

By: Pitts

H.B. No. 4116

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to establishing a uniform state policy regarding the  
3 purchases and acquisitions by or for the state or a political  
4 subdivision of the state or for the use or benefit of residents of  
5 this state.

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

7 SECTION 1. Subtitle D, Title 10, Government Code, is  
8 amended by adding Chapter 2159 to read as follows:

9 CHAPTER 2159. UNIFORM STATE POLICY FOR PURCHASES

10 AND ACQUISITIONS

11 Sec. 2159.001. UNIFORM PURCHASING AND ACQUISITION POLICY.

12 (a) The comptroller shall adopt uniform rules regarding the  
13 purchase and acquisition of property by and for the state or a  
14 political subdivision of the state or for the use of residents of  
15 this state, including the acquisition of property through the use  
16 of eminent domain, as necessary to implement the policy of this  
17 state that those purchases and acquisitions are:

18 (1) efficient, effective, and appropriate for the  
19 purposes of the state and the residents of this state; and

20 (2) uniformly performed, regulated, and managed by  
21 state agencies, local governments, and other entities on behalf of  
22 this state or for the benefit of residents of this state.

23 (b) The comptroller may hold public hearings regarding a  
24 rule proposed under this section.

1 SECTION 2. Chapter 2206, Government Code, is amended to  
2 read as follows:

3 CHAPTER 2206. [~~LIMITATIONS ON USE OF~~] EMINENT DOMAIN

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 2206.001. DEFINITION OF PUBLIC USE. Except as  
6 otherwise provided by this chapter, "public use," with respect to  
7 the use of eminent domain authority, means a use of property,  
8 including a use described by Section 2206.051(c), that allows the  
9 state, a political subdivision of the state, or the general public  
10 of the state to possess, occupy, and enjoy the property.

11 SUBCHAPTER B. LIMITATIONS ON PURPOSE AND USE OF PROPERTY

12 ACQUIRED THROUGH EMINENT DOMAIN

13 Sec. 2206.051. LIMITATION ON EMINENT DOMAIN FOR PRIVATE  
14 PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section  
15 applies to the use of eminent domain under the laws of this state,  
16 including a local or special law, by any governmental or private  
17 entity, including:

18 (1) a state agency, including an institution of higher  
19 education as defined by Section 61.003, Education Code;

20 (2) a political subdivision of this state; or

21 (3) a corporation created by a governmental entity to  
22 act on behalf of the entity.

23 (b) A governmental or private entity may not take private  
24 property through the use of eminent domain if the taking:

25 (1) confers a private benefit on a particular private  
26 party through the use of the property;

27 (2) is for a public use that is merely a pretext to

1 confer a private benefit on a particular private party; [~~or~~]

2 (3) is for economic development purposes, unless the  
3 economic development is a secondary purpose resulting from  
4 municipal community development or municipal urban renewal  
5 activities to eliminate an existing affirmative harm on society  
6 from slum or blighted areas under:

7 (A) Chapter 373 or 374, Local Government Code,  
8 other than an activity described by Section 373.002(b)(5), Local  
9 Government Code; or

10 (B) Section 311.005(a)(1)(I), Tax Code; or  
11 (4) is not for a public use.

12 (c) This section does not affect the authority of an entity  
13 authorized by law to take private property through the use of  
14 eminent domain for:

15 (1) transportation projects, including, but not  
16 limited to, railroads, airports, or public roads or highways;

17 (2) entities authorized under Section 59, Article XVI,  
18 Texas Constitution, including:

19 (A) port authorities;

20 (B) navigation districts; and

21 (C) any other conservation or reclamation  
22 districts that act as ports;

23 (3) water supply, wastewater, flood control, and  
24 drainage projects;

25 (4) public buildings, hospitals, and parks;

26 (5) the provision of utility services;

27 (6) a sports and community venue project approved by

1 voters at an election held on or before December 1, 2005, under  
2 Chapter 334 or 335, Local Government Code;

3 (7) the operations of:

4 (A) a common carrier pipeline [~~subject to Chapter~~  
5 ~~111, Natural Resources Code, and Section B(3)(b), Article 2.01,~~  
6 ~~Texas Business Corporation Act~~]; or

7 (B) an energy transporter, as that term is  
8 defined by Section 186.051, Utilities Code;

9 (8) a purpose authorized by Chapter 181, Utilities  
10 Code;

11 (9) underground storage operations subject to Chapter  
12 91, Natural Resources Code;

13 (10) a waste disposal project; or

14 (11) a library, museum, or related facility and any  
15 infrastructure related to the facility.

16 (d) This section does not affect the authority of a  
17 governmental entity to condemn a leasehold estate on property owned  
18 by the governmental entity.

19 (e) The determination by the governmental or private entity  
20 proposing to take the property that the taking does not involve an  
21 act or circumstance prohibited by Subsection (b) does not create a  
22 presumption with respect to whether the taking involves that act or  
23 circumstance.

24 SECTION 3. Not later than January 1, 2011, the comptroller  
25 shall:

26 (1) identify all public and private entities with  
27 eminent domain authority; and

1           (2) make recommendations to the legislature and the  
2 governor regarding:

3                   (A) which entities have, need, or should have  
4 eminent domain authority;

5                   (B) whether that eminent domain authority of  
6 those entities should be continued, expanded, or limited; and

7                   (C) the cause and effect of continuing,  
8 eliminating, expanding, or limiting the eminent domain authority of  
9 those entities.

10           SECTION 4. Chapter 2206, Government Code, as amended by  
11 this Act, applies only to a condemnation proceeding in which the  
12 petition is filed on or after the effective date of this Act and to  
13 any property condemned through the proceeding. A condemnation  
14 proceeding in which the petition is filed before the effective date  
15 of this Act and any property condemned through the proceeding is  
16 governed by the law in effect immediately before that date, and that  
17 law is continued in effect for that purpose.

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