

BILL ANALYSIS

C.S.H.B. 1659
By: King, Phil
Regulated Industries
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law has few procedural safeguards in place for a property owner who is having his property condemned by a common carrier pipeline. For example, a property owner is not entitled to notice of the intent of the common carrier to initiate the condemnation, fair notice of the scheduled hearing on the condemnation, the ability to object to a commissioner who may have a conflict of interest, or a reasonable delay to prepare for the condemnation proceeding.

C.S.H.B. 1659 proposes to add procedural safeguards to the condemnation process when a pipeline common carrier initiates a condemnation proceeding.

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. Amends Subchapter B, Chapter 111, Natural Resources Code, by adding Section 111.0195 to as follows:

- (a) The new section only applies to a condemnation proceeding initiated by a common carrier, as that term is defined by Section 111.002, Natural Resources Code.
- (b) Requires a common carrier that intends to exercise the power of eminent domain to serve the owner of the property to be acquired with notice that the common carrier intends to initiate condemnation proceedings on or before the date the common carrier files a condemnation petition.
- (c) Requires the special commissioners in an eminent domain proceeding to which this new section applies to not schedule a hearing to assess damages before the 30th day after the date of the special commissioners' appointment and they must serve a property owner with notice informing the property owner of the time and place of the hearing not later than the 21st day before the date set for the hearing.
- (d) Allows a court that has jurisdiction over a condemnation proceeding to appoint a replacement special commissioner if the property owner or the common carrier objects to the appointment of a special commissioner by filing a written statement of the person's objections on the grounds of a conflict of interest or for other good cause. The court must determine in a hearing that good cause is shown for replacement of a special commissioner.
- (e) Allows the special commissioners to delay scheduling a hearing for a reasonable period if, by motion to the court that has jurisdiction over the condemnation proceeding, the property owner requests and is granted a delay by the court for good cause shown.
- (f) Says that a notice required under this section must be served by regular mail and certified mail, return receipt requested to the property owner.

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(g) Places the burden of proof on a common carrier to establish that a property owner was provided the notice required by Subsection (b).

SECTION 2. The changes in the law made by this Act apply only to condemnation proceedings in which the petition is filed on or after the effective date of the Act and only to property condemned through the proceeding. Petition filed prior to the effective date of the Act and property condemned through the proceeding are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Section 111.0195 (d) The substitute adds that the common carrier may also file a written statement of their objections to the appointment of a special commissioner to the court that has jurisdiction over the condemnation proceeding. The original only allowed the property owner to do this.

Section 111.0195 (e) The substitute rewords the subsection to read more clearly. Non-substantive change.

Section 111.0195 (g) The substitute says that the burden of proof is on a common carrier to establish that notice was provided to the landowner as provided by Subsection (b). The original stated that the common carrier had the burden of proof to establish that the property owner received notice required by Subsection (b).