

BILL ANALYSIS

C.S.S.B. 18
By: Estes
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Both the United State and Texas constitutions require that the taking of private property must be for a "public use," and that when an authorized entity takes private property for a "public use" that it must compensate the owner for the property taken. The exercise of the power of eminent domain is generally recognized as a necessary tool of government; however, many have argued that over the years this power has been expanded and used in ways that are improper.

C.S.S.B. 18 makes changes, additions, and deletions, to various provisions in Texas law in an attempt to reform the power, limitations, process, and various other aspects of the power of eminent domain and condemnation in this state.

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

C.S.S.B. 18 amends the Government Code to prohibit a governmental or private entity from taking private property through the use of eminent domain if the taking is not for public use. The bill provides that the exception to the prohibition that an entity may not take private property through the use of eminent domain for economic development purposes applies if the economic development results from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from blighted areas under specified provisions in law. The bill exempts from limitations on eminent domain authority a common carrier pipeline, and removes the condition that the common carrier be organized under the Texas Business Corporation Act or under provisions in the Natural Resources Code relating to the regulation of common carriers.

C.S.S.B. 18 amends the Government Code to authorize a property owner whose property is acquired through the use of eminent domain for the purpose of creating an easement through that owner's property to construct streets or roads including a gravel, asphalt, or concrete road at any locations above the easement that the property owner chooses, as long as the portion of a road constructed that is within the area covered by the easement crosses the easement at or near 90 degrees; and, does not exceed 40 feet in width, cause a violation of any applicable pipeline regulation, or interfere with the operation and maintenance of any pipeline. The bill requires, at least 30 days before the date on which construction of an asphalt or concrete road or street that will be located wholly or partly in an area covered by an easement used for a pipeline is scheduled to begin, the property owner to submit plans for the proposed construction to the owner of the easement. The bill provides that these new provisions regarding constructing streets or roads on easements apply only to an easement acquired by an entity for the purpose of a pipeline to be used for oil or gas exploration or production activities.

C.S.S.B. 18 amends the Government Code to create the Truth in Condemnation Procedures Act, which sets forth procedures that apply only to the use of eminent domain under the laws of Texas by a governmental entity. The bill requires a governmental entity, before filing a petition to initiate a condemnation proceeding, to authorize initiation of condemnation proceedings at a public meeting by a record vote. The bill requires that the motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings must be made in a

form substantially similar to the language set out in the bill. The bill provides that the description of the property required by the motion is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property. The bill authorizes the governmental entity to adopt a single ordinance, resolution, or order for all units of property to be condemned if the motion authorizing the initiation of a condemnation proceeding indicates that the first record vote applies to all units of property to be condemned and the minutes of the entity reflect that the first vote applies to all of those units. The bill requires a separate record vote to be taken for each unit of property if more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated. The bill authorizes the governmental entity to treat two or more units of property owned by the same person as one unit of property.

C.S.S.B. 18 amends the Government Code to authorize a governing body of a governmental entity to adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity if a water supply, wastewater, flood control, or drainage project for public use will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location. The bill requires this ordinance, resolution, or order to identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project, but does not require the ordinance, resolution, or order to identify specific properties the governmental entity will acquire.

C.S.S.B. 18 amends the Government Code to require an entity (except an entity that was created or that acquired the power of eminent domain on or after December 31, 2010), including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain to submit to the comptroller of public accounts, not later than December 31, 2010, a letter stating that the entity is authorized by the state to exercise the power of eminent domain and indentifying the provision or provisions of law that grant the entity that authority. The bill requires the entity to send the letter by certified mail, return receipt requested. The bill provides that the authority of an entity required to submit a letter to exercise the power of eminent domain expires on September 1, 2011, unless the entity submits the letter. The bill requires the comptroller, not later than March 1, 2011, to submit to the governor, the lieutenant governor, the speaker of the house representatives, the appropriate standing committees of the senate and the house of representatives, and the Texas Legislative Council a report that contains the name of each entity that submitted a letter and a corresponding list of the provisions granting eminent domain authority as identified by each entity that submitted a letter. The bill requires the Texas Legislative Council to prepare for consideration by the 83rd Legislature, Regular Session, a nonsubstantive revision of the statutes of this state as necessary to reflect the state of the law after the expiration of an entity's eminent domain authority.

C.S.S.B. 18 amends the Local Government Code to repeal the definition of "slum area", to remove the current definition of "blighted area," and to redefine "blighted area" to mean a tract or unit of property that presents four or more of the following conditions for at least one year after the date on which notice of the conditions is provided to the property owner:

- the property contains uninhabitable, unsafe, or abandoned structures;
- the property has inadequate provisions for sanitation;
- there exists on the property an imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe declared to be a disaster or certified as a disaster for federal assistance under provisions in the Government Code;
- the property has been identified by the United States Environmental Protection Agency as a superfund site under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or as environmentally contaminated to an extent that the property requires remedial investigation or a feasibility study;

- the property has been the location of substantiated and repeated illegal activity of which the property owner knew or should have known;
- the maintenance of the property is below county or municipal standards;
- the property is abandoned and contains a structure that is not fit for its intended use because the utilities, sewerage, plumbing, or heating or a similar service or facility of the structure has been disconnected, destroyed, removed, or rendered ineffective; or
- the property presents an economic liability to the immediate area because of deteriorating structures or hazardous conditions.

C.S.S.B. 18 amends the Local Government Code to redefine "rehabilitation," "urban renewal activities," "urban renewal area," and "urban renewal project" to conform with the repeal of the definition of "slum area".

C.S.S.B. 18 amends the Local Government Code to require the governing body of a municipality, before exercising its power to adopt a community development program under other provisions of the Local Government Code, to identify each unit of real property in the municipality that has the characteristics of blight or is a federally assisted new community in the municipality, in addition to existing requirements. The bill requires the governing body to determine that each unit of real property included in a resolution that finds that a blighted area exists in the municipality for purposes relating to urban renewal which is adopted by the governing body and approved by the municipality's voters has the characteristics of blight. The bill requires that a resolution ordering the election and the notice of the election include a legal description of each unit of real property included in the resolution and a statement that each unit of property has the characteristics of blight.

C.S.S.B. 18 amends the Local Government Code to prohibit an area from being considered a blighted area under the bill's definition of "blighted area" unless the municipality has given notice in writing to the property owner by first class mail and the property owner has failed to take reasonable measures to remedy the condition. The bill sets out the requirements of notice. The bill prohibits an area from being considered a blighted area solely for an aesthetic reason. The bill provides that the determination of a municipality that a unit of real property has the characteristics of blight is valid for two years and that after the two-year period the municipality may make a new determination and redesignate the unit of real property as a blighted area for another two-year period. The bill authorizes a municipality to remove a determination of blight if it finds that the property owner has remedied the condition that was the basis for the determination. The bill authorizes two or more contiguous units of real property, owned by the same person, and determined by a municipality to have the characteristics of blight, to be treated as one unit of property.

C.S.S.B. 18 amends the Property Code to require an entity with eminent domain authority that wants to acquire property to make the required disclosure of all appraisal reports to the property owner by certified mail, return receipt requested, and establishes that the requirement to disclose that information applies to an offer to lease property as well as to purchase property. The bill requires the disclosure of all appraisals that have been prepared in the 10 years preceding the offer, rather than those appraisals that have been used in determining the final valuation. The bill requires that the property owner's disclosure to the entity seeking to acquire the property of any and all current and existing appraisal reports must take place not later than the earlier of the 10th day after the date the property owner receives an appraisal report or the third business day before the date of a special commissioners hearing if an appraisal report is to be used at the hearing, instead of within 10 days of receipt of appraisal reports but no later than 10 days prior to the special commissioner's hearing. The bill prohibits an entity seeking to acquire property that the entity is authorized to obtain through the use of eminent domain from including a confidentiality provision in an offer or agreement to acquire the property. The bill requires the entity to inform the property owner that the owner has the right to discuss any offer or agreement regarding the entity's acquisition of the property with others or to keep the offer or agreement confidential, unless the offer or agreement is subject to state public information laws. The bill makes conforming changes.

C.S.S.B. 18 amends the Property Code to require an entity with eminent domain authority that wants to acquire real property for a public use to make a bona fide offer to acquire the property from the owner voluntarily. The bill provides that an entity with eminent domain authority has

made a bona fide offer if an initial offer is made in writing to a property owner; a final offer is made in writing to the property owner; the final offer is made on or after the 30th day after the date on which the entity makes a written initial offer to the property owner; before making a final offer, the entity obtains a written appraisal from a certified appraiser of the value of the property being acquired and the damages, if any, to any remaining property; the final offer is equal to or greater than the amount of the written appraisal obtained by the entity; certain items are included with the final offer or have been previously provided to the owner by the entity (a copy of the written appraisal; a copy of the deed, easement, or other instrument conveying the property sought to be acquired; and a landowner's bill of rights statement); and the entity provides the property owner with at least 14 days to respond to the final offer and the property owner does not agree to the terms of the final offer within that time.

C.S.S.B. 18 amends the Property Code to amend a provision authorizing various entities that want to acquire real property for public use but are unable to agree with the owner of the property on the amount of damages to begin a condemnation proceeding by filing a petition in the proper court by deleting references to the various entities, referring instead to "an entity with eminent domain authority." The bill requires that a petition filed to begin a condemnation proceeding must, among other requirements, state with specificity the public use (instead of purpose) for which the entity intends to acquire (instead of use) the property, and state that the entity made a bona fide offer to acquire the property from the owner voluntarily. The bill requires an entity that files a condemnation petition to provide a copy of the petition to the property owner by certified mail, return receipt requested.

C.S.S.B. 18 amends the Property Code to replace the term "freeholders" with the term "real property owners" in a provision requiring a judge of a court in which a condemnation petition is filed or to which an eminent domain case is assigned to appoint three disinterested real property owners as special commissioners to assess the damages of the owner of the property being condemned. The bill requires the judge to provide each party a reasonable period to strike one of the three commissioners appointed by the judge and requires, rather than authorizes, the judge to appoint a replacement if a person fails to serve as a commissioner or is struck by a party to the suit. The bill prohibits the special commissioners from scheduling a hearing to assess damages before the 20th day after the date the special commissioners were appointed, and makes conforming changes. The bill extends the deadline for service of notice of hearing from not later than the 11th day to not later than the 20th day before the day set for the hearing.

C.S.S.B. 18 amends the Property Code to alter provisions relating to disclosure of information required at the time of acquisition by requiring that an entity with eminent domain authority disclose to the property owner that the owner or the owner's heirs, successors, or assigns may be entitled, rather than are entitled, to repurchase the property or may be entitled to request from the entity certain information relating to the use of the property and any actual progress made toward that use, and makes conforming changes. The bill provides that the entity must also disclose at the time of acquisition that the repurchase price is the lesser of the price paid to the owner by the entity at the time the entity acquired the property through eminent domain or the fair market value of the property at the time the public use was canceled.

C.S.S.B. 18 amends the Property Code to provide that an entity that is not subject to Texas open government laws that is authorized by law to acquire property through the use of eminent domain is required to produce certain information if the information is requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding, and is related to the taking of the person's private property by the entity through the use of eminent domain. The bill requires such an entity only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request, and requires that such a request must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought. The bill requires such an entity to respond to such a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court, and that exceptions to disclosure provided by Chapter 21, Property Code, and the Texas Rules of Civil Procedure apply to the disclosure of such information. The bill provides that jurisdiction to enforce such disclosures resides in the court in which the condemnation was initiated; or if the condemnation proceeding has not been initiated, in a court that would have jurisdiction over a proceeding to condemn the requestor's property, or a court with eminent domain jurisdiction in the county in

which the entity has its principal place of business. The bill provides that if such an entity refuses to produce information requested in accordance with these new provisions and the court determines that the refusal violates these provisions, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

C.S.S.B. 18 amends the Property Code to include in the evidence the special commissioners are required to admit as the basis for assessing actual damages to a property owner from a condemnation, the financial damages associated with the cost of relocating, if the condemnation makes relocation of a homestead or farm necessary, from the condemned property to another property that allows the property owner, without the necessity of incurring an amount of debt, debt service, or total projected interest obligation that is higher than the property owner was subject to immediately before the condemnation, to: have a standard of living comparable to the property owner's standard of living immediately before the condemnation, if the condemned property is a homestead that is habitable; or operate a comparable farm if the condemned property is a farm.

C.S.S.B. 18 amends the Property Code to include the property owner's financial damages associated with the cost of relocating from a condemned property, as well as a material impairment of direct access on or off the remaining property that affects the market value of the remaining property, as factors the special commissioners are required to consider in estimating injury or benefit if a portion of a tract or parcel of real property is condemned. The bill prohibits the special commissioners from considering an injury or benefit that the property owner experiences in common with the general community, including circuitry of travel and diversion of traffic. The bill defines "direct access" to mean ingress and egress on or off a public road, street, or highway at a location or locations where the remaining property adjoins that road, street, or highway.

C.S.S.B. 18 amends the Property Code to require instead of authorize certain entities to provide a relocation advisory service compatible with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to a displaced individual, family, business concern, farming or ranching operation, or nonprofit organization. The bill requires instead of authorizes the state or a political subdivision of the state to pay certain expenses and payments if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with the acquisition.

C.S.S.B. 18 amends the Property Code to require a court that hears a condemnation suit to abate the suit and order the condemnor to make a bona fide offer if the court determines that a condemnor did not make a bona fide offer to acquire the property from the property owner voluntarily, and to pay all costs (under certain circumstances) and any reasonable attorney's fees and other professional fees incurred by the property owner that are directly related to the violation. The bill makes conforming changes.

C.S.S.B. 18 amends the Property Code to extend the applicability of the right to repurchase a property acquired through eminent domain to include the heirs, successors, or assigns of a person from whom a real property interest is acquired for public use. The bill entitles those parties to repurchase the property if the public use for which the property was acquired through eminent domain is canceled before the property is used for that public use, no actual progress is made toward the public use for which the property was acquired between the date of acquisition and the 10th anniversary of that date, or if the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition. The bill authorizes a district court to determine all issues in any suit regarding the repurchase of a real property interest acquired through eminent domain by the former property owner or the owner's heirs, successors, or assigns. The bill removes the provision that exempts a right-of-way under the jurisdiction of a county, a municipality, or the Texas Department of Transportation from the provisions relating to the right of repurchase. The bill defines "actual progress" to mean the completion of two or more of the following actions:

- the performance of a significant amount of labor to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

- the furnishing of a significant amount of materials to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;
- the hiring of and performance of a significant amount of work by an architect, engineer, or surveyor to prepare a plan or plat that includes the property or other property acquired for the same public use project for which the property owner's property was acquired;
- application for state or federal funds to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;
- application for a state or federal permit to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;
- the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner's property was acquired; or
- for a governmental entity, the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one of the above listed actions within 10 years of acquisition of the property.

C.S.S.B. 18 amends the Property Code to move the deadline for an entity to send notice to a previous property owner or the owner's heirs, successors, or assigns from not later than the 180th day after the date of the cancellation of the public use for which real property was acquired through eminent domain from a property owner, to not later than the 180th day after the date an entity that acquired a real property interest through eminent domain determines that the former property owner is entitled to repurchase the property. The bill expands what information is required to be provided in such notice to include, in addition to what is currently required, that the public use was canceled before the property was used for the public use; that no actual progress was made toward the public use; or that the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition. The bill provides that on or after the 10th anniversary of the date on which real property was acquired by an entity through eminent domain, a property owner or the owner's heirs, successors, or assigns may request that the condemning entity make a determination and provide a statement and other relevant information regarding whether the public use for which the property was acquired has been canceled before the property was used for the public use; whether any actual progress was made toward the public use between the date of the acquisition and the 10th anniversary of that date, including an itemized description of the progress made, if applicable; and whether the property has become unnecessary for the public use, or a substantially similar public use before the 10th anniversary of the date of acquisition. The bill requires a request for information regarding condemned property to contain sufficient detail to allow the entity to identify the specific tract of land in relation to which the information is sought. The bill requires the entity, not later than the 90th day following the receipt of the request for information, to send a written response by certified mail, return receipt requested, to the requestor. The bill requires the property owner or the owner's heirs, successors, or assigns to notify the entity of the person's intent to repurchase the property interest not later than the 180th day after the date of the postmark on a notice or a response to a request made under provisions of the bill relating to requests for information regarding the condemned property that indicates that the property owner or the owner's heirs, successors, or assigns are entitled to repurchase the property interest, instead of such parties notifying the governmental entity not later than the 180th day after the date of the postmark on the notice sent to a previous property owner or the owner's heirs, successors, or assigns that the person is entitled to repurchase the property. The bill specifies that after a receipt of a notice of intent to repurchase, the entity is required to offer to sell the property to the person for the lesser of the price paid to the owner by the entity at the time the entity acquired the property through eminent domain or the fair market value of the property at the time the public use was cancelled. The bill makes conforming changes.

C.S.S.B. 18 amends the Tax Code to define "blighted area" and to remove certain statutory authorization for a municipality or county to acquire real property by condemnation or other means to implement project plans and sell that property in the manner it considers advisable, and instead retains language allowing the entity to purchase such property for such purposes. The bill includes an undeveloped area as an area in which real property or other property may be acquired for certain public purposes. The bill authorizes a municipality or county to acquire by condemnation any interest, including fee simple interest, in real property that is a blighted area and necessary for the reinvestment zone that is consistent with the project plan for the zone. The

bill authorizes a municipality or county to acquire by condemnation an interest in real property only if the taking is in accordance with provisions of the Government Code relating to limitations on the use of eminent domain. The bill removes a provision that establishes that the implementation of a project plan to alleviate a condition under which an area may be designated a reinvestment zone and to promote development or redevelopment of a reinvestment zone serves a public purpose. The bill makes conforming changes.

C.S.S.B. 18 amends the Transportation Code to establish that the standard for determination of the fair value of the state's interest in access rights to a highway right-of-way is the same legal standard that is applied by the Texas Transportation Commission in the acquisition of access rights under provisions relating to acquisition of property and in the payment of damages in the exercise of the authority, under provisions relating to control of access to certain property for impairment of highway access to or from real property where the real property adjoins the highway.

C.S.S.B. 18 amends the Water Code to prohibit the exercise of the power of eminent domain by a municipal utility district outside the district's boundaries to acquire a site or easement for a road project, and makes changes to prohibit such an acquisition for any trail.

C.S.S.B. 18 amends Chapter 178 (S.B. 289), Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes) to prohibit certain charitable corporations with the power of eminent domain and condemnation from exercising the power of eminent domain and condemnation to acquire property in any residential neighborhood; from otherwise acquiring property in a residential neighborhood, directly or through an agent or trustee, for future use; or from acquiring residential property if the value of the property has been materially diminished by blockbusting activity. The bill defines "associated low-density multifamily residential housing," "blockbusting activity," "deed-restricted residential subdivision," "medical center condemning entity," "predominately single-family residential subdivision or generally recognized residential area," "property owners' association," "residential litigant" "residential neighborhood," and "single-family dwelling." The bill requires, within a reasonable time on or before September 1, 2010, an applicable medical center condemning entity that, on September 1, 2009, holds any property acquired in a residential neighborhood for future use to sell the property, and requires that such property sold must be made subject to a deed restriction requiring the property to be restored to the property's former status as a bona fide single-family dwelling or, if applicable, reintegrated into its original deed-restricted residential subdivision. The bill lays out certain requirements regarding ascertaining whether property is acquired for future use, for certain purposes. The bill prohibits an applicable medical center condemning entity or the entity's members from purchasing property, by private contract or otherwise, in a residential neighborhood if the property values in the neighborhood have been substantially diminished by blockbusting activity. The bill requires an applicable medical center condemning entity to remediate the effects of parking facilities constructed on property owned by the entity that was acquired in a residential neighborhood after January 1, 2004, and that is located within a residential neighborhood or directly adjacent to a residential neighborhood, and specifies that such remediation includes certain things. The bill prohibits an applicable medical center condemning entity from challenging the validity of a deed restriction in a condemnation proceeding or in contemplation of condemnation. The bill provides that the changes to the Vernon's Texas Civil Statutes made by the bill do not limit any right expressly granted in a residential deed restriction that authorizes an express waiver, amendment, or variance with respect to the restrictions, as determined by the relevant property owners' association. The bill provides that in an action under the provisions of the bill amending Vernon's Texas Civil Statutes, a court is required to award litigation costs, including reasonable attorney's fees, witness fees, court costs, and other reasonable related expenses, to a residential litigant who prevails in a suit seeking relief, including money damages or equitable, declaratory, or other relief; to a resident litigant who brings an action under certain provisions of the bill that causes or contributes to, directly or indirectly, a beneficial result to a residential neighborhood or to the public interest, notwithstanding which party may have prevailed on the merits; or to a resident litigant who is required to defend against claims arising out of actions or communications related to the certain provisions or purposes of the bill. The bill provides that in an action under the provisions amending the Vernon's Texas Civil Statutes in the bill, a court is required to periodically during the pendency of the litigation, on a showing of hardship, award interim costs of litigation to residential litigants who are claimants in the action, and that an award of such

interim litigation costs is final and not subject to repayment. The bill prohibits a court from awarding litigation costs against a residential litigant who asserts a claim relating to or arising under certain provisions created by the bill amending the Vernon's Texas Civil Statutes or engages in actions or communications related to a right created by such provisions. The bill provides that generally, in addition to any other defense or immunity conferred by law, a residential litigant is not liable for money damages or subject to injunctive or declaratory relief based on a decision by the residential litigant as an agent or representative of a property owners' association or a special district; or a communication by the residential litigant to a governmental agency, a public official, or the public information media relating to a matter reasonably of concern to a governmental agency or public official, any other person, or the public. The bill provides an exception to this rule, being that it does not apply if the claimant establishes by clear and convincing evidence that the decision or communication of the residential litigant was not made in good faith. The bill provides that the provisions created by the provisions of the bill amending the Vernon's Texas Civil Statutes shall be liberally construed to effect its purposes, which are to: prevent the abuse of the power of eminent domain by a charitable corporation subject to the Act in the Vernon's Texas Civil Statutes being amended by the bill; protect single-family residential neighborhoods; shield advocates of neighborhood integrity from economic coercion; and correct and remediate the effects of the abuse of condemnation authority used by a charitable corporation under the Act amended by the bill in its amendment of the Vernon's Texas Civil Statutes on or after January 1, 2004.

C.S.S.B. 18 makes numerous conforming changes.

C.S.S.B. 18 repeals the following provisions:

- Section 552.0037, Government Code;
- Subdivision 374.003(19), Local Government Code;
- Section 374.016, Local Government Code;
- Section 21.024, Property Code;
- Subsection 311.008(c), Tax Code; and
- Section 49.2205, Water Code.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B 18 adds numerous new provisions, both substantive and conforming, to the original. For example, the committee substitute adds new language not in the original to provide that the exception in the Government Code to the prohibition that an entity may not take private property through the use of eminent domain for economic development purposes applies if the economic development results from certain activities to eliminate existing affirmative harm on society, instead of the economic development being a secondary purpose resulting from such harm.

C.S.S.B 18 adds new provisions not in the original regarding such issues as blight that amend Chapter 373, Local Government Code (Texas Community Development Act of 1975), Chapter 374, Local Government Code (Texas Urban Renewal Law), and provisions in the Tax Code. The original did not include any amendments to any provision in either the Local Government Code or the Tax Code. As such, each change made in the committee substitute to these two codes, as reflected in the analysis section of this bill analysis, are new and were not in the original.

C.S.S.B 18 amends a provision in the original relating to disclosure of certain information that the repurchase price is the lesser of the price paid to the owner by the entity at the time the entity acquired the property through eminent domain or the fair market value of the property at the time the public use was canceled, instead of just the price paid to the owner by the entity at the time the entity acquired the property through eminent domain as in the original.

C.S.S.B 18 adds a new provision not in the original that includes in the evidence the special commissioners are required to admit as the basis for assessing actual damages to a property owner from a condemnation, the financial damages associated with the cost of relocating, if the
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condemnation makes relocation of a homestead or farm necessary, from the condemned property to another property that allows the property owner, without the necessity of incurring an amount of debt, debt service, or total projected interest obligation that is higher than the property owner was subject to immediately before the condemnation, to: have a standard of living comparable to the property owner's standard of living immediately before the condemnation, if the condemned property is a homestead that is habitable; or operate a comparable farm if the condemned property is a farm. The committee substitute also adds language not in the original that requires the special commissioners, in estimating injury or benefit if a portion of a tract or parcel of real property is condemned, to include the property owner's financial damages associated with the cost of relocating from a condemned property.

C.S.S.B. 18 amends a repurchase provision in the original to require an entity to offer to sell the property to the person for the lesser of the price paid to the owner by the entity at the time the entity acquired the property through eminent domain or the fair market value of the property at the time the public use was cancelled, instead of just the price paid to the owner by the entity at the time the entity acquired the property through eminent domain as in the original.

C.S.S.B. 18 adds new provisions not in the original that amend Chapter 178 (S.B. 289), Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes) regarding certain charitable corporations with the power of eminent domain and condemnation. The original did not include any amendments to any provision in Vernon's Texas Civil Statutes. As such, each change made in the committee substitute to this statute, as reflected in the analysis section of this bill analysis, are new and were not in the original.

C.S.S.B. 18 differs from the original by repealing Subdivision (19), Section 374.003, and Section 374.016, Local Government Code; and Subsection (c), Section 311.008, Tax Code. The committee substitute makes conforming changes.