

BILL ANALYSIS

Senate Research Center
88R526 DRS-D

S.B. 1513
By: Schwertner
State Affairs
3/31/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Despite recent reforms to increase fairness in the eminent domain process, many private landowners remain unfamiliar with the full scope of their property rights. Misunderstandings can lead to suboptimal outcomes for landowners. Currently, the attorney general publishes a "Landowner's Bill of Rights," which seeks to provide landowners with a summary of their rights when an entity attempts to condemn their property. However, it does not contain information concerning the ability of a person or entity to enter the land to conduct a survey, and landowners remain concerned when approached by individuals purporting to have legal authority (correctly or incorrectly) to enter the landowner's private property.

S.B. 1513 places information in the Landowner's Bill of Rights concerning the existing rights and obligations of both the condemning entity and the landowner. Specifically, the bill addresses:

- Surveys: Currently, a condemning authority must request permission to enter private property to conduct a survey. S.B. 1513 would ensure the landowner knows of this existing right to negotiate the terms of the examination or survey of the property (e.g., time of day); the condemning entity's ability to sue to obtain a court order authorizing the examination or survey if the landowner refuses access to the property; and a condemning entity's responsibility for any actual damages arising from an examination or survey of the property.
- Offers: Currently, a condemnor can only seek property strictly needed for public use, and must make a separate offer for additional land that the condemnor wishes to purchase. S.B. 1513 would ensure the landowner knows of these differences.
- Notice: Currently, Section 21.0112 of the Property Code states that entity with eminent domain power must send the Landowner Bill of Rights to the property owner at least seven days before making the final offer. S.B. 1513 would require the Landowner Bill of Rights be delivered with the initial offer.

As proposed, S.B. 1513 amends current law relating to certain requirements in connection with the acquisition of real property for public use by an entity with eminent domain authority.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 402.031, Government Code, by amending Subsection (c) and adding Subsection (c-2), as follows:

(c) Requires that a landowner's bill of rights statement include:

(1) makes no changes to this subdivision; and

(2) a description of:

(A) makes no changes to this paragraph;

(B) the condemning entity's obligations to the property owner, including the responsibility for any damages arising from an examination or survey of the property;

(C) the property owner's options during a condemnation, including the property owner's right to:

(i) refuse to grant permission to the condemning entity to enter the property and conduct an examination or survey of the property;

(ii) negotiate the terms of the examination or survey of the property; and

(iii) object to and appeal an amount of damages awarded; and

(D) the condemning entity's right to sue for a court order authorizing the examination or survey if the property owner refuses to grant permission for the examination or survey.

(c-2) Requires that the statement disclose that a condemning entity, other than an entity acquiring property as authorized under Subchapter D (Acquisition of Property), Chapter 203, Transportation Code, that makes an initial offer under Section 21.0113 (Bona Fide Offer Required), Property Code, that includes real property that the entity does not seek to acquire by condemnation is required in the initial offer:

(1) separately identify the real property that the entity does not seek to acquire by condemnation; and

(2) make an offer for the real property that the entity does not seek to acquire by condemnation separate from the offer made for the real property sought to be acquired by condemnation.

SECTION 2. Amends Subchapter B, Chapter 21, Property Code, by adding Section 21.01101, as follows:

Sec. 21.01101. SURVEY PERMISSION FORM. Requires that the form, if an entity with eminent domain authority provides a form to an owner of real property requesting the owner's permission to enter the property to examine the property or conduct a survey of the property in connection with the potential acquisition of the property for a public use, conspicuously state that:

(1) the owner has a right to refuse to grant permission to the entity to enter the property and conduct the examination or survey;

(2) the entity has a right to sue for a court order authorizing the entity to enter the property and conduct the examination or survey if the owner refuses to grant the permission;

(3) the owner has a right to negotiate the terms of the examination or survey of the property; and

(4) the entity has the responsibility for any damages arising from an examination or survey of the property.

SECTION 3. Amends Section 21.0112(a), Property Code, as follows:

(a) Requires an entity, at the time a governmental or private entity with eminent domain authority makes an initial offer to a property owner, rather than not later than the seventh day before the date a governmental or private entity with eminent domain authority

makes a final offer to a property owner, to acquire real property, to send by first-class mail or otherwise provide a landowner's bill of rights statement provided by Section 402.031 (Preparation of Landowner's Bill of Rights Statement), Government Code, to the last known address of the person in whose name the property is listed on the most recent tax roll of any appropriate taxing unit authorized by law to levy property taxes against the property.

SECTION 4. Amends Section 21.0113(b), Property Code, as follows:

(b) Provides that an entity with eminent domain authority has made a bona fide offer if:

(1) an initial offer is made in writing to a property owner that includes:

(A) a copy of the landowner's bill of rights statement prescribed by Section 402.031, Government Code, provided in accordance with Section 21.0112 (Provision of Landowner's Bill of Rights Statement Required) and including the addendum prescribed by Section 402.031(c-1) (relating to requiring the statement to include an addendum of the terms required for an instrument of conveyance), Government Code, if applicable;

(B)-(D) makes no changes to these paragraphs;

(2)-(5) makes no changes to these subdivisions;

(6) the following items are included with the final offer or have been previously provided to the owner by the entity:

(A) makes a nonsubstantive change; and

(B) makes no changes to this subdivision; and

(7) makes no changes to this subdivision.

Deletes existing text providing that an entity with eminent domain authority has made a bona fide offer if the landowner's bill of rights statement prescribed by Section 21.0112 is included with the final offer or have been previously provided to the owner by the entity.

SECTION 5. Amends Subchapter B, Chapter 21, Property Code, by adding Section 21.0115, as follows:

Sec. 21.0115. OFFER TO ACQUIRE ADDITIONAL PROPERTY; EXCEPTION. (a) Requires a condemning entity that makes an initial offer under Section 21.0113 that includes real property that the entity does not seek to acquire by condemnation, except as provided by Subsection (b), in the initial offer to:

(1) separately identify the real property that the entity does not seek to acquire by condemnation; and

(2) make an offer for the real property that the entity does not seek to acquire by condemnation separate from the offer made for the real property sought to be acquired by condemnation.

(b) Provides that Subsection (a) does not apply to an acquisition of real property under Subchapter D, Chapter 203, Transportation Code.

SECTION 6. Requires the Office of the Attorney General to make the landowner's bill of rights statement required by Section 402.031, Government Code, as amended by this Act, available on the attorney general's Internet website not later than January 1, 2024.

SECTION 7. Makes application of changes in law made by this Act to Sections 21.0112 and 21.0113, Property Code, prospective.

SECTION 8. Effective date: January 1, 2024.