By:  Zwiener H.B. No. 4156

A BILL TO BE ENTITLED

AN ACT

relating to the exercise of power of eminent domain by private pipeline companies for the construction of common carrier pipelines.

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

SECTION 1.  CHAPTER 111. COMMON CARRIERS, PUBLIC UTILITIES, AND COMMON PURCHASERS, Natural Resources Code, is amended to read as follows:

Sec. 111.019.  RIGHT OF EMINENT DOMAIN. (a) Not withstanding section 111.0190 of this chapter, common carriers have the right and power of eminent domain.

(b)  In the exercise of the power of eminent domain granted under the provisions of Subsection (a) of this section, a common carrier may enter on and condemn the land, rights-of-way, easements, and property of any person or corporation necessary for the construction, maintenance, or operation of the common carrier pipeline.

(c)  Upon written request by a resident or owner of land crossed by a common carrier pipeline, the common carrier must disclose material data safety sheets concerning the commodities transported by the common carrier required by the commission and the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Section 11001 et seq.). Such disclosure must be in writing and must be mailed or delivered to the resident or landowner within 30 days of receipt of the request.

Sec. 111.0190  NEED FOR TEMPORARY MORATORIUM ON COMMON CARRIERS EXERCISING RIGHT OF EMINENT DOMAIN (a) The natural resources, environment, and vital areas of the state are of utmost importance to the state and its citizens and the State of Texas has an essential public interest in establishing minimum standard for land use in order to protect and preserve its natural resources, environment, and vital areas; and

(b)  State laws presently grants private pipeline companies the power to acquire property or interests in property through the use of eminent domain; and

(c)  Technology has significantly advanced in the past decade and the common carrier pipeline industry has also changed; and

(d)  The vitally important issue of land use impacts associated with common carrier pipelines that are presently in use and being developed for future use merits a detailed study by elected officials and experts in this field to ensure that the exercise of eminent domain by private pipeline companies is carried out in a prudent and responsible manner consistent with this state's essential public interest in establishing minimum standards for land us in order to protect and preserve its natural resources, environment, and vital areas; and

(e)  A temporary moratorium on the exercise of eminent domain powers of private pipeline companies through September 1, 2021, would provide the legislature with the time to study the need for any changes to land use controls or restrictions related to private pipeline companies seeking to deliver petroleum to residents of this state or other states, including but not limited to those related to siting of common carrier pipelines, and to assess various proposals relating to the eminent domain powers that private pipeline companies presently enjoy, the issuance of certain environmental permits to private pipeline companies, and the enactment of additional laws to ensure the consistency of common carrier pipeline development and operation with the state's land use goals and standards.

Sec. 111.01900  TEMPORARY MORATORIUM ON COMMON CARRIERS EXERCISING RIGHT OF EMINENT DOMAIN (a) The powers of eminent domain granted by Sec. 111.019 RIGHT OF EMINENT DOMAIN, Natural Resources Code, to common carrier pipeline companies shall be temporarily suspended starting from the effective date of this subchapter through and including September 1, 2021.

(b)  Between the effective date of this subchapter and September 1, 2021:

(1)  No private common carrier pipeline company shall exercise any eminent domain powers, including, without limitation, condemning any property through the exercise of eminent domain; and

(2)  The Texas Railroad Commission's Pipeline Safety Department shall not accept any pre-construction reports from pipeline operators.

(3)  No state officer, official, or employee or any state agency, department, commission, or committee shall issue any approval, permit, or document necessary for the construction of a common carrier pipeline, including, but not limited to, the granting of any easement, deed, license, or permission.

SECTION 2.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.