

By: Nichols

S.B. No. 178

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. Section 2206.001(c), Government Code, is amended to read as follows:

(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:

(1) transportation projects, including, but not limited to, railroads, airports, or public roads or highways;

(2) entities authorized under Section 59, Article XVI, Texas Constitution, including:

(A) port authorities;

(B) navigation districts; and

(C) any other conservation or reclamation districts that act as ports;

(3) water supply, wastewater, flood control, and drainage projects;

(4) public buildings and ~~and~~ hospitals~~and parks~~;

(5) the provision of utility services;

(6) a sports and community venue project approved by voters at an election held on or before December 1, 2005, under Chapter 334 or 335, Local Government Code;

(7) the operations of:

(A) a common carrier pipeline; or

(B) an energy transporter, as that term is defined by Section 186.051, Utilities Code;

(8) a purpose authorized by Chapter 181, Utilities Code;

(9) underground storage operations subject to Chapter 91, Natural Resources Code;

(10) a waste disposal project; or

(11) a library, museum, or related facility and any infrastructure related to the facility.

SECTION 2. Subchapter A, Chapter 2206, Government Code, is amended by adding Section 2206.003 to read as follows:

Sec. 2206.003. 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 and except as provided by Subsection (e), 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 purpose" includes:

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

(2) a park, greenbelt, or trail.

(e) This section does not affect the authority of a governmental entity to condemn:

(1) a leasehold estate on property owned by the governmental entity; or

(2) property to provide adequate public recreational access to suitable recreational resources as described by Section 16.1351, Water Code.

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

SECTION 3. Section 21.103(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided in Subsection (b) of this section, the department may acquire park sites, including property already

1 devoted to public use, by purchase [~~, condemnation,~~] or any other  
2 manner permitted by law.

3 SECTION 4. Sections 13.305 and 21.103(c), Parks and  
4 Wildlife Code, are repealed.

5 SECTION 5. The change in law made by this Act applies only  
6 to the taking of private property by eminent domain for which a  
7 condemnation petition is filed on or after the effective date of  
8 this Act. A taking for which a condemnation petition is filed  
9 before the effective date of this Act is governed by the law in  
10 effect immediately before that date, and that law is continued in  
11 effect for that purpose.

12 SECTION 6. This Act takes effect September 1, 2015.