

1-1 By: Estes, Duncan, et al. S.B. No. 18  
1-2 (In the Senate - Filed January 10, 2011; January 31, 2011,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 February 7, 2011, reported favorably by the following vote:  
1-5 Yeas 6, Nays 0; February 7, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the use of eminent domain authority.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter 2206, Government Code, is amended to  
1-11 read as follows:

1-12 CHAPTER 2206. ~~[LIMITATIONS ON USE OF]~~ EMINENT DOMAIN  
1-13 SUBCHAPTER A. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED  
1-14 THROUGH EMINENT DOMAIN

1-15 Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES  
1-16 OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies to the use  
1-17 of eminent domain under the laws of this state, including a local or  
1-18 special law, by any governmental or private entity, including:

1-19 (1) a state agency, including an institution of higher  
1-20 education as defined by Section 61.003, Education Code;

1-21 (2) a political subdivision of this state; or

1-22 (3) a corporation created by a governmental entity to  
1-23 act on behalf of the entity.

1-24 (b) A governmental or private entity may not take private  
1-25 property through the use of eminent domain if the taking:

1-26 (1) confers a private benefit on a particular private  
1-27 party through the use of the property;

1-28 (2) is for a public use that is merely a pretext to  
1-29 confer a private benefit on a particular private party; ~~or~~

1-30 (3) is for economic development purposes, unless the  
1-31 economic development is a secondary purpose resulting from  
1-32 municipal community development or municipal urban renewal  
1-33 activities to eliminate an existing affirmative harm on society  
1-34 from slum or blighted areas under:

1-35 (A) Chapter 373 or 374, Local Government Code,  
1-36 other than an activity described by Section 373.002(b)(5), Local  
1-37 Government Code; or

1-38 (B) Section 311.005(a)(1)(I), Tax Code; or

1-39 (4) is not for a public use.

1-40 (c) This section does not affect the authority of an entity  
1-41 authorized by law to take private property through the use of  
1-42 eminent domain for:

1-43 (1) transportation projects, including, but not  
1-44 limited to, railroads, airports, or public roads or highways;

1-45 (2) entities authorized under Section 59, Article XVI,  
1-46 Texas Constitution, including:

1-47 (A) port authorities;

1-48 (B) navigation districts; and

1-49 (C) any other conservation or reclamation  
1-50 districts that act as ports;

1-51 (3) water supply, wastewater, flood control, and  
1-52 drainage projects;

1-53 (4) public buildings, hospitals, and parks;

1-54 (5) the provision of utility services;

1-55 (6) a sports and community venue project approved by  
1-56 voters at an election held on or before December 1, 2005, under  
1-57 Chapter 334 or 335, Local Government Code;

1-58 (7) the operations of:

1-59 (A) a common carrier pipeline ~~[subject to Chapter~~  
1-60 ~~111, Natural Resources Code, and Section B(3)(b), Article 2.01,~~  
1-61 ~~Texas Business Corporation Act]; or~~

1-62 (B) an energy transporter, as that term is  
1-63 defined by Section 186.051, Utilities Code;

1-64 (8) a purpose authorized by Chapter 181, Utilities

2-1 Code;

2-2 (9) underground storage operations subject to Chapter

2-3 91, Natural Resources Code;

2-4 (10) a waste disposal project; or

2-5 (11) a library, museum, or related facility and any

2-6 infrastructure related to the facility.

2-7 (d) This section does not affect the authority of a

2-8 governmental entity to condemn a leasehold estate on property owned

2-9 by the governmental entity.

2-10 (e) The determination by the governmental or private entity

2-11 proposing to take the property that the taking does not involve an

2-12 act or circumstance prohibited by Subsection (b) does not create a

2-13 presumption with respect to whether the taking involves that act or

2-14 circumstance.

2-15 Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) This section

2-16 applies only to an easement acquired by an entity for the purpose of

2-17 a pipeline to be used for oil or gas exploration or production

2-18 activities.

2-19 (b) A property owner whose property is acquired through the

2-20 use of eminent domain under Chapter 21, Property Code, for the

2-21 purpose of creating an easement through that owner's property may

2-22 construct streets or roads, including gravel, asphalt, or concrete

2-23 streets or roads, at any locations above the easement that the

2-24 property owner chooses.

2-25 (c) The portion of a street or road constructed under this

2-26 section that is within the area covered by the easement:

2-27 (1) must cross the easement at or near 90 degrees; and

2-28 (2) may not:

2-29 (A) exceed 40 feet in width;

2-30 (B) cause a violation of any applicable pipeline

2-31 regulation; or

2-32 (C) interfere with the operation and maintenance

2-33 of any pipeline.

2-34 (d) At least 30 days before the date on which construction

2-35 of an asphalt or concrete street or road that will be located wholly

2-36 or partly in an area covered by an easement used for a pipeline is

2-37 scheduled to begin, the property owner must submit plans for the

2-38 proposed construction to the owner of the easement.

2-39 SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE

2-40 EMINENT DOMAIN PROCEEDINGS

2-41 Sec. 2206.051. SHORT TITLE. This subchapter may be cited as

2-42 the Truth in Condemnation Procedures Act.

2-43 Sec. 2206.052. APPLICABILITY. The procedures in this

2-44 subchapter apply only to the use of eminent domain under the laws of

2-45 this state by a governmental entity.

2-46 Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a

2-47 governmental entity initiates a condemnation proceeding by filing a

2-48 petition under Section 21.012, Property Code, the governmental

2-49 entity must authorize the initiation of the condemnation proceeding

2-50 at a public meeting by a record vote.

2-51 (b) A single ordinance, resolution, or order may be adopted

2-52 for all units of property to be condemned if:

2-53 (1) the motion required by Subsection (e) indicates

2-54 that the first record vote applies to all units of property to be

2-55 condemned; and

2-56 (2) the minutes of the governmental entity reflect

2-57 that the first vote applies to all of those units.

2-58 (c) If more than one member of the governing body objects to

2-59 adopting a single ordinance, resolution, or order by a record vote

2-60 for all units of property for which condemnation proceedings are to

2-61 be initiated, a separate record vote must be taken for each unit of

2-62 property.

2-63 (d) For the purposes of Subsections (a) and (c), if two or

2-64 more units of real property are owned by the same person, the

2-65 governmental entity may treat those units of property as one unit of

2-66 property.

2-67 (e) The motion to adopt an ordinance, resolution, or order

2-68 authorizing the initiation of condemnation proceedings under

2-69 Chapter 21, Property Code, must be made in a form substantially

3-1 similar to the following: "I move that the (name of governmental  
 3-2 entity) authorize the use of the power of eminent domain to acquire  
 3-3 (describe the property) for (describe the public use)." The  
 3-4 description of the property required by this subsection is  
 3-5 sufficient if the description of the location of and interest in the  
 3-6 property that the governmental entity seeks to acquire is  
 3-7 substantially similar to the description that is or could properly  
 3-8 be used in a petition to condemn the property under Section 21.012,  
 3-9 Property Code.

3-10 (f) If a project for a public use described by Section  
 3-11 2206.001(c)(3) will require a governmental entity to acquire  
 3-12 multiple tracts or units of property to construct facilities  
 3-13 connecting one location to another location, the governing body of  
 3-14 the governmental entity may adopt a single ordinance, resolution,  
 3-15 or order by a record vote that delegates the authority to initiate  
 3-16 condemnation proceedings to the chief administrative official of  
 3-17 the governmental entity.

3-18 (g) An ordinance, resolution, or order adopted under  
 3-19 Subsection (f) is not required to identify specific properties that  
 3-20 the governmental entity will acquire. The ordinance, resolution,  
 3-21 or order must identify the general area to be covered by the project  
 3-22 or the general route that will be used by the governmental entity  
 3-23 for the project in a way that provides property owners in and around  
 3-24 the area or along the route reasonable notice that the owners'  
 3-25 properties may be subject to condemnation proceedings during the  
 3-26 planning or construction of the project.

3-27 SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

3-28 Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY;  
 3-29 EXPIRATION OF AUTHORITY. (a) This section does not apply to an  
 3-30 entity that was created or that acquired the power of eminent domain  
 3-31 on or after December 31, 2012.

3-32 (b) Not later than December 31, 2012, an entity, including a  
 3-33 private entity, authorized by the state by a general or special law  
 3-34 to exercise the power of eminent domain shall submit to the  
 3-35 comptroller a letter stating that the entity is authorized by the  
 3-36 state to exercise the power of eminent domain and identifying each  
 3-37 provision of law that grants the entity that authority. The entity  
 3-38 must send the letter by certified mail, return receipt requested.

3-39 (c) The authority of an entity to exercise the power of  
 3-40 eminent domain expires on September 1, 2013, unless the entity  
 3-41 submits a letter in accordance with Subsection (b).

3-42 (d) Not later than March 1, 2013, the comptroller shall  
 3-43 submit to the governor, the lieutenant governor, the speaker of the  
 3-44 house of representatives, the presiding officers of the appropriate  
 3-45 standing committees of the senate and the house of representatives,  
 3-46 and the Texas Legislative Council a report that contains:

3-47 (1) the name of each entity that submitted a letter in  
 3-48 accordance with this section; and

3-49 (2) a corresponding list of the provisions granting  
 3-50 eminent domain authority as identified by each entity that  
 3-51 submitted a letter.

3-52 (e) The Texas Legislative Council shall prepare for  
 3-53 consideration by the 84th Legislature, Regular Session, a  
 3-54 nonsubstantive revision of the statutes of this state as necessary  
 3-55 to reflect the state of the law after the expiration of an entity's  
 3-56 eminent domain authority effective under Subsection (c).

3-57 SECTION 2. Section 21.0111, Property Code, is amended to  
 3-58 read as follows:

3-59 Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED;  
 3-60 INITIAL OFFER. (a) An [~~A governmental~~] entity with eminent domain  
 3-61 authority that wants to acquire real property for a public use  
 3-62 shall, by certified mail, return receipt requested, disclose to the  
 3-63 property owner at the time an offer to purchase or lease the  
 3-64 property is made any and all [~~existing~~] appraisal reports produced  
 3-65 or acquired by the [~~governmental~~] entity relating specifically to  
 3-66 the owner's property and prepared in the 10 years preceding the date  
 3-67 of the [~~used in determining the final valuation~~] offer.

3-68 (b) A property owner shall disclose to the [~~acquiring~~  
 3-69 ~~governmental~~] entity seeking to acquire the property any and all

4-1 current and existing appraisal reports produced or acquired by the  
4-2 property owner relating specifically to the owner's property and  
4-3 used in determining the owner's opinion of value. Such disclosure  
4-4 shall take place not later than the earlier of:

4-5 (1) the 10th day after the date [within 10 days] of  
4-6 receipt of an appraisal report; or

4-7 (2) the third business day before the date of a special  
4-8 commissioner's hearing if an appraisal report is to be used at the  
4-9 [reports but no later than 10 days prior to the special  
4-10 commissioner's] hearing.

4-11 (c) An entity seeking to acquire property that the entity is  
4-12 authorized to obtain through the use of eminent domain may not  
4-13 include a confidentiality provision in an offer or agreement to  
4-14 acquire the property. The entity shall inform the owner of the  
4-15 property that the owner has the right to:

4-16 (1) discuss any offer or agreement regarding the  
4-17 entity's acquisition of the property with others; or

4-18 (2) keep the offer or agreement confidential, unless  
4-19 the offer or agreement is subject to Chapter 552, Government Code.

4-20 (d) A subsequent bona fide purchaser for value from the  
4-21 acquiring [governmental] entity may conclusively presume that the  
4-22 requirement of this section has been met. This section does not  
4-23 apply to acquisitions of real property for which an [a  
4-24 governmental] entity does not have eminent domain authority.

4-25 SECTION 3. Subchapter B, Chapter 21, Property Code, is  
4-26 amended by adding Section 21.0113 to read as follows:

4-27 Sec. 21.0113. BONA FIDE OFFER REQUIRED. (a) An entity  
4-28 with eminent domain authority that wants to acquire real property  
4-29 for a public use must make a bona fide offer to acquire the property  
4-30 from the property owner voluntarily.

4-31 (b) An entity with eminent domain authority has made a bona  
4-32 fide offer if:

4-33 (1) an initial offer is made in writing to a property  
4-34 owner;

4-35 (2) a final offer is made in writing to the property  
4-36 owner;

4-37 (3) the final offer is made on or after the 30th day  
4-38 after the date on which the entity makes a written initial offer to  
4-39 the property owner;

4-40 (4) before making a final offer, the entity obtains a  
4-41 written appraisal from a certified appraiser of the value of the  
4-42 property being acquired and the damages, if any, to any of the  
4-43 property owner's remaining property;

4-44 (5) the final offer is equal to or greater than the  
4-45 amount of the written appraisal obtained by the entity;

4-46 (6) the following items are included with the final  
4-47 offer or have been previously provided to the owner by the entity:

4-48 (A) a copy of the written appraisal;

4-49 (B) a copy of the deed, easement, or other  
4-50 instrument conveying the property sought to be acquired; and

4-51 (C) the landowner's bill of rights statement  
4-52 prescribed by Section 21.0112; and

4-53 (7) the entity provides the property owner with at  
4-54 least 14 days to respond to the final offer and the property owner  
4-55 does not agree to the terms of the final offer within that period.

4-56 SECTION 4. Section 21.012, Property Code, is amended to  
4-57 read as follows:

4-58 Sec. 21.012. CONDEMNATION PETITION. (a) If an entity [the  
4-59 United States, this state, a political subdivision of this state, a  
4-60 corporation] with eminent domain authority[, or an irrigation,  
4-61 water improvement, or water power control district created by law]  
4-62 wants to acquire real property for public use but is unable to agree  
4-63 with the owner of the property on the amount of damages, the  
4-64 [condemning] entity may begin a condemnation proceeding by filing a  
4-65 petition in the proper court.

4-66 (b) The petition must:

4-67 (1) describe the property to be condemned;

4-68 (2) state with specificity the public use [purpose]  
4-69 for which the entity intends to acquire [use] the property;

5-1 (3) state the name of the owner of the property if the  
 5-2 owner is known;

5-3 (4) state that the entity and the property owner are  
 5-4 unable to agree on the damages; ~~and~~

5-5 (5) if applicable, state that the entity provided the  
 5-6 property owner with the landowner's bill of rights statement in  
 5-7 accordance with Section 21.0112; and

5-8 (6) state that the entity made a bona fide offer to  
 5-9 acquire the property from the property owner voluntarily as  
 5-10 provided by Section 21.0113.

5-11 (c) An entity that files a petition under this section must  
 5-12 provide a copy of the petition to the property owner by certified  
 5-13 mail, return receipt requested.

5-14 SECTION 5. Subsection (a), Section 21.014, Property Code,  
 5-15 is amended to read as follows:

5-16 (a) The judge of a court in which a condemnation petition is  
 5-17 filed or to which an eminent domain case is assigned shall appoint  
 5-18 three disinterested real property owners ~~[freeholders]~~ who reside  
 5-19 in the county as special commissioners to assess the damages of the  
 5-20 owner of the property being condemned. The judge appointing the  
 5-21 special commissioners shall give preference to persons agreed on by  
 5-22 the parties. The judge shall provide each party a reasonable period  
 5-23 to strike one of the three commissioners appointed by the judge. If  
 5-24 a person fails to serve as a commissioner or is struck by a party to  
 5-25 the suit, the judge shall ~~may~~ appoint a replacement.

5-26 SECTION 6. Subsection (a), Section 21.015, Property Code,  
 5-27 is amended to read as follows:

5-28 (a) The special commissioners in an eminent domain  
 5-29 proceeding shall promptly schedule a hearing for the parties at the  
 5-30 earliest practical time but may not schedule a hearing to assess  
 5-31 damages before the 20th day after the date the special  
 5-32 commissioners were appointed. The special commissioners shall  
 5-33 schedule a hearing for the parties ~~and~~ at a place that is as near  
 5-34 as practical to the property being condemned or at the county seat  
 5-35 of the county in which the proceeding is being held.

5-36 SECTION 7. Subsection (b), Section 21.016, Property Code,  
 5-37 is amended to read as follows:

5-38 (b) Notice of the hearing must be served on a party not later  
 5-39 than the 20th ~~[11th]~~ day before the day set for the hearing. A  
 5-40 person competent to testify may serve the notice.

5-41 SECTION 8. Section 21.023, Property Code, is amended to  
 5-42 read as follows:

5-43 Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF  
 5-44 ACQUISITION. An [A governmental] entity with eminent domain  
 5-45 authority shall disclose in writing to the property owner, at the  
 5-46 time of acquisition of the property through eminent domain, that:

5-47 (1) the owner or the owner's heirs, successors, or  
 5-48 assigns may be ~~[are]~~ entitled to:

5-49 (A) repurchase the property under Subchapter E  
 5-50 [if the public use for which the property was acquired through  
 5-51 eminent domain is canceled before the 10th anniversary of the date  
 5-52 of acquisition]; or

5-53 (B) request from the entity certain information  
 5-54 relating to the use of the property and any actual progress made  
 5-55 toward that use; and

5-56 (2) the repurchase price is the price paid to the owner  
 5-57 by the entity at the time the entity acquired the property through  
 5-58 eminent domain ~~[fair market value of the property at the time the~~  
 5-59 ~~public use was canceled].~~

5-60 SECTION 9. Subchapter B, Chapter 21, Property Code, is  
 5-61 amended by adding Section 21.025 to read as follows:

5-62 Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES.

5-63 (a) Notwithstanding any other law, an entity that is not subject  
 5-64 to Chapter 552, Government Code, and is authorized by law to acquire  
 5-65 private property through the use of eminent domain is required to  
 5-66 produce information as provided by this section if the information  
 5-67 is:

5-68 (1) requested by a person who owns property that is the  
 5-69 subject of a proposed or existing eminent domain proceeding; and

6-1 (2) related to the taking of the person's private  
 6-2 property by the entity through the use of eminent domain.

6-3 (b) An entity described by Subsection (a) is required under  
 6-4 this section only to produce information relating to the  
 6-5 condemnation of the specific property owned by the requestor as  
 6-6 described in the request. A request under this section must contain  
 6-7 sufficient details to allow the entity to identify the specific  
 6-8 tract of land in relation to which the information is sought.

6-9 (c) The entity shall respond to a request in accordance with  
 6-10 the Texas Rules of Civil Procedure as if the request was made in a  
 6-11 matter pending before a state district court.

6-12 (d) Exceptions to disclosure provided by this chapter and  
 6-13 the Texas Rules of Civil Procedure apply to the disclosure of  
 6-14 information under this section.

6-15 (e) Jurisdiction to enforce the provisions of this section  
 6-16 resides in:

6-17 (1) the court in which the condemnation was initiated;  
 6-18 or

6-19 (2) if the condemnation proceeding has not been  
 6-20 initiated:

6-21 (A) a court that would have jurisdiction over a  
 6-22 proceeding to condemn the requestor's property; or

6-23 (B) a court with eminent domain jurisdiction in  
 6-24 the county in which the entity has its principal place of business.

6-25 (f) If the entity refuses to produce information requested  
 6-26 in accordance with this section and the court determines that the  
 6-27 refusal violates this section, the court may award the requestor's  
 6-28 reasonable attorney's fees incurred to compel the production of the  
 6-29 information.

6-30 SECTION 10. Subsection (d), Section 21.042, Property Code,  
 6-31 is amended to read as follows:

6-32 (d) In estimating injury or benefit under Subsection (c),  
 6-33 the special commissioners shall consider an injury or benefit that  
 6-34 is peculiar to the property owner and that relates to the property  
 6-35 owner's ownership, use, or enjoyment of the particular parcel of  
 6-36 real property, including a material impairment of direct access on  
 6-37 or off the remaining property that affects the market value of the  
 6-38 remaining property, but they may not consider an injury or benefit  
 6-39 that the property owner experiences in common with the general  
 6-40 community, including circuitry of travel and diversion of traffic.  
 6-41 In this subsection, "direct access" means ingress and egress on or  
 6-42 off a public road, street, or highway at a location where the  
 6-43 remaining property adjoins that road, street, or highway.

6-44 SECTION 11. Subsections (a) and (b), Section 21.046,  
 6-45 Property Code, are amended to read as follows:

6-46 (a) A department, agency, instrumentality, or political  
 6-47 subdivision of this state shall ~~may~~ provide a relocation advisory  
 6-48 service for an individual, a family, a business concern, a farming  
 6-49 or ranching operation, or a nonprofit organization that ~~if the~~  
 6-50 ~~service~~ is compatible with the Federal Uniform Relocation  
 6-51 Assistance and Real Property Acquisition Policies Act of 1970  
 6-52 ~~[Advisory Program], 42 U.S.C.A. 4601 [23 U.S.C.A. 501], et seq.~~

6-53 (b) This state or a political subdivision of this state  
 6-54 shall ~~may~~, as a cost of acquiring real property, pay moving  
 6-55 expenses and rental supplements, make relocation payments, provide  
 6-56 financial assistance to acquire replacement housing, and  
 6-57 compensate for expenses incidental to the transfer of the property  
 6-58 if an individual, a family, the personal property of a business, a  
 6-59 farming or ranching operation, or a nonprofit organization is  
 6-60 displaced in connection with the acquisition.

6-61 SECTION 12. The heading to Section 21.047, Property Code,  
 6-62 is amended to read as follows:

6-63 Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

6-64 SECTION 13. Section 21.047, Property Code, is amended by  
 6-65 adding Subsection (d) to read as follows:

6-66 (d) If a court hearing a suit under this chapter determines  
 6-67 that a condemnor did not make a bona fide offer to acquire the  
 6-68 property from the property owner voluntarily as required by Section  
 6-69 21.0113, the court shall abate the suit, order the condemnor to make

7-1 a bona fide offer, and order the condemnor to pay:  
 7-2 (1) all costs as provided by Subsection (a); and  
 7-3 (2) any reasonable attorney's fees and other  
 7-4 professional fees incurred by the property owner that are directly  
 7-5 related to the violation.

7-6 SECTION 14. Subchapter E, Chapter 21, Property Code, is  
 7-7 amended to read as follows:

7-8 SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING  
 7-9 [GOVERNMENTAL] ENTITY

7-10 Sec. 21.101. RIGHT OF REPURCHASE [APPLICABILITY]. (a) A  
 7-11 person from whom ~~[Except as provided in Subsection (b), this~~  
 7-12 ~~subchapter applies only to]~~ a real property interest is acquired by  
 7-13 an ~~[a governmental]~~ entity through eminent domain for a public use,  
 7-14 or that person's heirs, successors, or assigns, is entitled to  
 7-15 repurchase the property as provided by this subchapter if:

7-16 (1) the public use for which the property was acquired  
 7-17 through eminent domain is ~~[that was]~~ canceled before the property  
 7-18 is used for that public use;

7-19 (2) no actual progress is made toward the public use  
 7-20 for which the property was acquired between the date of acquisition  
 7-21 and the 10th anniversary of that date; or

7-22 (3) the property becomes unnecessary for the public  
 7-23 use for which the property was acquired, or a substantially similar  
 7-24 public use, before the 10th anniversary of the date of acquisition.

7-25 (b) In this section, "actual progress" means the completion  
 7-26 of two or more of the following actions:

7-27 (1) the performance of a significant amount of labor  
 7-28 to develop the property or other property acquired for the same  
 7-29 public use project for which the property owner's property was  
 7-30 acquired;

7-31 (2) the provision of a significant amount of materials  
 7-32 to develop the property or other property acquired for the same  
 7-33 public use project for which the property owner's property was  
 7-34 acquired;

7-35 (3) the hiring of and performance of a significant  
 7-36 amount of work by an architect, engineer, or surveyor to prepare a  
 7-37 plan or plat that includes the property or other property acquired  
 7-38 for the same public use project for which the property owner's  
 7-39 property was acquired;

7-40 (4) application for state or federal funds to develop  
 7-41 the property or other property acquired for the same public use  
 7-42 project for which the property owner's property was acquired;

7-43 (5) application for a state or federal permit to  
 7-44 develop the property or other property acquired for the same public  
 7-45 use project for which the property owner's property was acquired;

7-46 (6) the acquisition of a tract or parcel of real  
 7-47 property adjacent to the property for the same public use project  
 7-48 for which the owner's property was acquired; or

7-49 (7) for a governmental entity, the adoption by a  
 7-50 majority of the entity's governing body at a public hearing of a  
 7-51 development plan for a public use project that indicates that the  
 7-52 entity will not complete more than one action described by  
 7-53 Subdivisions (1)-(6) before the 10th anniversary of the date of  
 7-54 acquisition of the property ~~[This subchapter does not apply to a~~  
 7-55 ~~right-of-way under the jurisdiction of:~~

7-56 ~~[(1) a county;~~

7-57 ~~[(2) a municipality; or~~

7-58 ~~[(3) the Texas Department of Transportation].~~

7-59 (c) A district court may determine all issues in any suit  
 7-60 regarding the repurchase of a real property interest acquired  
 7-61 through eminent domain by the former property owner or the owner's  
 7-62 heirs, successors, or assigns.

7-63 Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED [AT  
 7-64 TIME OF CANCELLATION OF PUBLIC USE]. Not later than the 180th day  
 7-65 after the date an entity that acquired a real property interest  
 7-66 through eminent domain determines that the former property owner is  
 7-67 entitled to repurchase the property under Section 21.101 ~~[of the~~  
 7-68 ~~cancellation of the public use for which real property was acquired~~  
 7-69 ~~through eminent domain from a property owner under Subchapter B],~~

8-1 the ~~[governmental]~~ entity shall send by certified mail, return  
8-2 receipt requested, to the property owner or the owner's heirs,  
8-3 successors, or assigns a notice containing:

8-4 (1) an identification, which is not required to be a  
8-5 legal description, of the property that was acquired;

8-6 (2) an identification of the public use for which the  
8-7 property had been acquired and a statement that:

8-8 (A) the public use was ~~[has been]~~ canceled before  
8-9 the property was used for the public use;

8-10 (B) no actual progress was made toward the public  
8-11 use; or

8-12 (C) the property became unnecessary for the  
8-13 public use, or a substantially similar public use, before the 10th  
8-14 anniversary of the date of acquisition; and

8-15 (3) a description of the person's right under this  
8-16 subchapter to repurchase the property.

8-17 Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED  
8-18 PROPERTY. (a) On or after the 10th anniversary of the date on  
8-19 which real property was acquired by an entity through eminent  
8-20 domain, a property owner or the owner's heirs, successors, or  
8-21 assigns may request that the condemning entity make a determination  
8-22 and provide a statement and other relevant information regarding:

8-23 (1) whether the public use for which the property was  
8-24 acquired was canceled before the property was used for the public  
8-25 use;

8-26 (2) whether any actual progress was made toward the  
8-27 public use between the date of acquisition and the 10th anniversary  
8-28 of that date, including an itemized description of the progress  
8-29 made, if applicable; and

8-30 (3) whether the property became unnecessary for the  
8-31 public use, or a substantially similar public use, before the 10th  
8-32 anniversary of the date of acquisition.

8-33 (b) A request under this section must contain sufficient  
8-34 detail to allow the entity to identify the specific tract of land in  
8-35 relation to which the information is sought.

8-36 (c) Not later than the 90th day following the date of  
8-37 receipt of the request for information, the entity shall send a  
8-38 written response by certified mail, return receipt requested, to  
8-39 the requestor.

8-40 Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later  
8-41 than the 180th day after the date of the postmark on a ~~[the]~~ notice  
8-42 sent under Section 21.102 or a response to a request made under  
8-43 Section 21.1021 that indicates that the property owner, or the  
8-44 owner's heirs, successors, or assigns, is entitled to repurchase  
8-45 the property interest in accordance with Section 21.101, the  
8-46 property owner or the owner's heirs, successors, or assigns must  
8-47 notify the ~~[governmental]~~ entity of the person's intent to  
8-48 repurchase the property interest under this subchapter.

8-49 (b) As soon as practicable after receipt of a notice of  
8-50 intent to repurchase ~~[the notification]~~ under Subsection (a), the  
8-51 ~~[governmental]~~ entity shall offer to sell the property interest to  
8-52 the person for the price paid to the owner by the entity at the time  
8-53 the entity acquired the property through eminent domain ~~[fair~~  
8-54 ~~market value of the property at the time the public use was~~  
8-55 ~~canceled]. The person's right to repurchase the property expires~~  
8-56 ~~on the 90th day after the date on which the ~~[governmental]~~ entity~~  
8-57 ~~makes the offer.~~

8-58 SECTION 15. Section 202.021, Transportation Code, is  
8-59 amended by adding Subsection (j) to read as follows:

8-60 (j) The standard for determination of the fair value of the  
8-61 state's interest in access rights to a highway right-of-way is the  
8-62 same legal standard that is applied by the commission in the:

8-63 (1) acquisition of access rights under Subchapter D,  
8-64 Chapter 203; and

8-65 (2) payment of damages in the exercise of the  
8-66 authority, under Subchapter C, Chapter 203, for impairment of  
8-67 highway access to or from real property where the real property  
8-68 adjoins the highway.

8-69 SECTION 16. Section 54.209, Water Code, is amended to read



9-1 as follows:

9-2 Sec. 54.209. LIMITATION ON USE OF EMINENT DOMAIN. A  
9-3 district may not exercise the power of eminent domain outside the  
9-4 district boundaries to acquire:

9-5 (1) a site for a water treatment plant, water storage  
9-6 facility, wastewater treatment plant, or wastewater disposal  
9-7 plant;

9-8 (2) a site for a park, swimming pool, or other  
9-9 recreational facility, as defined by Section 49.462 [~~except a~~  
9-10 ~~trail~~];

9-11 (3) [~~a site for a trail on real property designated as~~  
9-12 ~~a homestead as defined by Section 41.002, Property Code, or~~  
9-13 [~~4~~] an exclusive easement through a county regional  
9-14 park; or

9-15 (4) a site or easement for a road project.

9-16 SECTION 17. (a) Section 552.0037, Government Code, is  
9-17 repealed.

9-18 (b) Section 21.024, Property Code, is repealed.

9-19 SECTION 18. Chapter 2206, Government Code, and Chapter 21,  
9-20 Property Code, as amended by this Act, apply only to a condemnation  
9-21 proceeding in which the petition is filed on or after the effective  
9-22 date of this Act and to any property condemned through the  
9-23 proceeding. A condemnation proceeding in which the petition is  
9-24 filed before the effective date of this Act and any property  
9-25 condemned through the proceeding are governed by the law in effect  
9-26 immediately before that date, and that law is continued in effect  
9-27 for that purpose.

9-28 SECTION 19. The change in law made by this Act to Section  
9-29 202.021, Transportation Code, applies only to a sale or transfer  
9-30 under that section that occurs on or after the effective date of  
9-31 this Act. A sale or transfer that occurs before the effective date  
9-32 of this Act is governed by the law applicable to the sale or  
9-33 transfer immediately before the effective date of this Act, and  
9-34 that law is continued in effect for that purpose.

9-35 SECTION 20. The changes in law made by this Act to Section  
9-36 54.209, Water Code, apply only to a condemnation proceeding in  
9-37 which the petition is filed on or after the effective date of this  
9-38 Act. A condemnation proceeding in which the petition is filed  
9-39 before the effective date of this Act is governed by the law in  
9-40 effect on the date the petition was filed, and that law is continued  
9-41 in effect for that purpose.

9-42 SECTION 21. This Act takes effect September 1, 2011.

9-43 \* \* \* \* \*