

BILL ANALYSIS

Senate Research Center

S.B. 1711
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Transportation & Homeland Security
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, special commissioners who preside over condemnation hearings (special commissioners) are not authorized to consider diminished access to the highway and to or from the remaining property and its affect on the present market value of the property when determining the actual fair market value of the property for ad valorem tax purposes. Furthermore, current law does not require, in counties with a population of less than 50,000, that access to a new controlled access highway be provided at certain intervals. Diminished access can have a significant impact on valuation and therefore should be considered. Access to a controlled access highway is also vital for transportation purposes in many counties.

As proposed, S.B. 1711 requires the special commissioners to consider diminished access to the highway and to or from the remaining property and its affect on the present market value of the property when determining the actual fair market value of the property for ad valorem tax purposes. This bill also requires, in counties with a population of less than 50,000, access to new controlled access highways to be provided at intervals not to exceed five miles.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Repealer: Section 203.0521(b-1) (regarding the acquisition of a tract of real property), Transportation Code.

SECTION 2. Amends Section 21.042(e), Property Code, as follows:

(e) Requires the special commissioners who preside over condemnation hearings (special commissioners), if a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284 (Causeways, Bridges, Tunnels, Turnpikes, Ferries, and Highways in Certain Counties), Transportation Code, that is eligible for designation as part of the state highway system, to consider any diminished access to the highway and to or from the remaining property to the extent that it affects the present market value of the real property, including any factors considered when determining actual fair market value of property for ad valorem tax purposes.

Deletes existing text requiring the special commissioners, if a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system or for the use, construction, development, operation, or maintenance of an improvement or project by a metropolitan rapid transit authority created before January 1, 1980, with a principal municipality having a population of less than 1.9 million and established under Chapter 451 (Metropolitan Rapid Transit Authorities), Transportation Code, to determine the damage to the property owner regardless of whether the property owner makes a claim for damages to the remaining property.

Deletes existing text requiring the special commissioners to consider any special and direct benefits that arise from the highway improvement or the transit authority or project that are peculiar to the property owner and that relate to the property owner's ownership, use or enjoyment of the particular parcel of remaining real property.

SECTION 3. Amends Section 203.034, Transportation Code, as follows:

Sec. 203.034. RIGHT TO ACCESS; DAMAGES FOR DENIAL OF ACCESS. (a)
Creates this subsection from existing text.

(b) Requires access to a new controlled access highway location to be provided at intervals not to exceed five miles in a county with a population of less than 50,000. Deletes existing text providing that denial of access to or from a new controlled access highway location is not a ground for special or exemplary damages unless certain circumstances apply.

(c) Requires damages for loss of access or diminished access to be considered by the special commissioners in a condemnation hearing to the extent that it affects the present market value of the real property, including any factors considered when determining actual fair market value of property for ad valorem tax purposes.

SECTION 4. Effective date: September 1, 2007.