

By: Nichols

S.B. No. 174

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of eminent domain to take private property for recreational purposes.

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

SECTION 1. Chapter 2206, Government Code, is amended by adding Section 2206.002 to read as follows:

Sec. 2206.002. PROHIBITION OF EMINENT DOMAIN FOR RECREATIONAL PURPOSES. (a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

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

(2) a political subdivision of this state; or

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

(b) Notwithstanding any other law, a governmental or private entity may not take private property through the use of eminent domain if the taking is for a recreational purpose.

(c) This section does not affect the authority of an entity authorized by law to take private property through the use of eminent domain for a purpose listed in Section 2206.001(c) unless the purpose is considered a recreational purpose under Subsection (d).

(d) For the purposes of this section, "recreational

1 purpose" includes:

2 (1) a parks and recreation system, or improvements or
3 additions to a parks and recreation system, including sidewalks, or
4 an area or facility that is part of a parks and recreation system;
5 and

6 (2) a park, greenbelt, or trail.

7 (e) This section does not affect the authority of a
8 governmental entity to condemn a leasehold estate on property owned
9 by the governmental entity.

10 (f) The determination by the governmental or private entity
11 proposing to take the property that the taking does not involve an
12 act or circumstance prohibited by Subsection (b) does not create a
13 presumption with respect to whether the taking involves that act or
14 circumstance.

15 SECTION 2. Section 21.103(a), Parks and Wildlife Code, is
16 amended to read as follows:

17 (a) Except as provided in Subsection (b) of this section,
18 the department may acquire park sites, including property already
19 devoted to public use, by purchase [~~, condemnation,~~] or any other
20 manner permitted by law.

21 SECTION 3. Sections 13.305 and 21.103(c), Parks and
22 Wildlife Code, are repealed.

23 SECTION 4. The change in law made by this Act applies only
24 to the taking of private property by eminent domain for which a
25 condemnation petition is filed on or after the effective date of
26 this Act. A taking for which a condemnation petition is filed
27 before the effective date of this Act is governed by the law in

S.B. No. 174

1 effect immediately before that date, and that law is continued in
2 effect for that purpose.

3 SECTION 5. This Act takes effect September 1, 2011.