

By: Orr

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) A governmental entity with eminent domain authority
9 that wants to acquire real property for a public use shall perform
10 an appraisal of the property before an offer to purchase is made and
11 shall disclose to the property owner at the time an offer to
12 purchase is made any and all existing appraisal reports produced or
13 acquired by the governmental entity [~~relating specifically to the~~
14 ~~owner's property and~~] used in determining the final valuation
15 offer. For the purposes of this subsection, an appraisal performed
16 or an existing appraisal report disclosed under this subsection
17 must consider only the specific unit of real property and specific
18 interest in the property the governmental entity wants to condemn
19 and is not sufficient if the appraisal or report is a generalized
20 valuation of similarly situated property to be acquired by the
21 governmental entity. The appraisal must also consider the effect
22 of the proposed condemnation on the value of any portion of the
23 property not condemned.

24 (a-1) An offer to purchase made under Subsection (a) may not

1 include an offer for any real property that the governmental entity
2 does not want or intend to acquire through condemnation.

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

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

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

13 Sec. 21.066. ASSESSMENT OF COSTS AND ATTORNEY'S FEES. If a
14 court hearing a suit covered by Section 21.003 finds that the
15 governmental entity did not make the offer to purchase or engage in
16 the resulting negotiations in good faith, the court may order the
17 governmental entity to pay all costs of defending against the
18 governmental entity's exercise of eminent domain under this
19 chapter, including any reasonable attorney's fees incurred by the
20 property owner.

21 SECTION 4. Section 101.061, Government Code, is amended to
22 read as follows:

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

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

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

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

10 (4) appellate judicial system filing fees for:

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

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

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

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

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

21 (5) additional filing fees:

22 (A) for each suit filed for insurance contingency
23 fund, if authorized by the county commissioners court (Sec. 51.302,
24 Government Code) . . . not to exceed \$5;

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

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

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

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

10 (D) on the filing of any civil action or
11 proceeding requiring a filing fee, including an appeal, and on the
12 filing of any counterclaim, cross-action, intervention,
13 interpleader, or third-party action requiring a filing fee, to fund
14 civil legal services for the indigent:

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

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

21 (6) for filing a suit, including an appeal from an
22 inferior court:

23 (A) for a suit with 10 or fewer plaintiffs (Sec.
24 51.317, Government Code) . . . \$50;

25 (B) for a suit with at least 11 but not more than
26 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;

27 (C) for a suit with at least 26 but not more than

1 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;

2 (D) for a suit with at least 101 but not more
3 than 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;

4 (E) for a suit with at least 501 but not more than
5 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or

6 (F) for a suit with more than 1,000 plaintiffs
7 (Sec. 51.317, Government Code) . . . \$200;

8 (7) for filing a cross-action, counterclaim,
9 intervention, contempt action, motion for new trial, or third-party
10 petition (Sec. 51.317, Government Code) . . . \$15;

11 (8) for issuing a citation or other writ or process not
12 otherwise provided for, including one copy, when requested at the
13 time a suit or action is filed (Sec. 51.317, Government
14 Code) . . . \$8;

15 (9) for records management and preservation (Sec.
16 51.317, Government Code) . . . \$10;

17 (10) for issuing a subpoena, including one copy (Sec.
18 51.318, Government Code) . . . \$8;

19 (11) for issuing a citation, commission for
20 deposition, writ of execution, order of sale, writ of execution and
21 order of sale, writ of injunction, writ of garnishment, writ of
22 attachment, or writ of sequestration not provided for in Section
23 51.317, or any other writ or process not otherwise provided for,
24 including one copy if required by law (Sec. 51.318, Government
25 Code) . . . \$8;

26 (12) for searching files or records to locate a cause
27 when the docket number is not provided (Sec. 51.318, Government

1 Code) . . . \$5;

2 (13) for searching files or records to ascertain the
3 existence of an instrument or record in the district clerk's office
4 (Sec. 51.318, Government Code) . . . \$5;

5 (14) for abstracting a judgment (Sec. 51.318,
6 Government Code) . . . \$8;

7 (15) for approving a bond (Sec. 51.318, Government
8 Code) . . . \$4;

9 (16) for a certified copy of a record, judgment,
10 order, pleading, or paper on file or of record in the district
11 clerk's office, including certificate and seal, for each page or
12 part of a page (Sec. 51.318, Government Code) . . . \$1;

13 (17) for a noncertified copy, for each page or part of
14 a page (Sec. 51.318, Government Code) . . . not to exceed \$1;

15 (18) jury fee (Sec. 51.604, Government
16 Code) . . . \$30;

17 (19) for filing a report of divorce or annulment (Sec.
18 194.002, Health and Safety Code) . . . \$1;

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

21 (21) additional filing fee for family protection on
22 filing a suit for dissolution of a marriage under Chapter 6, Family
23 Code, if authorized by the county commissioners court (Sec. 51.961,
24 Government Code) . . . not to exceed \$15;

25 (22) fee on filing a suit for dissolution of a marriage
26 for services of child support department in Harris County, if
27 authorized by the county commissioners court (Sec. 152.1074, Human

1 Resources Code) . . . not to exceed \$12;

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

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

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

10 (26) court costs on citation for contempt of court in
11 Orange County for failure to comply with a child support order or
12 order providing for possession of or access to a child (Sec.
13 152.1873, Human Resources Code) . . . amount determined by
14 district clerk;

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

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

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

23 (30) additional filing fee for filing documents not
24 subject to certain filing fees to fund the courthouse security
25 fund, if authorized by the county commissioners court (Sec.
26 291.008, Local Government Code) . . . \$1;

27 (31) additional filing fee to fund the courthouse

1 security fund in Webb County, if authorized by the county
2 commissioners court (Sec. 291.009, Local Government
3 Code) . . . not to exceed \$20;

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

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

11 (34) at a hearing held by an associate judge in Dallas
12 County, a court cost to preserve the record, in the absence of a
13 court reporter, by other means (Sec. 54.509, Government
14 Code) . . . as assessed by the referring court or associate judge;
15 ~~and~~

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

21 (36) court costs and attorney's fees in an eminent
22 domain proceeding (Sec. 21.066, Property Code) . . . as taxed by
23 the court and reasonable, respectively.

24 SECTION 5. Section 101.081, Government Code, is amended to
25 read as follows:

26 Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS. The
27 clerk of a statutory county court shall collect fees and costs as

1 follows:

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

6 (2) appellate judicial system filing fees:

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

9 (B) Second Court of Appeals District (Sec.
10 22.2031, Government Code) . . . not more than \$5;

11 (C) Fourth Court of Appeals District (Sec.
12 22.2051, Government Code) . . . not more than \$5;

13 (D) Fifth Court of Appeals District (Sec.
14 22.2061, Government Code) . . . not more than \$5; and

15 (E) Thirteenth Court of Appeals District (Sec.
16 22.2141, Government Code) . . . not more than \$5;

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

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

22 (5) a stenographer fee, if a record or part of a record
23 is made:

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

26 (B) in a county court at law in Nolan County (Sec.
27 25.1792, Government Code) . . . \$25;

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

3 (7) an additional filing fee:

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

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

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

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

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

22 (10) fee for prosecutor's services on an application
23 for court-ordered mental health services (Sec. 574.031, Health and
24 Safety Code) . . . not to exceed \$50;

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

27 (12) additional filing fee to fund contingency fund

1 for liability insurance, if authorized by the county commissioners
2 court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

3 (13) civil court actions (Sec. 118.052, Local
4 Government Code):

5 (A) filing of original action (Secs. 118.052 and
6 118.053, Local Government Code):

7 (i) garnishment after judgment (Sec.
8 118.052, Local Government Code) . . . \$15; and

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

11 (B) filing of action other than original (Secs.
12 118.052 and 118.054, Local Government Code) . . . \$30; and

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

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

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

19 (14) probate court actions (Sec. 118.052, Local
20 Government Code):

21 (A) probate original action (Secs. 118.052 and
22 118.055, Local Government Code):

23 (i) probate of a will with independent
24 executor, administration with will attached, administration of an
25 estate, guardianship or receivership of an estate, or muniment of
26 title (Sec. 118.052, Local Government Code) . . . \$40;

27 (ii) community survivors (Sec. 118.052,

- 1 Local Government Code) . . . \$40;
- 2 (iii) small estates (Sec. 118.052, Local
3 Government Code) . . . \$40;
- 4 (iv) declarations of heirship (Sec.
5 118.052, Local Government Code) . . . \$40;
- 6 (v) mental health or chemical dependency
7 services (Sec. 118.052, Local Government Code) . . . \$40; and
- 8 (vi) additional, special fee (Secs. 118.052
9 and 118.064, Local Government Code) . . . \$5;
- 10 (B) services in pending probate action (Secs.
11 118.052 and 118.056, Local Government Code):
- 12 (i) filing an inventory and appraisement
13 after the 120th day after the date of the initial filing of the
14 action (Sec. 118.052, Local Government Code) . . . \$25;
- 15 (ii) approving and recording bond (Sec.
16 118.052, Local Government Code) . . . \$3;
- 17 (iii) administering oath (Sec. 118.052,
18 Local Government Code) . . . \$2;
- 19 (iv) filing annual or final account of
20 estate (Sec. 118.052, Local Government Code) . . . \$25;
- 21 (v) filing application for sale of real or
22 personal property (Sec. 118.052, Local Government Code) . . . \$25;
- 23 and
- 24 (vi) filing annual or final report of
25 guardian of a person (Sec. 118.052, Local Government
26 Code) . . . \$10;
- 27 (C) adverse probate action (Secs. 118.052 and

1 118.057, Local Government Code) . . . \$40; and
2 (D) claim against estate (Secs. 118.052 and
3 118.058, Local Government Code) . . . \$2;
4 (15) other fees (Sec. 118.052, Local Government Code):
5 (A) issuing document (Secs. 118.052 and 118.059,
6 Local Government Code):
7 (i) original document and one copy (Sec.
8 118.052, Local Government Code) . . . \$4; and
9 (ii) each additional set of an original and
10 one copy (Sec. 118.052, Local Government Code) . . . \$4;
11 (B) certified papers (Secs. 118.052 and 118.060,
12 Local Government Code):
13 (i) for the clerk's certificate (Sec.
14 118.052, Local Government Code) . . . \$5; and
15 (ii) a fee per page or part of a page (Sec.
16 118.052, Local Government Code) . . . \$1;
17 (C) noncertified papers, for each page or part of
18 a page (Secs. 118.052 and 118.0605, Local Government
19 Code) . . . \$1;
20 (D) letters testamentary, letter of
21 guardianship, letter of administration, or abstract of judgment
22 (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;
23 (E) safekeeping of wills (Secs. 118.052 and
24 118.062, Local Government Code) . . . \$5;
25 (F) mail service of process (Secs. 118.052 and
26 118.063, Local Government Code) . . . same as sheriff; and
27 (G) records management and preservation fee

1 (Secs. 118.052, 118.0546, and 118.0645, Local Government
2 Code) . . . \$5;

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

6 (17) additional filing fee for filing documents not
7 subject to certain filing fees to fund the courthouse security
8 fund, if authorized by the county commissioners court (Sec.
9 291.008, Local Government Code) . . . \$1;

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

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

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

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

23 (21-a) court costs and attorney's fees in an eminent
24 domain proceeding (Sec. 21.066, Property Code) . . . as taxed by
25 the court and reasonable, respectively; and

26 (22) fee for county attorney in a suit regarding a
27 railroad company's failure to keep roadbed and right-of-way in

1 proper condition (Art. 6327, Vernon's Texas Civil
2 Statutes) . . . \$10.

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

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