

## **BILL ANALYSIS**

C.S.H.B. 4107  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Property owners have raised concerns that private entities possessing eminent domain authority may not always act transparently or fairly when exercising that authority. C.S.H.B. 4107 seeks to address these concerns by providing for the provision to a property owner of written notice of a common carrier's intent to enter the property, for a certain indemnification provision in the property owner's favor, and for certain entry conditions.

### **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 4107 amends the Natural Resources Code to require a common carrier or its employees, contractors, agents, or assigns, before entering property for the purpose of making a preliminary survey to be used in the exercise of the power of eminent domain, to provide the property owner with the following:

- written notice of the carrier's intent to enter the property; and
- an indemnification provision in the property owner's favor with respect to any damages resulting from the survey.

C.S.H.B. 4107 requires the notice and indemnification to be provided to the property owner not later than the second day before the date of entry to the property and include the phone number of a person whom the property owner may contact regarding any questions or objections the property owner has relating to the survey. The bill authorizes the notice and indemnification to be provided by first class mail, email, personal delivery to an adult living on the property, or by any other method of service authorized by the Texas Rules of Civil Procedure.

C.S.H.B. 4107 subjects entry to property for which notice is provided to the following conditions:

- the entry is limited to only the portion of the property that is anticipated to be affected by the route of the proposed pipeline;
- the entry is limited to the purpose of conducting surveys;
- unless otherwise authorized by the property owner, the entry does not authorize the cutting, removal, or relocation of a fence for the purpose of conducting the survey without the prompt restoration or repair of the fence;
- the entry requires the restoration of property to be as close as reasonably possible to the

- original condition before entry;
- the entry requires all equipment and tools used in the survey to be removed by a certain date; and
- the entry requires that the property owner, on written request, be provided, at no charge, all non-privileged information gathered from the entry, including surveys, reports, maps, and photographs.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 4107 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 does not include provisions included in the original relating to a requirement that a common carrier make a good faith effort when exercising the power of eminent domain to negotiate with the owner of property sought to be condemned with regard to the particular route or location of a pipeline or incidental facility on the owner's property.

The substitute differs from the original by requiring a common carrier or its employees, contractors, agents, or assigns, before entering property for the purpose of making a preliminary survey to be used in the exercise of the power of eminent domain, to provide the property owner with written notice of the carrier's intent to enter the property, whereas the original required the common carrier or its employees, contractors, agents, or assigns, before entering the property for such purpose, to obtain from the property owner a written authorization for the right to enter the property. The original and the substitute share common provisions with regard to terms of the original's written authorization and the substitute's written notice, although the details differ as follows:

- the substitute provides for the provision of the phone number of a person whom the property owner may contact regarding applicable questions or objections, whereas the original does not provide for such;
- the original provides for authorized access to be at a time that is agreeable to both the common carrier and the property owner, whereas the substitute does not provide for such;
- the original provides for the common carrier or its employees, contractors, agents, or assigns to promptly repair or remediate any damage caused by the common carrier or its employees, contractors, agents, or assigns while on the property, whereas the substitute does not provide for such; and
- the original provides for an expiration date for entry authorization, whereas the substitute does not provide for such.