

By: King of Parker, Flynn

H.B. No. 1387

A BILL TO BE ENTITLED

AN ACT

1
2 relating to requiring a school district to provide for a
3 feasibility study before acquiring title to real property through
4 eminent domain.

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

6 SECTION 1. Section 11.155, Education Code, is amended by
7 adding Subsection (a-1) to read as follows:

8 (a-1) A school district that intends to acquire title under
9 this section to real property, other than real property that is less
10 than one acre or that is adjacent to real property the district
11 already owns, must provide for a study as prescribed by Section
12 11.1551 to determine the feasibility of acquiring title to the
13 property.

14 SECTION 2. Subchapter D, Chapter 11, Education Code, is
15 amended by adding Section 11.1551 to read as follows:

16 Sec. 11.1551. FEASIBILITY STUDY REQUIRED TO ACQUIRE TITLE
17 BY EMINENT DOMAIN. (a) In this section, "permit" means a license,
18 certificate, approval, registration, consent, permit, contract, or
19 other form of authorization required by law, rule, regulation,
20 order, or ordinance before a person may perform an action or
21 initiate, continue, or complete a project for which the permit is
22 sought.

23 (b) Before a school district may acquire title to real
24 property under Section 11.155, the school district must order a

1 feasibility study.

2 (c) The feasibility study must be approved by an engineer
3 licensed under Chapter 1001, Occupations Code, or an architect
4 registered under Chapter 1051, Occupations Code.

5 (d) The study must include:

6 (1) an analysis of the specific site the school
7 district intends to acquire and a comparative analysis of at least
8 two suitable sites in the geographic area in which the school
9 district intends to acquire real property, except that the study
10 may include a comparative analysis of a single available site if the
11 district shows that the site is the only suitable site in the
12 geographic area in which the school district intends to acquire
13 real property;

14 (2) an analysis, including a demographic analysis if
15 the property is intended as the site of an instructional facility,
16 to determine whether the district will need the property on or
17 before the 10th anniversary of the date the study is completed;

18 (3) a site analysis identifying any physical feature
19 of a proposed site or the surrounding area that may affect
20 development;

21 (4) an analysis of zoning, platting, and comprehensive
22 plan requirements and restrictions affecting a proposed site,
23 including the costs of any necessary permits;

24 (5) an analysis of water, sewer, gas, electric, and
25 telecommunications availability for a proposed site and the cost of
26 providing those services;

27 (6) an analysis of roadway access and master

1 thoroughfare plan requirements for a proposed site and the cost of
2 any necessary extensions, including the cost of acquiring
3 right-of-way access;

4 (7) an analysis of wetlands, waters of the United
5 States, and floodplains that may affect a proposed site, including
6 an estimate of the cost to mitigate or reclaim the site;

7 (8) an analysis of drainage patterns and requirements
8 affecting a proposed site, including the cost of providing any
9 necessary drainage;

10 (9) an analysis of conceptual grading plans for a
11 proposed site, including total earthwork requirements and the
12 estimated cost of site development;

13 (10) a summary of any permits required for development
14 of a proposed site;

15 (11) a cost-benefit analysis that:

16 (A) summarizes the overall cost and benefit to
17 the school district of acquiring and developing a proposed site;
18 and

19 (B) accounts for any loss of tax revenue to each
20 taxing unit as defined by Section 1.04, Tax Code, in which the
21 proposed site is located that would result from converting taxable
22 development property, based on projected land use as shown on
23 existing zoning or comprehensive plans, to public use;

24 (12) the identity of each of the property owners of
25 each subject property;

26 (13) the appraised value of each subject property, as
27 assessed by the local appraisal district; and

1 (14) any offers to sell, including the proposed sale
2 price, of each subject property.

3 (e) If a determination is made under Subsection (d)(2) that
4 the property will not be needed before the 10th anniversary of the
5 date the study is completed, the study must provide an adequate
6 justification for immediate acquisition of the property.

7 (f) For purposes of Subsection (d)(11)(A), if property is
8 currently being developed, the study must also account for, as
9 district costs, accrued interest charges and the costs of
10 consultants, attorneys, studies performed, zoning changes, permit
11 processes, plan preparation, and any other reasonable costs of
12 development that have accrued to the owners of the property or their
13 successors or assigns. In this subsection, property currently
14 being developed is any property for which a permit has been
15 obtained, property that is included in a municipal annexation plan
16 or proposed for annexation, and property that is undergoing
17 physical development.

18 (g) A school district that provides for a study under this
19 section may attempt to contract with a historically underutilized
20 business, as defined by Section 2161.001, Government Code, to
21 perform the study.

22 SECTION 3. The change in law made by this Act applies to a
23 petition to condemn property that is filed on or after the effective
24 date of this Act. A petition to condemn property that is filed
25 before the effective date of this Act is governed by the law in
26 effect when the petition was filed, and the former law is continued
27 in effect for that purpose.

1 SECTION 4. This Act takes effect September 1, 2007.