

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 5, 2011

TO: Honorable Harold V. Dutton Jr., Chair, House Committee on Urban Affairs

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

IN RE: HB2106 by Davis, Yvonne (Relating to the acquisition of real property for public use.), **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 also would require this state or a political subdivision of this state to pay moving expenses and rental supplements, make relocation payments, provide financial assistance, if condemnation made the relocation necessary, 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 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. However, 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.

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

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