

By: Hegar

S.B. No. 1711

A BILL TO BE ENTITLED

AN ACT

relating to access to the state highway system and damages for diminished access to the state highway system.

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

SECTION 1. Subsection (b-1), Section 203.0521, Transportation Code, is repealed.

SECTION 2. Subsection (E), Section 21.042, Property Code, is amended to read as follows:

(e) 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, the special commissioners shall 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 ~~[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, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a~~

1 ~~claim for damages to the remaining property. In awarding~~  
2 ~~compensation or assessing the damages, the special commissioners~~  
3 ~~shall consider any special and direct benefits that arise from the~~  
4 ~~highway improvement or the transit authority improvement or project~~  
5 ~~that are peculiar to the property owner and that relate to the~~  
6 ~~property owner's ownership, use, or enjoyment of the particular~~  
7 ~~parcel of remaining real property].~~

8 SECTION 3. Section 203.034, Transportation Code, is amended  
9 to read as follows:

10 Sec. 203.034. RIGHT TO ACCESS; DAMAGES FOR DENIAL OF  
11 ACCESS. (a) An owner of real property adjoining a new controlled  
12 access highway location is not entitled to access to the new highway  
13 location as a matter of right.

14 (b) In a county with a population of less than 50,000,  
15 access shall be provided at intervals not to exceed five miles  
16 ~~[Denial of access to or from a new controlled access highway~~  
17 ~~location is not a ground for special or exemplary damages unless:~~

18 ~~[(1) in connection with the purchase or condemnation~~  
19 ~~of the real property adjoining the new controlled access highway~~  
20 ~~location and to be used in the new highway location, the commission~~  
21 ~~specifically authorizes access to or from particular real property~~  
22 ~~adjoining the new highway location; and~~

23 ~~[(2) the commission denies highway access to or from~~  
24 ~~the particular land where the real property adjoins the new~~  
25 ~~highway].~~

26 (c) Damages for loss of access or diminished access shall be  
27 considered by the special commissioners in a condemnation hearing

1 to the extent that it affects the present market value of the real  
2 property, including any factors considered when determining actual  
3 fair market value of property for ad valorem tax purposes.

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