

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 5, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: SB1023 by Ogden (Relating to the exercise of eminent domain authority.), **Committee Report 1st House, Substituted**

The amount of additional costs and overall negative fiscal impact to a condemner under the provisions of the bill would vary by condemner and by case, and therefore the fiscal impact to the state cannot be estimated.

The bill would amend Chapter 21 of the Property Code to require the condemner to prove the necessity of the exercise of eminent domain, and if the condemning entity fails to prove any of the required facts, the court would be required to deny the condemnation and award to the property owner the owner's court costs and reasonable attorney's and expert witness fees incurred in relation to the condemnation proceeding.

The fiscal implication to the state would depend on the number of applicable condemnation events and whether the court was to determine that the state failed to prove it had met the requirements related to proof of necessity. Because of the number of unknown variables, the costs associated with implementing provisions of the bill cannot be estimated; however, based on assumptions by the Texas Department of Transportation, it is assumed the costs could be significant.

Local Government Impact

The fiscal implication to units of local government would depend on the number of applicable condemnation events and whether the court was to determine that the entity failed to prove it had met the requirements related to proof of necessity. Because of the number of unknown variables, the costs associated with implementing provisions of the bill cannot be estimated.

Source Agencies: 601 Department of Transportation

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