By:  Zwiener H.B. No. 4573

A BILL TO BE ENTITLED

AN ACT

relating to best management practices for landowners regarding the exercise of power of eminent domain for landowners.

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

SECTION 1.  CHAPTER 12. POWERS AND DUTIES CONCERNING WILDLIFE, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.025.  TECHNICAL GUIDANCE TO LANDOWNERS. (a) The department may provide technical guidance to landowners who request information concerning fish, wildlife, nongame, and habitat management.

(b)  In setting priorities for the provision of money to a landowner under this section, the department shall consider:

(1)  the inventory developed under Section 11.103; and

(2)  the priorities set under Section 11.105.

(c)  The department shall support landowner education programs PARKS AND WILDLIFE CODE Statute text and cooperate with appropriate state agencies.

(d)  The department shall provide notice of Section 12.0251 to a private landowner who requests technical assistance before entering the property to collect and record information about animal or plant life.

(e)  The commission by rule shall adopt policies, including written guidelines for a method for providing notice under Subsection (d) and for departmental entry onto privately owned land to collect information described by Section 12.0251(a). The policies and guidelines must identify the maximum information that the department may maintain under Section 12.0251.

(f)  A review or update of a record or plan produced by the department under Section 12.0251 and maintained by the landowner or the landowner's agent may be requested by the landowner or the department.

(g)  The department shall provide guidance to landowners undergoing the eminent domain process concerning fish, wildlife, nongame, and habitat management including:

(1)  Negotiating best management practices for land restoration following construction of common infrastructure projects that use eminent domain such as roads, rail lines, pipelines, and power lines; and

(2)  Recommendations on how to ensure an accurate valuation of wildlife lands; and

(3)  reasonable indemnification, including proof of appropriate insurance coverages, sound risk management practice policies, hold harmless agreements, and other provisions that provide the property owner with reasonable liability protection from any and all possible claims associated with the condemnation process; and

(4)  the maximum acceptable width of permanent easements, resulting from condemnation; and

(5)  liability for damages and losses caused by or arising out of construction, maintenance, replacement, or operations such as, but not limited to loss of livestock, wildlife, exotic game, crops, fences, gates, trees, buildings, and other improvements; and

(6)  non-interference clauses with regard to other operations on property, such as grazing, farming, hunting, oil and gas operations, and other normal activities found on private properties in Texas; and

(7)  timetable requirements for completion of constructions

(8)  the responsibility of the condemning entity to remove the infrastructure within a defined timeline; nonuse needs to be clearly defined.

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.