

By: King of Parker, Flynn

H.B. No. 1659

Substitute the following for H.B. No. 1659:

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C.S.H.B. No. 1659

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures in an eminent domain proceeding initiated by
3 certain common carriers.

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

5 SECTION 1. Subchapter B, Chapter 111, Natural Resources
6 Code, is amended by adding Section 111.0195 to read as follows:

7 Sec. 111.0195. RIGHT OF EMINENT DOMAIN: ADDITIONAL
8 PROCEDURES. (a) This section applies only to a condemnation
9 proceeding initiated by a common carrier, as that term is defined by
10 Section 111.002, Natural Resources Code.

11 (b) A common carrier that intends to exercise the power of
12 eminent domain must serve the owner of the property to be acquired
13 with notice that the common carrier intends to initiate
14 condemnation proceedings on or before the date the common carrier
15 files a condemnation petition.

16 (c) The special commissioners in an eminent domain
17 proceeding to which this section applies:

18 (1) may not schedule a hearing to assess damages
19 before the 30th day after the date of the special commissioners'
20 appointment; and

21 (2) must serve a property owner with notice informing
22 the property owner of the time and place of the hearing not later
23 than the 21st day before the date set for the hearing.

24 (d) A court that has jurisdiction over a condemnation

1 proceeding may appoint a replacement special commissioner if:

2 (1) the property owner or the common carrier objects
3 to the appointment of a special commissioner by filing a written
4 statement of the person's objections on the grounds of:

5 (A) a conflict of interest; or

6 (B) other good cause; and

7 (2) the court determines in a hearing that good cause
8 is shown.

9 (e) The special commissioners may delay scheduling a
10 hearing for a reasonable period if, by motion to the court that has
11 jurisdiction over the condemnation proceeding, the property owner
12 requests and is granted a delay by the court for good cause shown.

13 (f) A notice required under this section must be served by:

14 (1) regular mail; and

15 (2) certified mail, return receipt requested, to the
16 property owner.

17 (g) A common carrier has the burden of proof to establish
18 that notice was provided as required by Subsection (b).

19 SECTION 2. The changes in law made by this Act apply only to
20 a condemnation proceeding in which the petition is filed on or after
21 the effective date of this Act and to any property condemned through
22 the proceeding. A condemnation proceeding in which the petition is
23 filed before the effective date of this Act and any property
24 condemned through the proceeding is governed by the law in effect
25 immediately before that date, and that law is continued in effect
26 for that purpose.

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