

BILL ANALYSIS

C.S.H.B. 448
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

With multiple pipelines being constructed in Texas, property owners have sometimes found themselves at odds with entities exercising eminent domain authority. While there have been cases of alleged misconduct by such entities, property owners and their representatives in the legislature have no way to report these cases because there is no process currently in statute for filing complaints against abuses of eminent domain authority. C.S.H.B. 448 seeks to address the lack of reporting and accountability for entities exercising that authority by establishing an ombudsman office under the Texas Real Estate Commission. Such an office will provide an avenue for property owner complaints to be heard and will enable better documentation of the extent of these problems.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Real Estate Commission in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 448 amends the Occupations Code to require the Texas Real Estate Commission (TREC) to establish an ombudsman office within the TREC for the purpose of receiving complaints from and providing information to landowners whose real property may be acquired by a governmental or private entity through the use of the entity's eminent domain authority. With respect to the ombudsman office, the bill sets out the following provisions:

- requires the executive director of the TREC to select the ombudsman;
- requires the TREC to publish on its website a form to be used to file complaints with the ombudsman;
- authorizes a landowner to file a complaint with the ombudsman against an entity for the alleged misconduct of the entity's representative, as "misconduct" is defined by the bill, and requires the complaining landowner to provide proof of ownership of the tract of land the entity seeks to obtain through eminent domain authority; and
- establishes that personal information obtained by the ombudsman office is confidential and is treated in the same manner as information or material relating to a complaint, investigation, or audit of any person subject to the jurisdiction of the TREC.

C.S.H.B. 448 requires the ombudsman to provide information to and answer questions from applicable landowners through the TREC website and a toll-free telephone number established by the ombudsman, regarding the following:

- the landowner's bill of rights prepared by the attorney general; and

- the procedures for acquiring real property through the use of eminent domain authority under statutory provisions governing eminent domain or under other law.

C.S.H.B. 448 requires the TREC, not later than December 1, 2021, to establish the ombudsman office and adopt rules necessary to implement the bill's related provisions. These requirements take effect September 1, 2021.

C.S.H.B. 448 amends the Government Code to require the landowner's bill of rights prepared by the attorney general to notify each property owner of the right to file a written complaint with the ombudsman office as provided by the bill. Effective September 1, 2021, the bill requires the attorney general to make the landowner's bill of rights available on the attorney general's website not later than December 1, 2021.

C.S.H.B. 448 amends the Natural Resources Code to make a conforming change.

EFFECTIVE DATE

Except as otherwise provided, January 1, 2022.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 448 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions that did not appear in the original relating to the establishment and functions of an ombudsman office within the TREC, granting associated rulemaking authority to the TREC, and requiring the landowner's bill of rights to include notification of a property owner's right to file a complaint with the ombudsman office.

The substitute does not include provisions of the original prohibiting an entity regulated by the Railroad Commission of Texas (RRC) from misusing the landowner's bill of rights to harass, intimidate, or otherwise mislead a property owner and establishing civil penalties for violations of that prohibition.

The substitute does not include the following provisions of the original relating to complaints to the RRC:

- an authorization for a property owner to file a written complaint concerning alleged misconduct by an entity regulated by the RRC that proposes to acquire the owner's property through eminent domain authority; and
- a requirement for the landowner's bill of rights to include notification of the right to file such a complaint.

The substitute requires the attorney general to make the landowner's bill of rights statement available on the attorney general's website not later than December 1, 2021, and makes that requirement effective September 1, 2021, whereas the original required the attorney general to make the statement available on the website not later than September 1, 2021.

The substitute changes the original's effective date of September 1, 2021, to January 1, 2022.