

By: Davis of Dallas

H.B. No. 1385

A BILL TO BE ENTITLED

AN ACT

relating to the assessment of damages to a property owner from
condemnation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.041, Property Code, is amended to
read as follows:

Sec. 21.041. EVIDENCE. As the basis for assessing actual
damages to a property owner from a condemnation, the special
commissioners shall admit evidence on:

(1) the value of the property being condemned;

(2) the injury to the property owner, including, if
the condemnation makes relocation of a homestead or farm necessary,
the financial damages associated with the cost of relocating 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:

(A) 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

(B) operate a comparable farm, if the condemned
property is a farm;

1 (3) the benefit to the property owner's remaining
2 property; and

3 (4) the use of the property for the purpose of the
4 condemnation.

5 SECTION 2. Section 21.042(d), Property Code, is amended to
6 read as follows:

7 (d) In estimating injury or benefit under Subsection (c),
8 the special commissioners shall consider an injury or benefit that
9 is peculiar to the property owner, including the property owner's
10 financial damages described by Section 21.041(2), and that relates
11 to the property owner's ownership, use, or enjoyment of the
12 particular parcel of real property, but they may not consider an
13 injury or benefit that the property owner experiences in common
14 with the general community.

15 SECTION 3. The change in law made by this Act applies only
16 to a condemnation proceeding in which the petition is filed on or
17 after the effective date of this Act. A condemnation proceeding in
18 which the petition is filed before the effective date of this Act is
19 governed by the law in effect immediately before the effective date
20 of this Act, and that law is continued in effect for that purpose.

21 SECTION 4. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2009.