

By: King of Parker

H.B. No. 1559

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the assessment of damages and award of costs and fees in  
3 the condemnation of property by certain common carriers.

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

5 SECTION 1. Subchapter C, Chapter 21, Property Code, is  
6 amended by adding Section 21.0415 to read as follows:

7 Sec. 21.0415. CONDEMNATION BY CERTAIN ENTITIES: EVIDENCE;  
8 ASSESSMENT OF DAMAGES. (a) The legislature determines that,  
9 because the negotiation, acquisition, exploration, exploitation,  
10 or disposition of petroleum, natural gas, or mineral interests in  
11 real property in this state and the intense concentration of  
12 drilling or mining in this state are at a level that affects  
13 property values in dramatic ways, special evidentiary and damages  
14 provisions are necessary in proceedings to condemn property for  
15 those purposes to adequately protect property owners and minimize  
16 the negative impacts on this state and are a matter of statewide  
17 importance.

18 (b) This section applies only to the condemnation of  
19 property by a common carrier subject to Chapter 111, Natural  
20 Resources Code, and Section B(3)(b), Article 2.01, Texas Business  
21 Corporation Act.

22 (c) Section 21.041 does not apply to a condemnation  
23 proceeding to which this section applies.

24 (d) As the basis for assessing damages to a property owner

1 from a condemnation of property to which this section applies, the  
2 special commissioners shall admit evidence on:

3 (1) the value of the property being condemned;

4 (2) each injury or loss to the property owner that a  
5 reasonably prudent person would consider in a privately negotiated  
6 transaction for the sale of the property;

7 (3) if the property owner claims that the owner's  
8 remaining property will be damaged by the condemnation, each  
9 benefit, if any, to the property owner's remaining property that a  
10 reasonably prudent person would consider in a privately negotiated  
11 transaction for the sale of the property; and

12 (4) if the special commissioners can reasonably infer  
13 that revenues will be generated that are directly attributable to  
14 the project for which the property is being condemned, the value of  
15 the property when used for the purpose for which the property is  
16 being condemned.

17 (e) Notwithstanding the other provisions of this  
18 subchapter, damages assessed for condemnation of property to which  
19 this section applies:

20 (1) must be in an amount that constitutes adequate  
21 compensation for the property owner for the condemnation; and

22 (2) may not be less than the sum of:

23 (A) the market value of the property being  
24 condemned; and

25 (B) the diminution in the market value of any of  
26 the property owner's property that is not condemned but is damaged  
27 by the condemnation.

1           SECTION 2. Section 21.047, Property Code, is amended by  
2 adding Subsection (d) to read as follows:

3           (d) If a condemnor of property to which Section 21.0415  
4 applies is liable for costs under Subsection (a), the condemnor is  
5 also liable for any other costs incurred by the property owner in  
6 the condemnation proceedings, including attorney's fees and  
7 expert's fees.

8           SECTION 3. The change in law made by this Act applies only  
9 to a condemnation proceeding in which the condemnation petition is  
10 filed on or after the effective date of this Act. A condemnation  
11 proceeding pending on the effective date of this Act is governed by  
12 the law in effect immediately before the effective date of this Act,  
13 and that law is continued in effect for that purpose.

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