

By: Money

H.B. No. 162

A BILL TO BE ENTITLED

AN ACT

relating to the exercise of the power of eminent domain by a political subdivision to acquire property outside the political subdivision's boundaries.

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

SECTION 1. Section 1505.114(a), Government Code, is amended to read as follows:

(a) A municipality may exercise the power of eminent domain to acquire the fee simple title to, an easement in, or a right-of-way over or through any property inside the corporate boundaries of the municipality, including water or land under water, that the governing body of the municipality determines necessary to accomplish a purpose provided by Section 1505.103 ~~[without regard to whether the property is inside or outside the municipality]~~.

SECTION 2. The heading to Subchapter A, Chapter 2206, Government Code, is amended to read as follows:

SUBCHAPTER A. LIMITATIONS ON PURPOSE, ~~[AND]~~ USE, AND LOCATION OF
PROPERTY ACQUIRED THROUGH EMINENT DOMAIN

SECTION 3. Subchapter A, Chapter 2206, Government Code, is amended by adding Section 2206.003 to read as follows:

Sec. 2206.003. LIMITATION ON USE OF EMINENT DOMAIN OUTSIDE POLITICAL SUBDIVISION BOUNDARIES. Notwithstanding any other law, a political subdivision of this state may not take through the use of

eminent domain public or private property located outside the political subdivision's boundaries.

SECTION 4. Section 63.017, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) In the instance of a facility formed by a single county, the commissioners court of the creating county may acquire, through gift, purchase, condemnation, or any other method, real property for the purpose of locating a facility on such property. Except as provided by Subsection (a-1), such ~~[Such]~~ property may be acquired outside of the boundaries of the creating county if, in the opinion of the commissioners court of the forming county, there will exist a demand for the services to be provided by the facility in the county in which the facility is to be located in addition to any need which may already exist within the boundaries of the creating county.

(a-1) The commissioners court of the creating county may not acquire real property outside of the boundaries of the creating county through condemnation under Subsection (a).

SECTION 5. Section 241.903, Local Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), an ~~[An]~~ acquisition under this section may be by purchase, grant, or condemnation in the manner provided by Subchapter B, Chapter 21, Property Code.

(c) A political subdivision may acquire an estate or interest in property or a nonconforming structure under this

1 section only if the property or structure is located inside the
2 boundaries of the political subdivision.

3 SECTION 6. Section 251.001(a), Local Government Code, is
4 amended to read as follows:

5 (a) When the governing body of a municipality considers it
6 necessary, the municipality may exercise the right of eminent
7 domain for a public use to acquire public or private property[
8 ~~whether~~] located inside [~~or outside~~] the corporate boundaries of
9 the municipality, for any of the following uses:

10 (1) the providing, enlarging, or improving of a
11 municipally owned city hall; police station; jail or other law
12 enforcement detention facility; fire station; library; school or
13 other educational facility; academy; auditorium; hospital;
14 sanatorium; market house; slaughterhouse; warehouse; elevator;
15 railroad terminal; airport; ferry; ferry landing; pier; wharf; dock
16 or other shipping facility; loading or unloading facility; alley,
17 street, or other roadway; park, playground, or other recreational
18 facility; square; water works system, including reservoirs, other
19 water supply sources, watersheds, and water storage, drainage,
20 treatment, distribution, transmission, and emptying facilities;
21 sewage system including sewage collection, drainage, treatment,
22 disposal, and emptying facilities; electric or gas power system;
23 cemetery; and crematory;

24 (2) the determining of riparian rights relative to the
25 municipal water works;

26 (3) the straightening or improving of the channel of
27 any stream, branch, or drain;

(4) the straightening, widening, or extending of any alley, street, or other roadway; and

(5) any other municipal public use the governing body considers advisable.

SECTION 7. Section 273.001, Local Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The property must be located within the county where the municipality or other governmental entity is located. Except as provided by Subsection (b-1), the [The] property may be located inside or outside the corporate limits of the municipality.

(b-1) A municipality may acquire property through condemnation under Subsection (a) only if the property is located inside the corporate limits of the municipality.

SECTION 8. Section 280.001(b), Local Government Code, is amended to read as follows:

(b) Land acquired under this section by a county must be located within the county. Land acquired under this section by a municipality must be located within the corporate boundaries of [county in which] the municipality [is located].

SECTION 9. Section 281.050, Local Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (b-1), an [An] authority may acquire fee simple title to, or an easement on, public or private land located in or out of the authority's boundaries. An authority may acquire title to, or an easement on, property that is

1 not held in fee.

2 (b-1) An authority may acquire fee simple title to or an
3 easement on land under this section only if the land is located
4 inside the authority's boundaries.

5 SECTION 10. Section 331.001, Local Government Code, is
6 amended by amending Subsection (c) and adding Subsection (d) to
7 read as follows:

8 (c) Except as provided by Subsection (d), land ~~[Land]~~
9 acquired by a municipality under Subsection (b) may be situated
10 inside or outside the municipality but must be within the county in
11 which the municipality is situated, and land acquired by a county
12 under Subsection (b) must be within the limits of the county. The
13 land may be acquired in any size tract considered suitable by the
14 governing body of the municipality or county.

15 (d) A municipality may acquire land by eminent domain
16 proceeding under Subsection (b) only if the land is located inside
17 the corporate limits of the municipality.

18 SECTION 11. Section 552.002, Local Government Code, is
19 amended by amending Subsection (b) and adding Subsection (b-1) to
20 read as follows:

21 (b) A home-rule municipality may buy, own, construct inside
22 or outside the municipal limits, and maintain and operate a gas
23 system, electric lighting plant, sewage plant, or other public
24 service or public utility and may require and receive compensation
25 for services furnished for private purposes or otherwise. Except as
26 provided by Subsection (b-1), the ~~[The]~~ municipality may use
27 eminent domain authority to appropriate real property,

rights-of-way, or other property as necessary to efficiently carry out those objects. The municipality may condemn the property of any person that conducts such a business or utility service for the purpose of operating and maintaining the public service or public utility and distributing the utility services in the municipality. In its charter, the municipality may adopt rules it considers advisable for the acquisition or operation of the public service or public utility.

(b-1) A municipality may appropriate property through eminent domain authority under Subsection (b) only if the property is located inside the corporate limits of the municipality.

SECTION 12. Section 552.011, Local Government Code, is amended to read as follows:

Sec. 552.011. USE OF EMINENT DOMAIN POWER. A municipality that owns its water system may exercise the power of eminent domain to condemn private property located inside ~~[or outside]~~ the municipal limits to acquire rights-of-way for digging or excavating canals or for laying water mains or other pipelines to bring water into the municipality for public use.

SECTION 13. Section 552.012, Local Government Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Except as provided by Subsection (c-1), the ~~[The]~~ municipality, acting alone or with one or more other municipalities to which this section applies, may:

(1) receive or acquire by gift, dedication, purchase, or condemnation any property in this state, located inside or

outside the municipal boundaries, to build or acquire:

(A) water purification and treatment facilities;

(B) reservoirs; or

(C) pipelines and any type of water transportation facilities considered necessary to provide the municipality or municipalities with fresh water for municipal, domestic, and industrial purposes; and

(2) construct or otherwise acquire any facility described by Subdivision (1).

(c-1) A municipality may acquire property through condemnation under Subsection (c) only if the property is located inside the corporate limits of the municipality.

SECTION 14. Section [221.021](#), Natural Resources Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) With the approval of the General Land Office, a state agency or eligible political subdivision may take any necessary and reasonable action to comply with a federal requirement to establish or maintain a mitigation bank. An action under this section may include:

(1) authorizing or making a continuing study of wetland areas and wetland mitigation programs;

(2) consistent with federal requirements, engaging in a wetland mitigation program and adopting and enforcing permanent land use and control measures on land the agency or subdivision owns in a mitigation bank;

(3) consulting with, providing information to, and

1 entering into an agreement with a federal agency to identify and
2 publish information about wetland areas;

3 (4) cooperating with a federal or state agency in
4 connection with a study or investigation regarding the adequacy of
5 a local measure with respect to a federal or state wetland program;

6 (5) improving the long-range management or use of
7 wetland or a wetland mitigation bank;

8 (6) except as provided by Subsection (a-1),
9 purchasing, leasing, condemning, or otherwise acquiring property
10 inside or outside the eligible political subdivision that is
11 necessary for a wetland mitigation bank or buffer zone and, as
12 necessary, improving the land or other property as a wetland
13 mitigation bank, including any adjacent buffer zone, to comply with
14 a federal requirement;

15 (7) requesting or receiving aid from a federal or
16 state agency or an eligible political subdivision;

17 (8) purchasing, selling, or contracting to purchase or
18 sell a mitigation credit in a mitigation bank;

19 (9) incurring a liability or borrowing money on terms
20 approved by the governing body of the subdivision;

21 (10) acquiring, holding, using, selling, leasing, or
22 disposing of real or personal property, including a license,
23 patent, right, or interest, that is necessary, convenient, or
24 useful for the full exercise of a power under this chapter;

25 (11) contracting with any operator to use or operate
26 any part of a mitigation bank; and

27 (12) procuring any type of insurance and paying an

insurance premium in an amount the governing body of the eligible political subdivision considers necessary or advisable.

(a-1) An eligible political subdivision may acquire property through condemnation under Subsection (a)(6) only if the property is located inside the boundaries of the political subdivision.

SECTION 15. Section 22.011, Transportation Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Except as provided by Subsection (c-1), a [A] local government, by eminent domain or any other method, may acquire an interest in property, including an easement in an airport hazard or land outside the boundaries of an airport or airport site:

(1) for a purpose described by Subsection (a); and

(2) as necessary to permit the safe and efficient operation of the airport or to prevent, eliminate, or mark an airport hazard.

(c-1) A local government may acquire an interest in property by eminent domain under Subsection (c) only if the property is located outside the boundaries of the local government.

SECTION 16. Section 30.033(b), Water Code, is amended to read as follows:

(b) To accomplish the purposes of the chapter, a district may exercise the power of eminent domain to acquire all or any interest in property inside ~~[or outside]~~ the boundaries of the district. A district may not exercise the power of eminent domain to acquire all or any interest in property outside the boundaries of

1 the district. The power shall be exercised according to the laws
2 applicable or available to the district.

3 SECTION 17. Section 49.222(a), Water Code, is amended to
4 read as follows:

5 (a) A district or water supply corporation may acquire by
6 condemnation any land, easements, or other property inside [~~or~~
7 ~~outside~~] the district boundaries, or the boundaries of the
8 certificated service area for a water supply corporation, necessary
9 for water, sanitary sewer, storm drainage, or flood drainage or
10 control purposes or for any other of its projects or purposes, and
11 may elect to condemn either the fee simple title or a lesser
12 property interest.

13 SECTION 18. Section 57.269(f), Water Code, is amended to
14 read as follows:

15 (f) If necessary the commissioners shall condemn and
16 adjudge damages for land inside [~~or outside~~] the district that is
17 needed for right-of-way or other purposes.

18 SECTION 19. The changes in law made by this Act apply only
19 to the taking of public or private property by eminent domain for
20 which a condemnation petition is filed on or after the effective
21 date of this Act. A taking for which a condemnation petition is
22 filed before the effective date of this Act is governed by the law
23 in effect immediately before that date, and that law is continued in
24 effect for that purpose.

25 SECTION 20. This Act takes effect on the 91st day after the
26 last day of the legislative session.