

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 24, 2009

TO: Honorable Dennis Bonnen, Chair, House Committee on Land & Resource Management

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1432 by Jackson, Jim (Relating to a landowner's repurchase of real property from an entity that acquired the property through condemnation.), **As Introduced**

The fiscal impact to the state would depend on the number of properties to which the bill would apply and the number of eligible persons who would seek to repurchase land previously acquired by the state through eminent domain.

The bill would amend the Property Code to specify that procedures for an owner to repurchase property that was taken through the exercise of eminent domain apply to any entity with those powers, not just a government entity.

The Property Code would also be amended regarding what information an entity with eminent domain authority must provide to the owner of property taken under eminent domain or the owner's heirs, successors, or assigns. The bill would change the criteria under which the owner, heirs, successors, or assigns would be entitled to repurchase the property. The bill would remove from statute that Subchapter E, Chapter 21, Property Code does not apply to a right-of-way under the jurisdiction of a county, a municipality, or the Texas Department of Transportation, therefore including those entities. A district court would be authorized 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 their heirs, successors, or assigns.

The bill would allow a property owner on or after the fifth anniversary of the date on which real property was acquired by the entity to submit a request to the entity regarding specified relevant information about the property and its use. The entity would be required to respond in writing by certified mail, return receipt requested, within 90 days following receipt of the request. The owner or their heirs, successors, or assigns would be entitled to repurchase the property if no actual progress toward the public use has been made or the property has become unnecessary for the public use for which it was purchased. Under current statute, the owner or their heirs, successors, or assigns are entitled to repurchase the property only if the public use for which it was purchased is canceled, and before the 10th anniversary of the date of acquisition, rather than the fifth anniversary.

Under current statute, when a person seeks to repurchase their previously condemned property, the condemning entity is required to offer to sell the property for what the fair market value was at the time the public use of the property was cancelled. Provisions of the bill would change the repurchase price to the price paid to the owner by the entity at the time the property was acquired through eminent domain.

Provisions of the bill would apply only to a condemnation proceeding in which a petition is filed on or after the effective date of the bill and to any property condemned through the proceeding. The bill would take effect immediately if it were to receive the required two-thirds vote; otherwise, it would take effect September 1, 2009.

Based on analysis by the Texas Department of Transportation, it is assumed costs associated with changes in procedures related to a person repurchasing property previously taken through the powers of eminent domain could be absorbed within existing resources. Revenue gain from selling property

back to an owner or their heirs, successors, or assigns would depend on the number of affected properties and the amount originally paid for those properties.

Local Government Impact

Costs associated with changes in procedures would depend on the number of repurchase possibilities that exist. If a local government entity were to be required to sell previously condemned property back to the property owner or their heirs, successors, or assigns for the same price the condemning entity paid rather than fair market value, the entity would experience a revenue gain equivalent to its initial cost for purchasing the property.

Source Agencies: 601 Department of Transportation, 720 The University of Texas System Administration

LBB Staff: JOB, WK, SD, DB, TG