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Farmers want eminent domain reform

By The Associated Press

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Ag groups say more reform needed

By Betsy Blaney

The Associated Press

Texas farm and ranch groups are glad lawmakers have taken steps to revisit eminent domain law but said it's "nowhere near" what's needed in a state where most land is privately held.

Texas Farm Bureau spokesman Gene Hall said if voters approve a constitutional amendment in November, it would bring "improved but still bad eminent domain law" to the state.

"It's less than half a loaf," he said, describing the legislation that emerged from the just completed 140-day session. "The fight goes on."

Together with Texas cattle industry groups, the bureau is hoping Gov. Rick Perry calls a special session and that eminent domain will be on the list of items designated for discussion.

Perry has not said whether he intends to call a special session.

If he does, the additional protections for private property owners that were part of SB18 should be taken up, said officials with the farm bureau, Texas Cattle Feeders Association and the Texas and Southwestern Cattle Raisers Association. Those provisions include offers that represent fair market value, compensation to landowners for diminished access to their property and the right to repurchase the land at the same price for which it was sold if nothing is done with it after 10 years.

Texas leads the nation in private property ownership, having three times more than any other state.

Perry and U.S. Sen. Kay Bailey Hutchison have both indicated that eminent domain will likely be a campaign issue in their 2010 Republican primary.

A spokesman for Sen. Craig Estes, R-Wichita Falls, SB18's author, said the lawmaker was "very disappointed" the bill did not survive. But the issue is far from gone, spokesman Jody Withers said.

"I think there's a general agreement that the provisions ... are still needed," he said.

The bill approved by lawmakers - HRJ18 - puts a constitutional amendment on November's ballot that would prohibit government from taking private property exclusively for economic development.

The move, negotiated by House and Senate lawmakers, addresses a 2005 Supreme Court decision that gave New Haven, Conn., the right to take private property and turn it over to private developers for retail development.

The Institute for Justice, which represented the property owner in the Connecticut case, Kelo et al v. City of New London, has called the amendment "dangerous" and said it would still allow governments to take land for economic development. The group said eminent domain should only be used for public use projects such as a new courthouse or library, and supports the House version of the amendment which it said has stronger protections for property owners.

The proposed amendment would specify what qualifies for eminent domain projects, but allows exceptions that require a two-thirds vote in each legislative chamber.

A spokesman for a non-agricultural group pushing eminent domain reform came away from the legislative session less distressed than those tied directly to the ag industry.

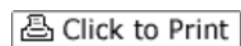
"Property rights are very important and always need to be addressed, but I think we've made great progress here and I don't see an urgency to deal with issue now that HRJ18 passed," said Bill Peacock, director of the Center for Economic Freedom at Austin-based Texas Public Policy Foundation

If Perry doesn't call a special session, projects will go forward quickly to take advantage of no additional eminent domain restrictions, said Kirby Brown, executive vice president of the Texas Wildlife Association, a nonprofit group that works to conserve, manage, and enhance wildlife and its habitat on private land.

"We do expect them to do that," he said. "I think it would be naive of anyone not to fast track projects and use the current eminent domain process to avoid what SB18 would have protected landowners from. I'm not optimistic."

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