

Amend **CSSB 1254** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 53.001, Water Code, is amended by adding Subdivision (4) to read as follows:

(4) "Commission" means the Texas Commission on Environmental Quality.

SECTION 2. Section 53.101, Water Code, is amended to read as follows:

Sec. 53.101. PURPOSE OF DISTRICT. Fresh water supply districts may be created to conserve, transport, and distribute fresh water in or to the district from any sources for domestic and commercial purposes.

SECTION 3. Subchapter D, Chapter 53, Water Code, is amended by adding Section 53.108 to read as follows:

Sec. 53.108. LIMITATION ON USE OF EMINENT DOMAIN POWER; REQUIRED APPROVALS. (a) A district may not exercise the power of eminent domain to acquire land, an easement, or other property that is located more than five miles outside the district's boundaries unless:

(1) the commissioners court in the county in which the eminent domain power is to be exercised, after notice and hearing, officially approves the exercise; and

(2) after approval by the commissioners court, the commission issues an order approving the district's application to exercise that power.

(b) A district that seeks commission approval for the district's planned exercise of eminent domain power:

(1) shall submit to the commission a written application for approval of the exercise of that power; and

(2) shall provide notice of the application in the manner prescribed by the commission.

(c) The executive director of the commission may:

(1) grant an application if the executive director finds that:

(A) the requested exercise of the power of eminent domain is necessary and serves a purpose for which the district was created; and

(B) granting the application will:

(i) serve the public interest;

(ii) encourage regionalization of water supply and distribution; and

(iii) benefit the residents of the district; or

(2) request that the commission hold a public hearing on the application.

(d) After publication of notice, an opportunity for public comment, and an opportunity for public hearing on an application under this section, the commission may issue an order approving the application if the commission finds that:

(1) all procedural requirements have been satisfied;

(2) the requested exercise of the power of eminent domain:

(A) is necessary and serves a purpose for which the district was created; and

(B) will encourage regionalization of water supply and distribution; and

(3) granting the request will:

(A) serve the public interest; and

(B) benefit the residents of the district.

(e) The commission by rule shall establish procedures for public notice and hearing of applications under this section. The procedures must include provision of notice to elected state and local officials who represent residents of the district and of the property proposed for condemnation.

(f) A district may not exercise the power of eminent domain to acquire land, an easement, or other property that is located more than 75 miles outside the district's boundaries.

(g) This section applies to a fresh water supply district and a district that converts from a fresh water supply district to another type of district.

SECTION 4. Section 53.108, Water Code, as added by this Act, applies only to an exercise of the power of eminent domain by a fresh water supply district for which a condemnation petition is filed on or after the effective date of this Act. An exercise of the

power of eminent domain by a fresh water supply district for which a condemnation petition is filed before the effective date of this Act is governed by the law in effect on the date the condemnation petition is filed, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.