

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**February 23, 2011**

**TO:** Honorable Rene Oliveira, Chair, House Committee on Land & Resource Management

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

**IN RE: HB138** by Callegari (Relating to the acquisition of and compensation for real property, including blighted property, for public purposes through condemnation or certain other means.), **As Introduced**

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

The bill would amend the Local Government Code regarding procedures a municipality must follow when identifying property as having the characteristics of blight and before exercising powers of eminent domain.

The bill would repeal Section 374.003(19) and Section 374.016 of the Local Government Code.

The bill would amend the Property Code to require a department, agency, instrumentality, or political subdivision of this state to provide a relocation advisory service for an individual, family, business concern, farming or ranching operation, or nonprofit organization being displaced by the exercising of powers of eminent domain. The bill would also require this state or a political subdivision of this state to pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, family, business concern, farming or ranching operation, or nonprofit organization would be displaced in connection with acquisition of property. Under current statute, payment of these costs by the state or political subdivisions acquiring the property is optional.

The bill would amend the Tax Code to authorize a municipality or a county to exercise any power necessary and convenient to carry out provisions of Chapter 311 of the Tax Code consistent with the project plan for a reinvestment zone to acquire by condemnation any interest, including a fee simple interest, in real property that is a blighted area and necessary for the reinvestment zone, but only if the taking is in accordance with Chapter 2206, Government Code, which places limitations on the use of eminent domain. The bill would repeal Section 311.008(c) of the Tax Code.

The proposed changes in statute would apply only to a condemnation proceeding filed on or after the effective date of the bill. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2011.

According to the Comptroller of Public Accounts, the Texas Department of Transportation's Right-of-Way Division reported that the state is already required to pay relocation expenses for all projects that utilize state or federal funds for acquisition or construction, and that most state funded projects are on-system (interstate system, U.S. or state highways, or farm-to-market roads); and that non-state funded projects are off-system and local (city streets or roads).

It is assumed the provisions of the bill would result in increased costs for the acquisition of highway right-of-way through condemnation, but the factors considered in evaluating the financial or economic damages to the owner of the property to be condemned would vary by case, any additional costs or negative fiscal implications to the state cannot be determined.

## **Local Government Impact**

The negative fiscal impact to a political subdivision would vary depending on the number of property acquisitions for which the additionally listed costs would be required, and the future value of those properties.

According to the Texas Association of Counties (TAC), the fiscal impact on counties that condemn and acquire properties could be significant. TAC also noted that it is impossible to determine how many properties would be acquired through the condemnation process and the value of those properties. In addition, it is also impossible to know how many properties acquired through the condemnation process that would have to be acquired through another process in the future. Therefore, it is not possible to quantify the extent of the fiscal impact on counties.

According to the Comptroller of Public Accounts, several counties and municipalities reported acquiring between one to five properties through eminent domain during the last five years, but did not estimate the cost; however, the City of Grand Prairie reported a cost of \$100,000 in 2009 for relocation of a courthouse.

**Source Agencies:** 304 Comptroller of Public Accounts, 601 Department of Transportation

**LBB Staff:** JOB, SZ, TP, JB