

## BILL ANALYSIS

C.S.H.B. 1495  
By: Callegari  
Land & Resource Management  
Committee Report (Substituted)

### BACKGROUND AND PURPOSE

Currently, state law requires limited disclosure regarding a property owners' rights during a condemnation proceeding. Although Chapter 21, Property Code (Chapter 21), requires certain notices and disclosures to property owners, the law does not require that these property owners be informed of their statutory and constitutional rights. In addition, while judicial decisions have created additional protections for these property owners, this knowledge may not be readily understood by many landowners. Some affected property owners may decide to hire legal counsel to advise them of their rights and options during a condemnation proceeding. While such counsel may assist a property owner during a condemnation proceeding, this benefit is mitigated by the costs of attorney's fees and court costs.

The purpose of C.S.H.B. 1495 is to require that landowners affected by a potential condemnation receive a written statement of their rights and options as provided by state law.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### ANALYSIS

SECTION 1. Provides that this Act may be cited as the Landowner's Bill of Rights Act.

SECTION 2. *Amends Subchapter B, Chapter 402, Government Code, by adding Section 402.031, as follows:*

Requires the attorney general (AG) to prepare a written statement that includes a bill of rights for a property owner whose real property may be acquired by a governmental or private entity through the use of the entity's eminent domain authority under Chapter 21.

Requires the landowner's bill of rights to notify each property owner that the property owner has the right to notice of the proposed acquisition of the owner's property; a bona fide good faith effort to negotiate by the entity proposing to acquire the property; an assessment of damages to the owner that will result from the taking of the property; a hearing under Chapter 21, including a hearing on the assessment of damages; and an appeal of a judgment in a condemnation proceeding, including an appeal of an assessment of damages.

Requires the statement to include both the title, "Landowner's Bill of Rights"; and a description of the condemnation procedure provided by Chapter 21; the condemning entity's obligations to the property owner; and the property owner's options during a condemnation, including the property owner's right to object to and appeal an amount of damages awarded.

Requires the office of the AG to both write the statement in plain language designed to be easily understood by the average property owner and make the statement available on the attorney general's Internet website.

SECTION 3. *Amends Subchapter B, Chapter 21, Property Code, by adding Section 21.0112, as follows:*

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Requires that before a governmental or private entity with eminent domain authority begins negotiating with a property owner to acquire real property, the entity must send or provide a landowner's bill of rights statement provided by the new Section 402.031, Government Code, to the person in whose name the property is listed on the most recent tax roll of any appropriate taxing unit authorized by law to levy property taxes against the property.

Requires the statement to be both printed in an easily readable font and type size and if the entity is a governmental entity, made available on the Internet website of the entity, if technologically feasible.

SECTION 4. *Amends Section 21.012(b), Property Code, as follows:*

Requires that a condemnation petition provided by a condemning entity before an appropriate court include the statement that the entity provided the property owner with a copy of the landowner bill of rights statement.

SECTION 5. Requires the AG to prepare the landowner's bill of rights statement required by the new Section 402.031, Government Code, as added by this Act, not later than August 31, 2007.

SECTION 6. Provides that the changes in law made by this Act apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding are governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 7. Effective Date.

**EFFECTIVE DATE**

September 1, 2007.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

SECTION 1. No change from the Original to the Committee Substitute.

SECTION 2. No change from the Original to the Committee Substitute.

SECTION 3. The Committee Substitute removes language in the Original requiring that the landowner's bill of rights statement be provided at least four weeks before the entity with eminent domain authority intends to begin negotiations for a taking.

The Committee Substitute removes the requirement in the Original that the statement be provided by certified mail, return receipt requested.

The Committee Substitute removes language in the Original exempting private utilities from the Act's requirements.

SECTION 4. No change from the Original to the Committee Substitute.

SECTION 5. No change from the Original to the Committee Substitute.

SECTION 6. No change from the Original to the Committee Substitute.

SECTION 7. No change from the Original to the Committee Substitute.