

By: Seliger

S.B. No. 1254

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

(1) the commissioners court in the county in which the eminent domain power is to be exercised, after notice and hearing, 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) The executive director of the commission may:

11 (1) grant an application if the executive director
12 finds that:

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

16 (B) granting the application will:

17 (i) serve the public interest;

18 (ii) encourage regionalization of water
19 supply and distribution; and

20 (iii) benefit the residents of the
21 district; or

22 (2) request that the commission hold a public hearing
23 on the application.

24 (d) After publication of notice, an opportunity for public
25 comment, and an opportunity for public hearing on an application
26 under this section, the commission may issue an order approving the
27 application if the commission finds that:

1 (1) all procedural requirements have been satisfied;

2 (2) the requested exercise of the power of eminent
3 domain:

4 (A) is necessary and serves a purpose for which
5 the district was created; and

6 (B) will encourage regionalization of water
7 supply and distribution; and

8 (3) granting the request will:

9 (A) serve the public interest; and

10 (B) benefit the residents of the district.

11 (e) The commission by rule shall establish procedures for
12 public notice and hearing of applications under this section. The
13 procedures must include provision of notice to elected state and
14 local officials who represent residents of the district and of the
15 property proposed for condemnation.

16 (f) A district may not exercise the power of eminent domain
17 to acquire land, an easement, or other property that is located more
18 than 75 miles outside the district's boundaries.

19 (g) This section applies to a fresh water supply district
20 and a district that converts from a fresh water supply district to
21 another type of district.

22 SECTION 4. Section 53.108, Water Code, as added by this Act,
23 applies only to an exercise of the power of eminent domain by a
24 fresh water supply district for which a condemnation petition is
25 filed on or after the effective date of this Act. An exercise of the
26 power of eminent domain by a fresh water supply district for which a
27 condemnation petition is filed before the effective date of this

1 Act is governed by the law in effect on the date the condemnation
2 petition is filed, and that law is continued in effect for that
3 purpose.

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