

By: Estes, Duncan, et al.
(Geren, Oliveira, Kleinschmidt)

S.B. No. 18

Substitute the following for S.B. No. 18:

By: Oliveira

C.S.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~~]

(3) is for economic development purposes, unless the

1 economic development is a secondary purpose resulting from
2 municipal community development or municipal urban renewal
3 activities to eliminate an existing affirmative harm on society
4 from slum or blighted areas under:

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

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

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

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

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

17 (A) port authorities;

18 (B) navigation districts; and

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

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

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

24 (5) the provision of utility services;

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

1 (7) the operations of:

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

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

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

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

11 (10) a waste disposal project; or

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

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

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

22 Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) This section
23 applies only to an easement acquired by an entity for the purpose of
24 a pipeline to be used for oil or gas exploration or production
25 activities.

26 (b) A property owner whose property is acquired through the
27 use of eminent domain under Chapter 21, Property Code, for the

1 purpose of creating an easement through that owner's property may
2 construct streets or roads, including gravel, asphalt, or concrete
3 streets or roads, at any locations above the easement that the
4 property owner chooses.

5 (c) The portion of a street or road constructed under this
6 section that is within the area covered by the easement:

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

8 (2) may not:

9 (A) exceed 40 feet in width;

10 (B) cause a violation of any applicable pipeline
11 regulation; or

12 (C) interfere with the operation and maintenance
13 of any pipeline.

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

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:

3 (1) authorize the initiation of the condemnation
4 proceeding at a public meeting by a record vote; and

5 (2) include in the notice for the public meeting as
6 required by Subchapter C, Chapter 551, in addition to other
7 information as required by that subchapter:

8 (A) the consideration of the use of eminent
9 domain to condemn property as an agenda item; and

10 (B) a map of the general area or general route
11 that may be affected by the condemnation proceeding.

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

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

17 (2) the minutes of the governmental entity reflect
18 that the first vote applies to all of those units.

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

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

1 (e) The motion to adopt an ordinance, resolution, or order
2 authorizing the initiation of condemnation proceedings under
3 Chapter 21, Property Code, must be made in a form substantially
4 similar to the following: "I move that the (name of governmental
5 entity) authorize the use of the power of eminent domain to acquire
6 (describe the property) for (describe the public use)." The
7 description of the property required by this subsection is
8 sufficient if the description of the location of and interest in the
9 property that the governmental entity seeks to acquire is
10 substantially similar to the description that is or could properly
11 be used in a petition to condemn the property under Section 21.012,
12 Property Code.

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

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

1 properties may be subject to condemnation proceedings during the
2 planning or construction of the project.

3 SUBCHAPTER C. SUSPENSION OF CERTAIN EMINENT DOMAIN AUTHORITY

4 Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY;
5 SUSPENSION OF AUTHORITY. (a) This section does not apply to an
6 entity that was created or that acquired the power of eminent domain
7 on or after December 31, 2012.

8 (b) Not later than December 31, 2012, an entity, including a
9 private entity, authorized by the state by a general or special law
10 to exercise the power of eminent domain shall submit to the
11 comptroller a letter stating that the entity is authorized by the
12 state to exercise the power of eminent domain and identifying each
13 provision of law that grants the entity that authority. The entity
14 must send the letter by certified mail, return receipt requested.

15 (c) The authority of an entity to exercise the power of
16 eminent domain is suspended beginning September 1, 2013, if the
17 entity does not submit a letter required by Subsection (b) on or
18 before that date, and remains suspended until the entity submits
19 the letter.

20 (d) Not later than March 1, 2013, the comptroller shall
21 submit to the governor, the lieutenant governor, the speaker of the
22 house of representatives, the presiding officers of the appropriate
23 standing committees of the senate and the house of representatives,
24 and the Texas Legislative Council a report that contains:

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

27 (2) a corresponding list of the provisions granting

1 eminent domain authority as identified by each entity that
2 submitted a letter.

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

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

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

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

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

26 (c) An entity seeking to acquire property that the entity is
27 authorized to obtain through the use of eminent domain may not

1 include a confidentiality provision in an offer or agreement to
2 acquire the property. The entity shall inform the owner of the
3 property that the owner has the right to:

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

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

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

13 SECTION 3. Subchapter B, Chapter 21, Property Code, is
14 amended by adding Sections 21.0113 and 21.0114 to read as follows:

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

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

21 (1) an initial offer is made in writing to a property
22 owner;

23 (2) a final offer is made in writing to the property
24 owner;

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

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

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

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

9 (A) a copy of the written appraisal;

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

12 (C) the landowner's bill of rights statement
13 prescribed by Section 21.0112; and

14 (7) the entity provides the property owner with at
15 least 14 days to respond to the final offer and the property owner
16 does not agree to the terms of the final offer within that period.

17 Sec. 21.0114. NOTICE TO COUNTY OF CONDEMNATION FOR
18 PIPELINE. Before a private entity with eminent domain authority
19 begins negotiating with a property owner to acquire real property
20 for the purpose of a pipeline, the entity must provide the
21 commissioners court of a county in which the property to be acquired
22 is located notice of the proposed route for the pipeline in that
23 county.

24 SECTION 4. Section 21.012, Property Code, is amended to
25 read as follows:

26 Sec. 21.012. CONDEMNATION PETITION. (a) If an entity [the
27 United States, this state, a political subdivision of this state, a

1 ~~corporation]~~ with eminent domain authority~~[, or an irrigation,~~
2 ~~water improvement, or water power control district created by law]~~
3 wants to acquire real property for public use but is unable to agree
4 with the owner of the property on the amount of damages, the
5 ~~condemning]~~ entity may begin a condemnation proceeding by filing a
6 petition in the proper court.

7 (b) The petition must:

8 (1) describe the property to be condemned;

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

11 (3) state the name of the owner of the property if the
12 owner is known;

13 (4) state that the entity and the property owner are
14 unable to agree on the damages; ~~and]~~

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

18 (6) state that the entity made a bona fide offer to
19 acquire the property from the property owner voluntarily as
20 provided by Section 21.0113.

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

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

26 (a) The judge of a court in which a condemnation petition is
27 filed or to which an eminent domain case is assigned shall appoint

1 three disinterested real property owners [~~freeholders~~] who reside
2 in the county as special commissioners to assess the damages of the
3 owner of the property being condemned. The judge appointing the
4 special commissioners shall give preference to persons agreed on by
5 the parties. The judge shall provide each party a reasonable period
6 to strike one of the three commissioners appointed by the judge. If
7 a person fails to serve as a commissioner or is struck by a party to
8 the suit, the judge shall [~~may~~] appoint a replacement.

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

11 (a) The special commissioners in an eminent domain
12 proceeding shall promptly schedule a hearing for the parties at the
13 earliest practical time but may not schedule a hearing to assess
14 damages before the 20th day after the date the special
15 commissioners were appointed. The special commissioners shall
16 schedule a hearing for the parties [~~and~~] at a place that is as near
17 as practical to the property being condemned or at the county seat
18 of the county in which the proceeding is being held.

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

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

24 SECTION 8. Section 21.023, Property Code, is amended to
25 read as follows:

26 Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF
27 ACQUISITION. An [~~A governmental~~] entity with eminent domain

1 authority shall disclose in writing to the property owner, at the
2 time of acquisition of the property through eminent domain, that:

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

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

9 (B) request from the entity certain information
10 relating to the use of the property and any actual progress made
11 toward that use; and

12 (2) the repurchase price is the price paid to the owner
13 by the entity at the time the entity acquired the property through
14 eminent domain ~~[fair market value of the property at the time the~~
15 ~~public use was canceled]~~.

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

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

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

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

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

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

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

10 (d) Exceptions to disclosure provided by this chapter and
11 the Texas Rules of Civil Procedure apply to the disclosure of
12 information under this section.

13 (e) Jurisdiction to enforce the provisions of this section
14 resides in:

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

16 or

17 (2) if the condemnation proceeding has not been
18 initiated:

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

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

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

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

3 (d) In estimating injury or benefit under Subsection (c),
4 the special commissioners shall consider an injury or benefit that
5 is peculiar to the property owner and that relates to the property
6 owner's ownership, use, or enjoyment of the particular parcel of
7 real property, including a material impairment of direct access on
8 or off the remaining property that affects the market value of the
9 remaining property, but they may not consider an injury or benefit
10 that the property owner experiences in common with the general
11 community, including circuitry of travel and diversion of traffic.
12 In this subsection, "direct access" means ingress and egress on or
13 off a public road, street, or highway at a location where the
14 remaining property adjoins that road, street, or highway.

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

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

24 (b) This state or a political subdivision of this state
25 shall [~~may~~], as a cost of acquiring real property, pay moving
26 expenses and rental supplements, make relocation payments, provide
27 financial assistance to acquire replacement housing, and

1 compensate for expenses incidental to the transfer of the property
2 if an individual, a family, the personal property of a business, a
3 farming or ranching operation, or a nonprofit organization is
4 displaced in connection with the acquisition.

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

7 Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

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

10 (d) If a court hearing a suit under this chapter determines
11 that a condemnor did not make a bona fide offer to acquire the
12 property from the property owner voluntarily as required by Section
13 21.0113, the court shall abate the suit, order the condemnor to make
14 a bona fide offer, and order the condemnor to pay:

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

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

19 SECTION 14. Subchapter C, Chapter 21, Property Code, is
20 amended by adding Section 21.0471 to read as follows:

21 Sec. 21.0471. ATTORNEY'S FEES AND OTHER PROFESSIONAL FEES.

22 If the special commissioners or a court awards damages in a
23 condemnation proceeding in an amount that is greater than 110
24 percent of the amount of damages the condemnor offered to pay before
25 the proceedings began, the commissioners or the court shall award
26 reasonable attorney's fees and other professional fees to the
27 property owner in addition to costs awarded under Section 21.047.

1 SECTION 15. Subchapter E, Chapter 21, Property Code, is
2 amended to read as follows:

3 SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING
4 [GOVERNMENTAL] ENTITY

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

11 (1) the public use for which the property was acquired
12 through eminent domain is [that was] canceled before the property
13 is used for that public use;

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

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

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

22 (1) the performance of a significant amount of labor
23 to develop the property or other property acquired for the same
24 public use project for which the property owner's property was
25 acquired;

26 (2) the provision of a significant amount of materials
27 to develop the property or other property acquired for the same

1 public use project for which the property owner's property was
2 acquired;

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

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

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

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

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

24 [~~(1) a county,~~

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

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

27 (c) A district court may determine all issues in any suit

1 regarding the repurchase of a real property interest acquired
2 through eminent domain by the former property owner or the owner's
3 heirs, successors, or assigns.

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

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

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

18 (A) the public use was [~~has been~~] canceled before
19 the property was used for the public use;

20 (B) no actual progress was made toward the public
21 use; or

22 (C) the property became unnecessary for the
23 public use, or a substantially similar public use, before the 10th
24 anniversary of the date of acquisition; and

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

27 Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED

1 PROPERTY. (a) On or after the 10th anniversary of the date on
2 which real property was acquired by an entity through eminent
3 domain, a property owner or the owner's heirs, successors, or
4 assigns may request that the condemning entity make a determination
5 and provide a statement and other relevant information regarding:

6 (1) whether the public use for which the property was
7 acquired was canceled before the property was used for the public
8 use;

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

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

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

19 (c) Not later than the 90th day following the date of
20 receipt of the request for information, the entity shall send a
21 written response by certified mail, return receipt requested, to
22 the requestor.

23 Sec. 21.1022. LIMITATIONS PERIOD FOR REPURCHASE RIGHT.
24 Notwithstanding Section 21.103, the right to repurchase provided by
25 this subchapter is extinguished on the first anniversary of the
26 expiration of the period for an entity to provide notice under
27 Section 21.102 if the entity:

1 (1) is required to provide notice under Section
2 21.102;

3 (2) makes a good faith effort to locate and provide
4 notice to each person entitled to notice before the expiration of
5 the deadline for providing notice under that section; and

6 (3) does not receive a response to any notice provided
7 under that section in the period for response prescribed by Section
8 21.103.

9 Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later
10 than the 180th day after the date of the postmark on a [the] notice
11 sent under Section 21.102 or a response to a request made under
12 Section 21.1021 that indicates that the property owner, or the
13 owner's heirs, successors, or assigns, is entitled to repurchase
14 the property interest in accordance with Section 21.101, the
15 property owner or the owner's heirs, successors, or assigns must
16 notify the ~~[governmental]~~ entity of the person's intent to
17 repurchase the property interest under this subchapter.

18 (b) As soon as practicable after receipt of a notice of
19 intent to repurchase [the notification] under Subsection (a), the
20 ~~[governmental]~~ entity shall offer to sell the property interest to
21 the person for the price paid to the owner by the entity at the time
22 the entity acquired the property through eminent domain [fair
23 ~~market value of the property at the time the public use was~~
24 ~~cancelled]~~. The person's right to repurchase the property expires
25 on the 90th day after the date on which the ~~[governmental]~~ entity
26 makes the offer.

27 SECTION 16. Section 202.021, Transportation Code, is

1 amended by adding Subsection (j) to read as follows:

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

5 (1) acquisition of access rights under Subchapter D,
6 Chapter 203; and

7 (2) payment of damages in the exercise of the
8 authority, under Subchapter C, Chapter 203, for impairment of
9 highway access to or from real property where the real property
10 adjoins the highway.

11 SECTION 17. Section 54.209, Water Code, is amended to read
12 as follows:

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

16 (1) a site for a water treatment plant, water storage
17 facility, wastewater treatment plant, or wastewater disposal
18 plant;

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

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

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

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

27 SECTION 18. Section 1, Chapter 178 (S.B. 289), Acts of the

1 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's
2 Texas Civil Statutes), is amended to read as follows:

3 Sec. 1. Except as provided by this section, and
4 notwithstanding any other law, any [~~Any~~] nonprofit corporation
5 incorporated under the laws of this state for purely charitable
6 purposes and which is directly affiliated or associated with a
7 medical center having a medical school recognized by the Council on
8 Medical Education and Hospitals of the American Medical Association
9 as an integral part of its establishment, and which has for a
10 purpose of its incorporation the provision or support of medical
11 facilities or services for the use and benefit of the public, and
12 which is situated in any county of this state having a population in
13 excess of six hundred thousand (600,000) inhabitants according to
14 the most recent Federal Census shall have the power of eminent
15 domain and condemnation for the purposes set forth in Section 2 and
16 Section 3 of this Act. A charitable corporation described by this
17 section may not exercise the power of eminent domain and
18 condemnation to acquire a detached, single-family residential
19 property or a multifamily residential property that contains eight
20 or fewer dwelling units.

21 SECTION 19. (a) Section 552.0037, Government Code, is
22 repealed.

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

24 SECTION 20. Chapter 2206, Government Code, Chapter 21,
25 Property Code, and Section 1, Chapter 178 (S.B. 289), Acts of the
26 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's
27 Texas Civil Statutes), as amended by this Act, apply only to a

1 condemnation proceeding in which the petition is filed on or after
2 the effective date of this Act and to any property condemned through
3 the proceeding. A condemnation proceeding in which the petition is
4 filed before the effective date of this Act and any property
5 condemned through the proceeding are governed by the law in effect
6 immediately before that date, and that law is continued in effect
7 for that purpose.

8 SECTION 21. The change in law made by this Act to Section
9 202.021, Transportation Code, applies only to a sale or transfer
10 under that section that occurs on or after the effective date of
11 this Act. A sale or transfer that occurs before the effective date
12 of this Act is governed by the law applicable to the sale or
13 transfer immediately before the effective date of this Act, and
14 that law is continued in effect for that purpose.

15 SECTION 22. The changes in law made by this Act to Section
16 54.209, Water Code, apply only to a condemnation proceeding in
17 which the petition is filed on or after the effective date of this
18 Act. A condemnation proceeding in which the petition is filed
19 before the effective date of this Act is governed by the law in
20 effect on the date the petition was filed, and that law is continued
21 in effect for that purpose.

22 SECTION 23. This Act takes effect September 1, 2011.