

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

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

**April 17, 2011**

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

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

**IN RE: HJR110** by Davis, Yvonne (Proposing a constitutional amendment to require compensation for relocation costs associated with the taking of certain property for a public use.), **As Introduced**

**There would be an indeterminate cost to the state from the provisions of the resolution.**

The cost to the state for publication of the resolution is \$105,495.

The resolution would propose a constitutional amendment to require compensation for relocation costs associated with the taking of homestead or farm property. The resolution would require that the relocation costs paid to a property owner be sufficient to replicate a comparable standard of living or operate a comparable farm without incurring a related debt obligation higher than the property owner was subject to prior to the taking.

State agencies report that the provisions of the resolution would result in a substantial increase in the cost to acquire property through eminent domain proceedings. This cost increase cannot be determined because of the extent of future eminent domain proceedings and the types of costs that could be included in relocation expenses under the resolution's provisions are unknown.

The language "standard of living" is sufficiently broad and subjective to make it impossible to predict how the language would be interpreted in future proceedings. The Texas Department of Transportation reports that a comparable standard of living for a commercial farming operation could include the loss of business expenses, traffic counts, visibility, and other items that a property owner would not be compensated for under existing law. For homestead properties, the same language could require compensation for such difficult to estimate costs as the proximity to certain amenities such as schools, parks, or local businesses.

The University of Texas System Office reports that the resolutions provisions may result in an increase in the number of eminent domain proceedings, and therefore further increase in the added costs to the process. Property owner's who are currently unable to recover relocation expenses through a negotiated purchase may choose an eminent domain proceeding to gain the ability to recover such costs under the resolution's provisions.

The resolution would require that the amendment to the Texas Constitution be submitted to voters at an election on November 8, 2011.

**Local Government Impact**

There would be an indeterminate cost to local governmental entities from the provisions of the resolution. The cost to a political subdivision would vary depending on the number of property acquisitions for which payment of relocation costs would be required and the future value of those properties.

According to the Texas Municipal League (TML), there would be costs to a municipality associated with the requirement to pay relocation costs when acquiring property by eminent domain, but the

amounts would vary depending on the number of projects undertaken that would require eminent domain. Under current statute, payment of relocation costs is not required.

According to the Texas Association of Counties (TAC), there could be a negative fiscal impact on counties that condemn and acquire properties. However, it is impossible to know how many properties will be condemned in the future or their value. In addition, it is also impossible to know the cost of providing relocation assistance “without the necessity of incurring an amount of debt, debt service, or total projected interest obligation that is higher than the property owner was subject to immediately before the taking.” Therefore, while it is clear that the bill will have a negative fiscal impact on counties; it is not possible to quantify the extent of that impact at present.

There would be a fiscal impact to local governments associated with an election; however, those costs would vary by locality and are not anticipated to be significant. Based on costs reported to the Secretary of State (SOS) in 2010 by a sampling of counties, municipalities, and special districts, the average cost incurred by a local governmental entity for an election is \$1.98 per registered voter.

**Source Agencies:** 305 General Land Office and Veterans' Land Board, 601 Department of Transportation, 720 The University of Texas System Administration

**LBB Staff:** JOB, SZ, JI, KY, TP