

By: Johnson

H.B. No. 746

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the assessment of damages to a property owner from
3 condemnation.

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

5 SECTION 1. Section 21.041, Property Code, is amended to
6 read as follows:

7 Sec. 21.041. EVIDENCE. As the basis for assessing actual
8 damages to a property owner from a condemnation, the special
9 commissioners shall admit evidence on:

- 10 (1) the value of the property being condemned;
11 (2) the injury to the property owner, including, if
12 the condemnation makes relocation of a homestead, farm, or business
13 necessary, the financial damages associated with the cost of
14 relocating from the condemned property to another property:

15 (A) in the same municipality or, if the property
16 is not in an incorporated area, the same county; and

17 (B) that allows the property owner, without the
18 necessity of incurring an amount of debt, debt service, or total
19 projected interest obligation that is higher than the property
20 owner was subject to immediately before the condemnation, to:

21 (i) have a standard of living comparable to
22 the property owner's standard of living immediately before the
23 condemnation, if the condemned property is a homestead that is
24 habitable; or

1 (ii) operate a comparable farm or business,
2 if the condemned property is a farm or business;

3 (3) the benefit to the property owner's remaining
4 property; and

5 (4) the use of the property for the purpose of the
6 condemnation.

7 SECTION 2. Section 21.042(d), Property Code, is amended to
8 read as follows:

9 (d) In estimating injury or benefit under Subsection (c),
10 the special commissioners shall consider an injury or benefit that
11 is peculiar to the property owner, including the property owner's
12 financial damages described by Section 21.041(2), and that relates
13 to the property owner's ownership, use, or enjoyment of the
14 particular parcel of real property, but they may not consider an
15 injury or benefit that the property owner experiences in common
16 with the general community.

17 SECTION 3. The change in law made by this Act applies only
18 to a condemnation proceeding in which the petition is filed on or
19 after the effective date of this Act. A condemnation proceeding in
20 which the petition is filed before the effective date of this Act is
21 governed by the law in effect immediately before the effective date
22 of this Act, and that law is continued in effect for that purpose.

23 SECTION 4. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2011.