Government Code) . . . \$5;

15 (B) services in pending probate action (Secs.
16 118.052 and 118.056, Local Government Code):

17 (i) filing an inventory and appraisalment
18 after the 120th day after the date of the initial filing of the
19 action (Sec. 118.052, Local Government Code) . . . \$25;

20 (ii) approving and recording bond (Sec.
21 118.052, Local Government Code) . . . \$3;

22 (iii) administering oath (Sec. 118.052,
23 Local Government Code) . . . \$2;

24 (iv) filing annual or final account of
25 estate (Sec. 118.052, Local Government Code) . . . \$25;

26 (v) filing application for sale of real or
27 personal property (Sec. 118.052, Local Government Code) . . . \$25;

1 and

2 (vi) filing annual or final report of
3 guardian of a person (Sec. 118.052, Local Government
4 Code) . . . \$10;

5 (C) adverse probate action (Secs. 118.052 and
6 118.057, Local Government Code) . . . \$40; and

7 (D) claim against estate (Secs. 118.052 and
8 118.058, Local Government Code) . . . \$2;

9 (15) other fees (Sec. 118.052, Local Government Code):

10 (A) issuing document (Secs. 118.052 and 118.059,
11 Local Government Code):

12 (i) original document and one copy (Sec.
13 118.052, Local Government Code) . . . \$4; and

14 (ii) each additional set of an original and
15 one copy (Sec. 118.052, Local Government Code) . . . \$4;

16 (B) certified papers (Secs. 118.052 and 118.060,
17 Local Government Code):

18 (i) for the clerk's certificate (Sec.
19 118.052, Local Government Code) . . . \$5; and

20 (ii) a fee per page or part of a page (Sec.
21 118.052, Local Government Code) . . . \$1;

22 (C) noncertified papers, for each page or part of
23 a page (Secs. 118.052 and 118.0605, Local Government
24 Code) . . . \$1;

25 (D) letters testamentary, letter of
26 guardianship, letter of administration, or abstract of judgment
27 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

1 (E) safekeeping of wills (Secs. 118.052 and
2 118.062, Local Government Code) . . . \$5;

3 (F) mail service of process (Secs. 118.052 and
4 118.063, Local Government Code) . . . same as sheriff; and

5 (G) records management and preservation fee
6 (Secs. 118.052, 118.0546, and 118.0645, Local Government
7 Code) . . . \$5;

8 (16) additional filing fee to fund the courthouse
9 security fund, if authorized by the county commissioners court
10 (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

11 (17) additional filing fee for filing documents not
12 subject to certain filing fees to fund the courthouse security
13 fund, if authorized by the county commissioners court (Sec.
14 291.008, Local Government Code) . . . \$1;

15 (18) additional filing fee to fund the courthouse
16 security fund in Webb County, if authorized by the county
17 commissioners court (Sec. 291.009, Local Government
18 Code) . . . not to exceed \$20;

19 (19) court cost in civil cases other than suits for
20 delinquent taxes to fund the county law library fund, if authorized
21 by the county commissioners court (Sec. 323.023, Local Government
22 Code) . . . not to exceed \$35;

23 (20) fee for deposit of a will with the county clerk
24 during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

25 (21) court cost for each special commissioner in an
26 eminent domain proceeding (Sec. 21.047, Property Code) . . . as
27 taxed by the court, \$10 or more; [~~and~~]

1 (21-a) court costs and attorney's and expert witness's
2 fees in an eminent domain proceeding (Sec. 21.066, Property
3 Code) . . . as taxed by the court and reasonable, respectively; and

4 (22) fee for county attorney in a suit regarding a
5 railroad company's failure to keep roadbed and right-of-way in
6 proper condition (Art. 6327, Vernon's Texas Civil
7 Statutes) . . . \$10.

8 SECTION 6. The change in law made by this Act applies only
9 to a condemnation proceeding initiated on or after the effective
10 date of this Act. A condemnation proceeding initiated before the
11 effective date of this Act is governed by the law in effect at the
12 time the proceeding was initiated, and that law is continued in
13 effect for that purpose.

14 SECTION 7. This Act takes effect September 1, 2005.