

By: Zwiener

H.B. No. 4156

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the exercise of power of eminent domain by private
3 pipeline companies for the construction of common carrier
4 pipelines.

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

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

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

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

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

1 30 days of receipt of the request.

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

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

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

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

24 (e) A temporary moratorium on the exercise of eminent domain
25 powers of private pipeline companies through September 1, 2021,
26 would provide the legislature with the time to study the need for
27 any changes to land use controls or restrictions related to private

1 pipeline companies seeking to deliver petroleum to residents of
2 this state or other states, including but not limited to those
3 related to siting of common carrier pipelines, and to assess
4 various proposals relating to the eminent domain powers that
5 private pipeline companies presently enjoy, the issuance of certain
6 environmental permits to private pipeline companies, and the
7 enactment of additional laws to ensure the consistency of common
8 carrier pipeline development and operation with the state's land
9 use goals and standards.

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

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

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

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

24 (3) No state officer, official, or employee or any
25 state agency, department, commission, or committee shall issue any
26 approval, permit, or document necessary for the construction of a
27 common carrier pipeline, including, but not limited to, the

1 granting of any easement, deed, license, or permission.

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