

By: Estes, et al.

S.B. No. 18

A BILL TO BE ENTITLED

AN ACT

relating to the use of eminent domain authority.

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

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

CHAPTER 2206. [~~LIMITATIONS ON USE OF~~] EMINENT DOMAIN

SUBCHAPTER A. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED THROUGH EMINENT DOMAIN

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

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

(2) a political subdivision of this state; or

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

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

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

(2) is for a public use that is merely a pretext to confer a private benefit on a particular private party; [~~or~~]

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

6           (A) Chapter 373 or 374, Local Government Code,  
7 other than an activity described by Section 373.002(b)(5), Local  
8 Government Code; or

9           (B) Section 311.005(a)(1)(I), Tax Code; or  
10           (4) is not for a public use.

11           (c) This section does not affect the authority of an entity  
12 authorized by law to take private property through the use of  
13 eminent domain for:

14           (1) transportation projects, including, but not  
15 limited to, railroads, airports, or public roads or highways;

16           (2) entities authorized under Section 59, Article XVI,  
17 Texas Constitution, including:

18           (A) port authorities;

19           (B) navigation districts; and

20           (C) any other conservation or reclamation  
21 districts that act as ports;

22           (3) water supply, wastewater, flood control, and  
23 drainage projects;

24           (4) public buildings, hospitals, and parks;

25           (5) the provision of utility services;

26           (6) a sports and community venue project approved by  
27 voters at an election held on or before December 1, 2005, under

1 Chapter 334 or 335, Local Government Code;

2 (7) the operations of:

3 (A) a common carrier pipeline [~~subject to Chapter~~  
4 ~~111, Natural Resources Code, and Section B(3)(b), Article 2.01,~~  
5 ~~Texas Business Corporation Act~~]; or

6 (B) an energy transporter, as that term is  
7 defined by Section 186.051, Utilities Code;

8 (8) a purpose authorized by Chapter 181, Utilities  
9 Code;

10 (9) underground storage operations subject to Chapter  
11 91, Natural Resources Code;

12 (10) a waste disposal project; or

13 (11) a library, museum, or related facility and any  
14 infrastructure related to the facility.

15 (d) This section does not affect the authority of a  
16 governmental entity to condemn a leasehold estate on property owned  
17 by the governmental entity.

18 (e) The determination by the governmental or private entity  
19 proposing to take the property that the taking does not involve an  
20 act or circumstance prohibited by Subsection (b) does not create a  
21 presumption with respect to whether the taking involves that act or  
22 circumstance.

23 Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) A property  
24 owner whose property is acquired through the use of eminent domain  
25 under Chapter 21, Property Code, for the purpose of creating an  
26 easement through that owner's property may construct streets or  
27 roads, including a gravel, asphalt, or concrete road, at any

1 locations above the easement that the property owner chooses.

2 (b) The portion of a road constructed under this section  
3 that is within the area covered by the easement:

4 (1) must cross the easement at or near 90 degrees; and

5 (2) may not:

6 (A) exceed 40 feet in width;

7 (B) cause a violation of any applicable pipeline  
8 regulation; or

9 (C) interfere with the operation and maintenance  
10 of any pipeline.

11 (c) At least 30 days before the date on which construction  
12 of an asphalt or concrete road or street that will be located wholly  
13 or partly in an area covered by an easement used for a pipeline is  
14 scheduled to begin, the property owner must submit plans for the  
15 proposed construction to the owner of the easement.

16 (d) This section applies only to an easement acquired by an  
17 entity for the purpose of a pipeline to be used for oil or gas  
18 exploration or production activities.

19 SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE

20 EMINENT DOMAIN PROCEEDINGS

21 Sec. 2206.051. SHORT TITLE. This subchapter may be cited as  
22 the Truth in Condemnation Procedures Act.

23 Sec. 2206.052. APPLICABILITY. The procedures in this  
24 subchapter apply only to the use of eminent domain under the laws of  
25 this state by a governmental entity.

26 Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a  
27 governmental entity initiates a condemnation proceeding by filing a

1 petition under Section 21.012, Property Code, the governmental  
2 entity must authorize the initiation of the condemnation  
3 proceedings at a public meeting by a record vote.

4 (b) A single ordinance, resolution, or order may be adopted  
5 for all units of property to be condemned if:

6 (1) the motion required by Subsection (e) indicates  
7 that the first record vote applies to all units of property to be  
8 condemned; and

9 (2) the minutes of the entity reflect that the first  
10 vote applies to all of those units.

11 (c) If more than one member of the governing body objects to  
12 adopting a single ordinance, resolution, or order by a record vote  
13 for all units of property for which condemnation proceedings are to  
14 be initiated, a separate record vote must be taken for each unit of  
15 property.

16 (d) For the purposes of Subsections (a) and (c), if two or  
17 more units of real property are owned by the same person, the  
18 governmental entity may treat those units of property as one unit of  
19 property.

20 (e) The motion to adopt an ordinance, resolution, or order  
21 authorizing the initiation of condemnation proceedings under  
22 Chapter 21, Property Code, must be made in a form substantially  
23 similar to the following: "I move that the (name of governmental  
24 entity) authorize the use of the power of eminent domain to acquire  
25 (describe the property) for (describe the public use)." The  
26 description of the property required by this subsection is  
27 sufficient if the description of the location of and interest in the

1 property that the governmental entity seeks to acquire is  
2 substantially similar to the description that is or could properly  
3 be used in a petition to condemn the property under Section 21.012,  
4 Property Code.

5 (f) If a project for a public use described by Section  
6 2206.001(c)(3) will require a governmental entity to acquire  
7 multiple tracts or units of property to construct facilities  
8 connecting one location to another location, the governing body of  
9 the entity may adopt a single ordinance, resolution, or order by a  
10 record vote that delegates the authority to initiate condemnation  
11 proceedings to the chief administrative official of the  
12 governmental entity.

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

22 SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

23 Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY;  
24 EXPIRATION OF AUTHORITY. (a) This section does not apply to an  
25 entity that was created or that acquired the power of eminent domain  
26 on or after December 31, 2010.

27 (b) Not later than December 31, 2010, an entity, including a

1 private entity, authorized by the state by a general or special law  
2 to exercise the power of eminent domain shall submit to the  
3 comptroller a letter stating that the entity is authorized by the  
4 state to exercise the power of eminent domain and identifying the  
5 provision or provisions of law that grant the entity that  
6 authority. The entity must send the letter by certified mail,  
7 return receipt requested.

8 (c) The authority of an entity to exercise the power of  
9 eminent domain expires on September 1, 2011, unless the entity  
10 submits a letter in accordance with Subsection (b).

11 (d) Not later than March 1, 2011, the comptroller shall  
12 submit to the governor, the lieutenant governor, the speaker of the  
13 house of representatives, the appropriate standing committees of  
14 the senate and the house of representatives, and the Texas  
15 Legislative Council a report that contains:

16 (1) the name of each entity that submitted a letter in  
17 accordance with this section; and

18 (2) a corresponding list of the provisions granting  
19 eminent domain authority as identified by each entity that  
20 submitted a letter.

21 (e) The Texas Legislative Council shall prepare for  
22 consideration by the 83rd Legislature, Regular Session, a  
23 nonsubstantive revision of the statutes of this state as necessary  
24 to reflect the state of the law after the expiration of an entity's  
25 eminent domain authority effective under Subsection (c).

26 SECTION 2. Section 21.0111, Property Code, is amended to  
27 read as follows:

1           Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED;  
2 INITIAL OFFER. (a) An [~~A governmental~~] entity with eminent domain  
3 authority that wants to acquire real property for a public use  
4 shall, by certified mail, return receipt requested, disclose to the  
5 property owner at the time an offer to purchase or lease the  
6 property is made any and all [~~existing~~] appraisal reports produced  
7 or acquired by the [~~governmental~~] entity relating specifically to  
8 the owner's property and prepared in the 10 years preceding the  
9 [~~used in determining the final valuation~~] offer.

10           (b) A property owner shall disclose to the [~~acquiring~~  
11 ~~governmental~~] entity seeking to acquire the property any and all  
12 current and existing appraisal reports produced or acquired by the  
13 property owner relating specifically to the owner's property and  
14 used in determining the owner's opinion of value. Such disclosure  
15 shall take place not later than the earlier of:

16                   (1) the 10th day after the date [~~within 10 days~~] of  
17 receipt of an appraisal report; or

18                   (2) the third business day before the date of a special  
19 commissioners hearing if an appraisal report is to be used at the  
20 hearing [~~reports but no later than 10 days prior to the special~~  
21 ~~commissioner's hearing~~].

22           (c) An entity seeking to acquire property that the entity is  
23 authorized to obtain through the use of eminent domain may not  
24 include a confidentiality provision in an offer or agreement to  
25 acquire the property. The entity shall inform the owner of the  
26 property that the owner has the right to:

27                   (1) discuss any offer or agreement regarding the



1 entity's acquisition of the property with others; or

2 (2) keep the offer or agreement confidential, unless  
3 the offer or agreement is subject to Chapter 552, Government Code.

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

9 SECTION 3. Subchapter B, Chapter 21, Property Code, is  
10 amended by adding Section 21.0113 to read as follows:

11 Sec. 21.0113. BONA FIDE OFFER REQUIRED. (a) An entity  
12 with eminent domain authority that wants to acquire real property  
13 for a public use must make a bona fide offer to acquire the property  
14 from the property owner voluntarily.

15 (b) An entity with eminent domain authority has made a bona  
16 fide offer if:

17 (1) an initial offer is made in writing to a property  
18 owner;

19 (2) a final offer is made in writing to the property  
20 owner;

21 (3) the final offer is made on or after the 30th day  
22 after the date on which the entity makes a written initial offer to  
23 the property owner;

24 (4) before making a final offer, the entity obtains a  
25 written appraisal from a certified appraiser of the value of the  
26 property being acquired and the damages, if any, to any remaining  
27 property;

1           (5) the final offer is equal to or greater than the  
2 amount of the written appraisal obtained by the entity;

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

5                   (A) a copy of the written appraisal;

6                   (B) a copy of the deed, easement, or other  
7 instrument conveying the property sought to be acquired; and

8                   (C) a landowner's bill of rights statement; and

9           (7) the entity provides the property owner with at  
10 least 14 days to respond to the final offer and the property owner  
11 does not agree to the terms of the final offer within that time.

12           SECTION 4. Section 21.012, Property Code, is amended to  
13 read as follows:

14           Sec. 21.012. CONDEMNATION PETITION. (a) If an entity [~~the~~  
15 ~~United States, this state, a political subdivision of this state, a~~  
16 ~~corporation~~] with eminent domain authority[~~, or an irrigation,~~  
17 ~~water improvement, or water power control district created by law~~]  
18 wants to acquire real property for public use but is unable to agree  
19 with the owner of the property on the amount of damages, the  
20 [~~condemning~~] entity may begin a condemnation proceeding by filing a  
21 petition in the proper court.

22           (b) The petition must:

23                   (1) describe the property to be condemned;

24                   (2) state with specificity the public use [~~purpose~~]  
25 for which the entity intends to acquire [~~use~~] the property;

26                   (3) state the name of the owner of the property if the  
27 owner is known;

1 (4) state that the entity and the property owner are  
2 unable to agree on the damages; ~~and~~

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

6 (6) state that the entity made a bona fide offer to  
7 acquire the property from the property owner voluntarily.

8 (c) An entity that files a petition under this section must  
9 provide a copy of the petition to the property owner by certified  
10 mail, return receipt requested.

11 SECTION 5. Subsection (a), Section 21.014, Property Code,  
12 is amended to read as follows:

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

23 SECTION 6. Subsection (a), Section 21.015, Property Code,  
24 is amended to read as follows:

25 (a) The special commissioners in an eminent domain  
26 proceeding shall promptly schedule a hearing for the parties at the  
27 earliest practical time but may not schedule a hearing to assess

1 damages before the 20th day after the date the special  
2 commissioners were appointed. The special commissioners shall  
3 schedule a hearing for the parties [~~and~~] at a place that is as near  
4 as practical to the property being condemned or at the county seat  
5 of the county in which the proceeding is being held.

6 SECTION 7. Subsection (b), Section 21.016, Property Code,  
7 is amended to read as follows:

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

11 SECTION 8. Section 21.023, Property Code, is amended to  
12 read as follows:

13 Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF  
14 ACQUISITION. An [~~A governmental~~] entity with eminent domain  
15 authority shall disclose in writing to the property owner, at the  
16 time of acquisition of the property through eminent domain, that:

17 (1) the owner or the owner's heirs, successors, or  
18 assigns may be [~~are~~] entitled to:

19 (A) repurchase the property under Subchapter E  
20 [~~if the public use for which the property was acquired through~~  
21 ~~eminent domain is canceled before the 10th anniversary of the date~~  
22 ~~of acquisition~~]; or

23 (B) request from the entity certain information  
24 relating to the use of the property and any actual progress made  
25 toward that use; and

26 (2) the repurchase price is the price paid to the owner  
27 by the entity at the time the entity acquired the property through

1 eminent domain [~~fair market value of the property at the time the~~  
2 ~~public use was canceled~~].

3 SECTION 9. Subchapter B, Chapter 21, Property Code, is  
4 amended by adding Section 21.025 to read as follows:

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

6 (a) Notwithstanding any other law, an entity that is not subject  
7 to Chapter 552, Government Code, and is authorized by law to acquire  
8 private property through the use of eminent domain is required to  
9 produce information as provided by this section if the information  
10 is:

11 (1) requested by a person who owns property that is the  
12 subject of a proposed or existing eminent domain proceeding; and

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

15 (b) An entity described by Subsection (a) is required under  
16 this section only to produce information relating to the  
17 condemnation of the specific property owned by the requestor as  
18 described in the request. A request under this section must contain  
19 sufficient details to allow the entity to identify the specific  
20 tract of land in relation to which the information is sought.

21 (c) The entity shall respond to a request in accordance with  
22 the Texas Rules of Civil Procedure as if the request was made in a  
23 matter pending before a state district court.

24 (d) Exceptions to disclosure provided by this chapter and  
25 the Texas Rules of Civil Procedure apply to the disclosure of  
26 information under this section.

27 (e) Jurisdiction to enforce the provisions of this section

1 resides in:

2 (1) the court in which the condemnation was initiated;

3 or

4 (2) if the condemnation proceeding has not been  
5 initiated:

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

8 (B) a court with eminent domain jurisdiction in  
9 the county in which the entity has its principal place of business.

10 (f) If the entity refuses to produce information requested  
11 in accordance with this section and the court determines that the  
12 refusal violates this section, the court may award the requestor's  
13 reasonable attorney's fees incurred to compel the production of the  
14 information.

15 SECTION 10. Subsection (d), Section 21.042, Property Code,  
16 is amended to read as follows:

17 (d) In estimating injury or benefit under Subsection (c),  
18 the special commissioners shall consider an injury or benefit that  
19 is peculiar to the property owner and that relates to the property  
20 owner's ownership, use, or enjoyment of the particular parcel of  
21 real property, including a material impairment of direct access on  
22 or off the remaining property that affects the market value of the  
23 remaining property, but they may not consider an injury or benefit  
24 that the property owner experiences in common with the general  
25 community, including circuitry of travel and diversion of traffic.  
26 In this subsection, "direct access" means ingress and egress on or  
27 off a public road, street, or highway at a location or locations

1 where the remaining property adjoins that road, street, or highway.

2 SECTION 11. Subsections (a) and (b), Section 21.046,  
3 Property Code, are amended to read as follows:

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

11 (b) This state or a political subdivision of this state  
12 shall [~~may~~], as a cost of acquiring real property, pay moving  
13 expenses and rental supplements, make relocation payments, provide  
14 financial assistance to acquire replacement housing, and  
15 compensate for expenses incidental to the transfer of the property  
16 if an individual, a family, the personal property of a business, a  
17 farming or ranching operation, or a nonprofit organization is  
18 displaced in connection with the acquisition.

19 SECTION 12. The heading to Section 21.047, Property Code,  
20 is amended to read as follows:

21 Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

22 SECTION 13. Section 21.047, Property Code, is amended by  
23 adding Subsection (d) to read as follows:

24 (d) If a court hearing a suit under this chapter determines  
25 that a condemnor did not make a bona fide offer to acquire the  
26 property from the property owner voluntarily as required by Section  
27 21.0113, the court shall abate the suit, order the condemnor to make

1 a bona fide offer, and order the condemnor to pay:

2 (1) all costs as provided by Subsection (a); and

3 (2) any reasonable attorney's fees and other  
4 professional fees incurred by the property owner that are directly  
5 related to the violation.

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

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

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

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

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

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

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

27 (1) the performance of a significant amount of labor



1 to develop the property or other property acquired for the same  
2 public use project for which the property owner's property was  
3 acquired;

4 (2) the furnishing of a significant amount of  
5 materials to develop the property or other property acquired for  
6 the same public use project for which the property owner's property  
7 was acquired;

8 (3) the hiring of and performance of a significant  
9 amount of work by an architect, engineer, or surveyor to prepare a  
10 plan or plat that includes the property or other property acquired  
11 for the same public use project for which the property owner's  
12 property was acquired;

13 (4) application for state or federal funds to develop  
14 the property or other property acquired for the same public use  
15 project for which the property owner's property was acquired;

16 (5) application for a state or federal permit to  
17 develop the property or other property acquired for the same public  
18 use project for which the property owner's property was acquired;

19 (6) the acquisition of a tract or parcel of real  
20 property adjacent to the property for the same public use project  
21 for which the owner's property was acquired; or

22 (7) for a governmental entity, the adoption by a  
23 majority of the entity's governing body at a public hearing of a  
24 development plan for a public use project that indicates that the  
25 entity will not complete more than one action described by  
26 Subdivisions (1)-(6) within 10 years of acquisition of the property

27 ~~[This subchapter does not apply to a right-of-way under the~~

1 ~~jurisdiction of:~~

2           ~~[(1) a county,~~

3           ~~[(2) a municipality, or~~

4           ~~[(3) the Texas Department of Transportation].~~

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

9           Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED [~~AT~~  
10 ~~TIME OF CANCELLATION OF PUBLIC USE~~]. Not later than the 180th day  
11 after the date an entity that acquired a real property interest  
12 through eminent domain determines that the former property owner is  
13 entitled to repurchase the property under Section 21.101 [~~of the~~  
14 ~~cancellation of the public use for which real property was acquired~~  
15 ~~through eminent domain from a property owner under Subchapter B~~],  
16 the [~~governmental~~] entity shall send by certified mail, return  
17 receipt requested, to the property owner or the owner's heirs,  
18 successors, or assigns a notice containing:

19           (1) an identification, which is not required to be a  
20 legal description, of the property that was acquired;

21           (2) an identification of the public use for which the  
22 property had been acquired and a statement that:

23                   (A) the public use was [has been] canceled before  
24 the property was used for the public use;

25                   (B) no actual progress was made toward the public  
26 use; or

27                   (C) the property became unnecessary for the

1 public use, or a substantially similar public use, before the 10th  
2 anniversary of the date of acquisition; and

3 (3) a description of the person's right under this  
4 subchapter to repurchase the property.

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

11 (1) whether the public use for which the property was  
12 acquired was canceled before the property was used for the public  
13 use;

14 (2) whether any actual progress was made toward the  
15 public use between the date of acquisition and the 10th anniversary  
16 of that date, including an itemized description of the progress  
17 made, if applicable; and

18 (3) whether the property became unnecessary for the  
19 public use, or a substantially similar public use, before the 10th  
20 anniversary of the date of acquisition.

21 (b) A request under this section must contain sufficient  
22 detail to allow the entity to identify the specific tract of land in  
23 relation to which the information is sought.

24 (c) Not later than the 90th day following the receipt of the  
25 request for information, the entity shall send a written response  
26 by certified mail, return receipt requested, to the requestor.

27 Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later

1 than the 180th day after the date of the postmark on a [the] notice  
 2 sent under Section 21.102 or a response to a request made under  
 3 Section 21.1021 that indicates that the property owner or the  
 4 owner's heirs, successors, or assigns is entitled to repurchase the  
 5 property interest in accordance with Section 21.101, the property  
 6 owner or the owner's heirs, successors, or assigns must notify the  
 7 ~~[governmental]~~ entity of the person's intent to repurchase the  
 8 property interest under this subchapter.

9 (b) As soon as practicable after receipt of a notice of  
 10 intent to repurchase [the notification] under Subsection (a), the  
 11 ~~[governmental]~~ entity shall offer to sell the property interest to  
 12 the person for the price paid to the owner by the entity at the time  
 13 the entity acquired the property through eminent domain [fair  
 14 market value of the property at the time the public use was  
 15 cancelled]. The person's right to repurchase the property expires  
 16 on the 90th day after the date on which the ~~[governmental]~~ entity  
 17 makes the offer.

18 SECTION 15. Section 202.021, Transportation Code, is  
 19 amended by adding Subsection (j) to read as follows:

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

23 (1) acquisition of access rights under Subchapter D,  
 24 Chapter 203; and

25 (2) payment of damages in the exercise of the  
 26 authority, under Subchapter C, Chapter 203, for impairment of  
 27 highway access to or from real property where the real property

1 adjoins the highway.

2 SECTION 16. Section 54.209, Water Code, is amended to read  
3 as follows:

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

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

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

13 [~~a site for a trail on real property designated as~~  
14 ~~a homestead as defined by Section 41.002, Property Code, or]~~

15 [~~(4)~~] an exclusive easement through a county regional  
16 park; or

17 (4) a site or easement for a road project.

18 SECTION 17. (a) Section 552.0037, Government Code, is  
19 repealed.

20 (b) Section 21.024, Property Code, is repealed.

21 (c) Section 49.2205, Water Code, is repealed.

22 SECTION 18. The changes in law made by Chapter 2206,  
23 Government Code, and Chapter 21, Property Code, as amended by this  
24 Act, apply only to a condemnation proceeding in which the petition  
25 is filed on or after the effective date of this Act and to any  
26 property condemned through the proceeding. A condemnation  
27 proceeding in which the petition is filed before the effective date

1 of this Act and any property condemned through the proceeding are  
2 governed by the law in effect immediately before that date, and that  
3 law is continued in effect for that purpose.

4 SECTION 19. The change in law made by this Act to Section  
5 202.021, Transportation Code, applies only to a sale or transfer  
6 under that section that occurs on or after the effective date of  
7 this Act. A sale or transfer before the effective date of this Act  
8 is governed by the law applicable to the sale or transfer  
9 immediately before the effective date of this Act, and that law is  
10 continued in effect for that purpose.

11 SECTION 20. The changes in law made by this Act to Section  
12 54.209, Water Code, apply only to a condemnation proceeding in  
13 which the petition is filed on or after the effective date of this  
14 Act. A condemnation proceeding in which the petition is filed  
15 before the effective date of this Act is governed by the law in  
16 effect on the date the petition was filed, and that law is continued  
17 in effect for that purpose.

18 SECTION 21. This Act takes effect September 1, 2009.