

BILL ANALYSIS

H.B. 768
By: Kolkhorst
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The "jury of view" process allows a county commissioners court to appoint five individuals to determine the path of a road and to assess damages incurred by any affected property owner. This process has sometimes been abused and can be used by county attorneys who wish to avoid the scrutiny that traditional eminent domain proceedings bring to controversial road projects. Eminent domain procedures, contained in Chapter 21, Property Code, set forth due process guarantees that should replace the jury of view process. Provisions granting condemnation power in the Education, Government, Health and Safety, Local Government, Natural Resources, and Transportation Codes use the traditional eminent domain procedures in Chapter 21, Property Code, to provide due process to affected landowners. Unlike the jury of view process, Chapter 21, Property Code, grants affected parties a new trial to review a condemnation recommendation. Jury of view removes a landowner's important constitutional due process protections.

H.B. 768 repeals provisions relating to the requirement that a new road ordered by the commissioners court of a county be laid out by a jury of view.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 768 repeals provisions of the Transportation Code relating to the requirement that a new road ordered by a commissioners court of a county be laid out by a jury of view consisting of five property owners appointed by the commissioners court.

H.B. 768 repeals Section 251.054, Transportation Code.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.