

By: Kolkhorst, Schwertner

S.B. No. 1812

A BILL TO BE ENTITLED

AN ACT

relating to transparency in the reporting and public availability of information regarding eminent domain authority; providing a civil penalty.

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

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

SUBCHAPTER D. EMINENT DOMAIN AUTHORITY REPORTING; PUBLIC AVAILABILITY

Sec. 2206.151. APPLICABILITY. This subchapter applies to public and private entities, including common carriers, authorized by the state by a general or special law to exercise the power of eminent domain.

Sec. 2206.152. CREATION DATE. For the purposes of this subchapter, an entity described by Section 2206.151 is considered to have been created on:

(1) the earliest date on which the entity existed if the entity was authorized to exercise the power of eminent domain on that date; or

(2) the earliest date on which the entity was authorized to exercise the power of eminent domain if the entity did not have that authority on the earliest date on which the entity existed.

Sec. 2206.153. EMINENT DOMAIN DATABASE. (a) The

1 comptroller shall create and make accessible on an Internet website
2 maintained by the comptroller an eminent domain database as
3 provided by this section.

4 (b) The eminent domain database must include with respect to
5 each entity described by Section 2206.151:

6 (1) the name of the entity;

7 (2) the entity's address and public contact
8 information;

9 (3) the name of the appropriate officer or other
10 person representing the entity and that person's contact
11 information;

12 (4) the type of entity;

13 (5) each provision of law that grants the entity
14 eminent domain authority;

15 (6) the focus or scope of the eminent domain authority
16 granted to the entity;

17 (7) the location subject to the entity's eminent
18 domain authority;

19 (8) the earliest date on which the entity had the
20 authority to exercise the power of eminent domain;

21 (9) the entity's taxpayer identification number, if
22 any;

23 (10) whether the entity exercised the entity's eminent
24 domain authority in the preceding calendar year by the filing of a
25 condemnation petition under Section 21.012, Property Code; and

26 (11) the entity's Internet website address or, if the
27 entity does not operate an Internet website, contact information to

1 enable a member of the public to obtain information from the entity.

2 (c) The comptroller may consult with the appropriate
3 officer of, or other person representing, each entity to obtain the
4 information necessary to maintain the eminent domain database.

5 (d) To the extent information required in the eminent domain
6 database is otherwise collected or maintained by a state agency or
7 political subdivision, the comptroller may request and the state
8 agency or political subdivision shall provide that information and
9 any update to the information as necessary for inclusion in the
10 eminent domain database.

11 (e) At least annually, the comptroller shall update
12 information in the eminent domain database for each entity, as
13 appropriate.

14 (f) To the extent possible, the comptroller shall present
15 information in the eminent domain database in a manner that is
16 searchable and intuitive to users. The comptroller may enhance and
17 organize the presentation of the information through the use of
18 graphical representations as the comptroller considers
19 appropriate.

20 (g) The comptroller may not charge a fee to the public to
21 access the eminent domain database.

22 Sec. 2206.154. REPORTING OF INFORMATION TO THE COMPTROLLER.

23 (a) Except as provided by Subsection (b), not later than February
24 1 of each year, an entity described by Section 2206.151 shall submit
25 to the comptroller a report containing records and other
26 information specified by this subchapter for the purpose of
27 providing the comptroller with information to maintain the eminent

1 domain database under Section 2206.153. The entity shall submit
2 the report in a form and in the manner prescribed by the
3 comptroller.

4 (a-1) An entity described by Section 2206.151 created
5 before and in existence for at least 180 days on September 1, 2015,
6 shall submit the entity's initial report under Subsection (a) not
7 later than February 1, 2016. An entity described by Section
8 2206.151 created before and in existence for less than 180 days on
9 September 1, 2015, shall submit the entity's initial report under
10 Subsection (a) not later than the later of the 180th day after the
11 date of the entity's creation or February 1, 2016. This subsection
12 expires December 1, 2016.

13 (b) An entity described by Section 2206.151 created on or
14 after September 1, 2015, is not required to submit the entity's
15 initial report under Subsection (a) before the 180th day after the
16 date of the entity's creation.

17 (c) In addition to the annual report required under
18 Subsection (a), an entity described by Section 2206.151 shall
19 report to the comptroller any changes to the entity's eminent
20 domain authority information reported under this section not later
21 than the 90th day after the date on which the change occurred.

22 Sec. 2206.155. PENALTIES FOR NONCOMPLIANCE; EXPIRATION OF
23 EMINENT DOMAIN AUTHORITY. (a) An entity described by Section
24 2206.151 may not attempt to exercise the power of eminent domain by
25 making an offer under Section 21.0113, Property Code, or filing a
26 condemnation petition under Section 21.012, Property Code, at a
27 time when the entity has not reported information to the

1 comptroller as required by this subchapter.

2 (b) An entity that violates Subsection (a) and, as certified
3 by the comptroller under Subsection (d), does not make the report
4 required by Subsection (d) is liable to the state for a civil
5 penalty not to exceed \$1,000. The attorney general may sue to
6 collect the penalty.

7 (c) The comptroller shall provide notice to an entity that
8 violates Subsection (a) informing the entity that:

9 (1) the entity has violated Subsection (a); and

10 (2) the entity will be subject to the penalty imposed
11 by this section and the entity's authority to exercise the power of
12 eminent domain will expire if the entity does not report the
13 information required by this subchapter on or before the 30th day
14 after the date the notice is provided.

15 (d) Not later than the 30th day after the date the
16 comptroller provides notice under Subsection (c) to an entity that
17 violated Subsection (a), the entity must report the required
18 information. If the comptroller certifies that the entity did not
19 make the report as required by this subsection, the entity's
20 authority to exercise the power of eminent domain expires on the day
21 after the date the comptroller makes the certification.

22 (e) The comptroller shall promptly make a certification
23 described by Subsection (d) when appropriate and post information
24 regarding the expiration of an entity's eminent domain authority
25 under this section in the eminent domain database maintained under
26 Section 2206.153.

27 Sec. 2206.156. RULES. The comptroller may adopt rules and

1 establish policies and procedures to implement this subchapter.

2 SECTION 2. The comptroller of public accounts shall create
3 and post on an Internet website maintained by the comptroller the
4 eminent domain database required by Section 2206.153, Government
5 Code, as added by this Act, not later than September 1, 2016.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2015.