

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**  
**Revision 2**

**May 3, 2007**

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

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

**IN RE: HB2006** by Woolley (Relating to the use of eminent domain authority.), **As Introduced**

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

The bill would amend the Government Code to require a governmental entity that attempts to exercise the power of eminent domain for a public use to prove by clear and convincing evidence that the entity's proposed use for the property is a public use as defined in the proposed statute and the taking, damage, or destruction of the property is necessary for the proposed use.

The bill would amend the Local Government Code to prohibit a local political subdivision from exercising the power of eminent domain unless the entity is governed by an elected official of this state, and then could exercise eminent domain only if the entity obtains and submits in addition to the condemnation petition written approval from the applicable county commissioners court.

The bill would amend the Local Government Code to limit to five years validity a determination by a municipality that a unit of real property has the characteristics of blight or a slum, although a new determination may be made for another five years.

The bill would amend the Property Code to require an entity prior to exercising the power of eminent domain to make a bona fide good faith effort to acquire the property by voluntary purchase or lease. The Property Code would also be amended to require governmental entities to notify landowners whose property was acquired by the entity through eminent domain of their right to repurchase real property if the property is not used for the purpose for which it was condemned within five years. The sale price would be the original price that was paid when the property was condemned, provided that a constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, takes effect to allow a governmental entity to sell such property to the previous owners at the price paid when the property was condemned. Otherwise the bill would specify a purchase price based on the fair market value at the time the property becomes eligible for repurchase under the provisions of the bill.

The bill would amend the Property Code to specify that the special commissioners in a condemnation proceeding may consider any evidence that a property owner would consider in a negotiated transaction relating to the value of the property being condemned that is not subject to Chapter 21 of the Property Code when assessing actual damages to a property owner from a condemnation.

Based on the analysis of TxDOT, it is assumed the provisions of the bill would result in increased costs for the acquisition of highway right of way through condemnation. Because the factors considered in evaluating the value of the property to be condemned would vary by case, any additional costs or negative fiscal implications to the state cannot be determined.

Except as otherwise provided by the bill, the bill would take effect on September 1, 2007. Certain provisions of the bill relating to the resale of property acquired through eminent domain to previous owners would either take effect on the date on which the proposed constitutional amendment takes effect or, if the proposed constitutional amendment does not take effect, on January 1, 2008.

## **Local Government Impact**

As with the state impact, the local government fiscal impact regarding requirements prior to exercising eminent domain would vary depending on the number of situations in which the entity would seek to exercise its eminent domain authority. In addition, the fiscal impact regarding the resale of property and notification of resale as an option, would vary depending on the number of parcels of land to which the criteria would apply and to the number of eligible persons who would seek to repurchase land previously acquired by the local entity through eminent domain. Actual amounts are not known, but as an example, Harris County reports having condemned 460 parcels at an aggregate market value of \$108 million between calendar years 2002 and 2006.

**Source Agencies:** 601 Department of Transportation

**LBB Staff:** JOB, SD, WK, MW, TG, DB