

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 20, 2007

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

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

IN RE: HJR11 by Corte, Frank (Proposing a constitutional amendment to limit the public taking of private property.), **As Introduced**

Fiscal implications to the state, other than the cost of publication, cannot be determined.

The cost to the state for publication of the resolution is \$77,468.

The resolution would propose an amendment to the Texas Constitution to specify that the taking of private property is authorized only if it is necessary for the possession, occupation, and enjoyment of the public at large or by the state or a political subdivision of the state. The resolution would also amend the Texas Constitution to require the state or a political subdivision to provide clear and convincing evidence that the use of the property to be taken is public and necessary.

Based on the analysis of the Texas Department of Transportation, it is assumed that the constitutional amendment could affect the state's use of eminent domain for transportation-related purposes.

The proposed constitutional amendment would take effect if approved by voters at an election to be held on November 6, 2007.

Local Government Impact

If the voters were to approve the constitutional amendment, a political subdivision would incur legal costs associated with proving by clear and convincing evidence that the contemplated use of property to be taken is public and necessary. The annual costs would vary, depending on the number of parcels for which an entity seeks to exercise eminent domain. If there are a high number of proposed takings anticipated, the additional costs would include additional staff.

Source Agencies: 305 General Land Office and Veterans' Land Board, 601 Department of Transportation

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