

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 27, 2007

TO: Honorable Anna Mowery, Chair, House Committee on Land & Resource Management

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1409 by Cook, Robby (Relating to the procedure for the initiation of and the award of certain costs in eminent domain proceedings.), **As Introduced**

The amount of additional costs and overall negative fiscal impact to a condemnor under the circumstances described in the bill would vary by condemnor and by case, and therefore cannot be estimated.

The bill would amend the Property Code relating to procedures and awards of costs in eminent domain proceedings, including requiring adequate compensation for property acquired through eminent domain. Adequate compensation may not be determined to be an amount that is less than the sum of the fair market value and any decrease in the market value of any part of the property that is not acquired. Expected value of the property, if the acquiring entity intends to use the property in a manner that will generate revenue, must also be considered by a special commission when determining how much to assess damages to a property owner from condemnation.

If a special commission were to award greater damages than the condemnor had offered the property owner, the bill would require the condemnor to pay any reasonable attorney's and expert fees incurred by the property owner.

Court costs for each special commissioner in an eminent domain proceeding would be taxed by a district court at \$10 or more, to be collected by the district court clerk. (This fee is authorized under current statute only in statutory county courts.) The applicable court clerk would also be responsible for collecting court costs, attorneys fees, and expert fees as taxed by the court.

Although a negative fiscal impact would be realized for any eminent domain proceedings where an amount awarded by a court or special commissioners would exceed the amount the condemnor offered to the property owner prior to the start of a proceeding, the number of such proceedings can not be determined.

The bill would take effect September 1, 2007.

Local Government Impact

The amount of additional costs to a condemnor under the circumstances described in the bill would vary by condemnor and by case, and therefore cannot be estimated. The fiscal impact to the district or county clerks' offices for collecting the court costs and attorney's fees would be insignificant.

Source Agencies: 601 Department of Transportation

LBB Staff: JOB, WK, JB, DB, MW