

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 Section (a-1) to read as follows:

8 (a-1) A school district that intends to acquire title to  
9 real property under this section must provide for a study as  
10 prescribed by Section 11.1551 to determine the feasibility of  
11 acquiring title to the property.

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

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

21 (b) Before a school district may acquire title to real  
22 property under Section 11.155, the school district must order a  
23 feasibility study.

24 (c) The feasibility study must be performed by an engineer

1 licensed under Chapter 1001, Occupations Code, or an architect  
2 registered under Chapter 1051, Occupations Code.

3 (d) The study must include:

4 (1) a comparative analysis of available sites in the  
5 geographic area in which the school district intends to acquire  
6 real property;

7 (2) an analysis, including a demographic analysis if  
8 the property is intended as the site of an instructional facility,  
9 to determine whether the district will need the property on or  
10 before the third anniversary of the date the study is completed;

11 (3) a site analysis identifying any physical feature  
12 of a proposed site or the surrounding area that may affect  
13 development;

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

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

20 (6) an analysis of roadway access and master  
21 thoroughfare plan requirements for a proposed site and the cost of  
22 any necessary extensions, including the cost of acquiring  
23 right-of-way access;

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

27 (8) an analysis of drainage patterns and requirements

1 affecting a proposed site, including the cost of providing any  
2 necessary drainage;

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

6 (10) a summary of any permits required for development  
7 of a proposed site; and

8 (11) a cost-benefit analysis that:

9 (A) summarizes the overall cost to the school  
10 district of acquiring and developing a proposed site; and

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

16 (e) If a determination is made under Subsection (d)(2) that  
17 the property will not be needed before the third anniversary of the  
18 date the study is completed, the study must provide an adequate  
19 justification for immediate acquisition of the property.

20 (f) For purposes of Subsection (d)(11)(A), if property is  
21 currently being developed, the study must also account for, as  
22 district costs, accrued interest charges and the costs of  
23 consultants, attorneys, studies performed, zoning changes, permit  
24 processes, plan preparation, and any other reasonable costs of  
25 development that have accrued to the owners of the property or their  
26 successors or assigns. In this subsection, property currently  
27 being developed is any property for which a permit has been

1 obtained, property that is included in a municipal annexation plan  
2 or proposed for annexation, and property that is undergoing  
3 physical development.

4 SECTION 3. The change in law made by this Act applies to a  
5 petition to condemn property that is filed on or after the effective  
6 date of this Act. A petition to condemn property that is filed  
7 before the effective date of this Act is governed by the law in  
8 effect when the petition was filed, and the former law is continued  
9 in effect for that purpose.

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