

By: Smithee

H.B. No. 3819

A BILL TO BE ENTITLED

1 AN ACT

2 relating to limits on the purpose and power of a fresh water supply  
3 district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17          (2) granting the request will serve the public  
18 interest.

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

24          (e) This section applies to a fresh water supply district  
25 and a district that converts from a fresh water supply district to  
26 another type of district.

27          SECTION 4. Section 53.108, Water Code, as added by this Act,

1 applies only to an exercise of the power of eminent domain by a  
2 fresh water supply district for which a condemnation petition is  
3 filed on or after January 1, 2010. An exercise of the power of  
4 eminent domain by a fresh water supply district for which a  
5 condemnation petition is filed before January 1, 2010, is governed  
6 by the law in effect on the date the condemnation petition is filed,  
7 and that law is continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2009.