

By: \_\_\_\_\_

C.S.S.B. No. \_\_\_\_\_

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. Section 11.155(a), Education Code, is amended to read as follows:

(a) An independent school district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property [~~for the purpose of securing sites~~] on which to construct school buildings or for any other public use [~~purpose~~] necessary for the district.

SECTION 2. Sec. 402.031(b), Government Code, is amended to read as follows:

(b) The landowner's bill of rights must notify each property owner that the property owner has the right to:

(1) notice of the proposed acquisition of the owner's property;

(2) a bona fide good faith effort to negotiate by the entity proposing to acquire the property;

(3) an assessment of damages to the owner that will result from the taking of the property;

(4) a hearing under Chapter 21, Property Code, including a hearing on the assessment of damages; [~~and~~]

(5) an appeal of a judgment in a condemnation proceeding, including an appeal of an assessment of damages; and



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

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

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

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

11 (2) a public use by entities authorized under Section 59,  
12 Article XVI, Texas Constitution, including:

13 (A) port authorities;

14 (B) navigation districts; and

15 (C) any other conservation or reclamation districts  
16 that act as ports;

17 (3) water supply, wastewater, flood control, and drainage  
18 projects;

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

20 (5) the provision of utility services;

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

24 (7) the operations of:

25 (A) a common carrier pipeline [~~subject to Chapter~~  
26 ~~111, Natural Resources Code, and Section B(3)(b), Article 2.01, Texas~~  
27 ~~Business Corporation Act~~]; or

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

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

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

6 (10) a waste disposal project; or

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

9 (d) This section does not affect the authority of a  
10 governmental entity to condemn a leasehold estate on property owned  
11 by the governmental entity.

12 (e) The determination by the governmental or private entity  
13 proposing to take the property that the taking does not involve an  
14 act or circumstance prohibited by Subsection (b) does not create a  
15 presumption with respect to whether the taking involves that act or  
16 circumstance.

17 Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) This section  
18 applies only to an easement acquired by an entity for the  
19 construction, maintenance, or operation of a pipeline.

20 (b) A property owner whose property is acquired through the use  
21 of eminent domain under Chapter 21, Property Code, for the purpose of  
22 creating an easement through that owner's property may construct  
23 streets or roads, including gravel, asphalt, or concrete streets or  
24 roads, at any locations above the easement that the property owner  
25 chooses.

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

- 1           (1) must cross the easement at or near 90 degrees; and  
2           (2) may not:  
3                 (A) exceed 40 feet in width;  
4                 (B) cause a violation of any applicable pipeline  
5 regulation; or  
6                 (C) interfere with the operation and maintenance of  
7 any pipeline.

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

13                     SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE  
14                             EMINENT DOMAIN PROCEEDINGS

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

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

20           Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a  
21 governmental entity initiates a condemnation proceeding by filing a  
22 petition under Section 21.012, Property Code, the governmental entity  
23 must authorize the initiation of the condemnation proceeding at a  
24 public meeting by a record vote.

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

- 27                 (1) the motion required by Subsection (e) indicates that

1 the first record vote applies to all units of property to be  
2 condemned; and

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

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

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

13 (e) The motion to adopt an ordinance, resolution, or order  
14 authorizing the initiation of condemnation proceedings under Chapter  
15 21, Property Code, must be made in a form substantially similar to  
16 the following: "I move that the (name of governmental entity)  
17 authorize the use of the power of eminent domain to acquire (describe  
18 the property) for (describe the public use)." The description of the  
19 property required by this subsection is sufficient if the description  
20 of the location of and interest in the property that the governmental  
21 entity seeks to acquire is substantially similar to the description  
22 that is or could properly be used in a petition to condemn the  
23 property under Section 21.012, Property Code.

24 (f) If a project for a public use described by Section  
25 2206.001(c)(3) will require a governmental entity to acquire multiple  
26 tracts or units of property to construct facilities connecting one  
27 location to another location, the governing body of the governmental

1 entity may adopt a single ordinance, resolution, or order by a record  
2 vote that delegates the authority to initiate condemnation  
3 proceedings to the chief administrative official of the governmental  
4 entity.

5 (g) An ordinance, resolution, or order adopted under Subsection  
6 (f) is not required to identify specific properties that the  
7 governmental entity will acquire. The ordinance, resolution, or  
8 order must identify the general area to be covered by the project or  
9 the general route that will be used by the governmental entity for  
10 the project in a way that provides property owners in and around the  
11 area or along the route reasonable notice that the owners' properties  
12 may be subject to condemnation proceedings during the planning or  
13 construction of the project.

14 SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

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

19 (b) Not later than December 31, 2012, an entity, including a  
20 private entity, authorized by the state by a general or special law  
21 to exercise the power of eminent domain shall submit to the  
22 comptroller a letter stating that the entity is authorized by the  
23 state to exercise the power of eminent domain and identifying each  
24 provision of law that grants the entity that authority. The entity  
25 must send the letter by certified mail, return receipt requested.

26 (c) The authority of an entity to exercise the power of eminent  
27 domain expires on September 1, 2013, unless the entity submits a

1 letter in accordance with Subsection (b).

2 (d) Not later than March 1, 2013, the comptroller shall submit  
3 to the governor, the lieutenant governor, the speaker of the house of  
4 representatives, the presiding officers of the appropriate standing  
5 committees of the senate and the house of representatives, and the  
6 Texas Legislative Council a report that contains:

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

9 (2) a corresponding list of the provisions granting  
10 eminent domain authority as identified by each entity that submitted  
11 a letter.

12 (e) The Texas Legislative Council shall prepare for  
13 consideration by the 84th Legislature, Regular Session, a  
14 nonsubstantive revision of the statutes of this state as necessary to  
15 reflect the state of the law after the expiration of an entity's  
16 eminent domain authority effective under Subsection (c).

17 **SECTION 4. Section 251.001(a), Local Government Code, is**  
18 **amended to read as follows:**

19 **(a) When the governing body of a municipality considers it**  
20 **necessary, the municipality may exercise the right of eminent domain**  
21 **for a public use [~~purpose~~] to acquire public or private property,**  
22 **whether located inside or outside the municipality, for any of the**  
23 **following uses [~~purposes~~]:**

24 **(1) the providing, enlarging, or improving of a**  
25 **municipally owned city hall; police station; jail or other law**  
26 **enforcement detention facility; fire station; library; school or**  
27 **other educational facility; academy; auditorium; hospital;**

1 sanatorium; market house; slaughterhouse; warehouse; elevator;  
2 railroad terminal; airport; ferry; ferry landing; pier; wharf;  
3 dock or other shipping facility; loading or unloading facility;  
4 alley, street, or other roadway; park, playground, or other  
5 recreational facility; square; water works system, including  
6 reservoirs, other water supply sources, watersheds, and water  
7 storage, drainage, treatment, distribution, transmission, and  
8 emptying facilities; sewage system including sewage collection,  
9 drainage, treatment, disposal, and emptying facilities; electric or  
10 gas power system; cemetery; and crematory;

11 (2) the determining of riparian rights relative to the  
12 municipal water works;

13 (3) the straightening or improving of the channel of any  
14 stream, branch, or drain;

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

17 (5) ~~for~~ any other municipal public use ~~[purpose]~~ the  
18 governing body considers advisable.

19 SECTION 5. Section 261.001(a), Local Government Code, is  
20 amended to read as follows:

21 (a) A county may exercise the right of eminent domain to  
22 condemn and acquire land, an easement in land, or a right-of-way if  
23 the acquisition is necessary for the construction of a jail,  
24 courthouse, hospital, or library, or for another public use ~~[purpose]~~  
25 authorized by law.

26 SECTION 6. Section 263.201(c), Local Government Code, is  
27 amended to read as follows:

1 (c) The declaration of taking must contain:

2 (1) a declaration that the land or interest in land  
3 described in the original petition is taken for a public use  
4 [~~purpose~~] and for ultimate conveyance to the United States;

5 (2) a description of the land sufficient for the  
6 identification of the land;

7 (3) a statement of the estate or interest in the land  
8 being taken;

9 (4) a statement of the public use to be made of the land;

10 (5) a plan showing the land being taken; and

11 (6) a statement of the amount of damages awarded by the  
12 special commissioners, or by the jury on appeal, for the taking of  
13 the land.

14 SECTION 7. Section 273.002, Local Government Code, is amended  
15 to read as follows:

16 Sec. 273.002. CONDEMNATION. Condemnation of property under  
17 this chapter shall be in accordance with state law relating to  
18 eminent domain, which may be Chapter 21, Property Code, or any other  
19 state law governing and relating to the condemnation of land for  
20 public use [~~purposes~~] by a municipality.

21 SECTION 8. Section 21.0111, Property Code, is amended to read  
22 as follows:

23 Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED;  
24 INITIAL OFFER. (a) An An [~~A governmental~~] entity with eminent domain  
25 authority that wants to acquire real property for a public use shall,  
26 by certified mail, return receipt requested, disclose to the property  
27 owner at the time an offer to purchase or lease the property is made

1 any and all ~~[existing]~~ appraisal reports produced or acquired by the  
2 ~~[governmental]~~ entity relating specifically to the owner's property  
3 and prepared in the 10 years preceding the date of the ~~[used in~~  
4 ~~determining the final valuation]~~ offer.

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

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

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

17 (c) An entity seeking to acquire property that the entity is  
18 authorized to obtain through the use of eminent domain may not  
19 include a confidentiality provision in an offer or agreement to  
20 acquire the property. The entity shall inform the owner of the  
21 property that the owner has the right to:

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

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

26 (d) A subsequent bona fide purchaser for value from the  
27 acquiring ~~[governmental]~~ entity may conclusively presume that the

1 requirement of this section has been met. This section does not  
2 apply to acquisitions of real property for which an [~~a governmental~~]  
3 entity does not have eminent domain authority.

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

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

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

12 (1) an initial offer is made in writing to a property  
13 owner;

14 (2) a final offer is made in writing to the property  
15 owner;

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

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

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

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

27 (A) a copy of the written appraisal;

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

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

5                   (7) the entity provides the property owner with at least  
6 14 days to respond to the final offer and the property owner does not  
7 agree to the terms of the final offer within that period.

8           SECTION 10. Section 21.012, Property Code, is amended to read  
9 as follows:

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

18           (b) The petition must:

19                   (1) describe the property to be condemned;

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

22                   (3) state the name of the owner of the property if the  
23 owner is known;

24                   (4) state that the entity and the property owner are  
25 unable to agree on the damages; [~~and~~]

26                   (5) if applicable, state that the entity provided the  
27 property owner with the landowner's bill of rights statement in

1 accordance with Section 21.0112; and

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

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

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

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

20 SECTION 12. Subsection (a), Section 21.015, Property Code, is  
21 amended to read as follows:

22 (a) The special commissioners in an eminent domain proceeding  
23 shall promptly schedule a hearing for the parties at the earliest  
24 practical time but may not schedule a hearing to assess damages  
25 before the 20th day after the date the special commissioners were  
26 appointed. The special commissioners shall schedule a hearing for  
27 the parties [~~and~~] at a place that is as near as practical to the

1 property being condemned or at the county seat of the county in which  
2 the proceeding is being held.

3 SECTION 13. Subsection (b), Section 21.016, Property Code, is  
4 amended to read as follows:

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

8 SECTION 14. Section 21.023, Property Code, is amended to read  
9 as follows:

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

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

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

20 (B) request from the entity certain information  
21 relating to the use of the property and any actual progress made  
22 toward that use; and

23 (2) the repurchase price is the price paid to the owner  
24 by the entity at the time the entity acquired the property through  
25 eminent domain or the fair market value of the property at the time  
26 the property owner becomes entitled to repurchase the property,  
27 whichever is less [~~public use was canceled~~].

1 SECTION 15. Subchapter B, Chapter 21, Property Code, is amended  
2 by adding Section 21.025 to read as follows:

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

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

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

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

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

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

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

25 (e) Jurisdiction to enforce the provisions of this section  
26 resides in:

27 (1) the court in which the condemnation was initiated; or

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

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

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

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

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

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

26           SECTION 17. Subsections (a) and (b), Section 21.046, Property  
27 Code, are amended to read as follows:

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

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

16 SECTION 18. The heading to Section 21.047, Property Code, is  
17 amended to read as follows:

18 Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

19 SECTION 19. Section 21.047, Property Code, is amended by adding  
20 Subsection (d) to read as follows:

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

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

27 (2) any reasonable attorney's fees and other professional

1 fees incurred by the property owner that are directly related to the  
2 violation.

3 SECTION 20. Subchapter E, Chapter 21, Property Code, is amended  
4 to read as follows:

5 SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING  
6 [GOVERNMENTAL] ENTITY

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

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

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

19 (3) the property becomes unnecessary for the public use  
20 for which the property was acquired before the 10th anniversary of  
21 the date of acquisition; or

22 (4) the initial use of the property is not the public use  
23 for which the property was acquired.

24 (b) In this section, "actual progress" means the property has  
25 been used for the public use for which it was taken.

26 (c) A district court may determine all issues in any suit  
27 regarding the repurchase of a real property interest acquired through

1 eminent domain by the former property owner or the owner's heirs,  
2 successors, or assigns.

3 (d) Subsections (a)(1), (a)(2), and (a)(3) do ~~[This subchapter~~  
4 ~~does]~~ not apply to the acquisition of property by a port for deep  
5 water navigation ~~[a right-of-way under the jurisdiction of:~~

- 6 (1) ~~a county;~~
- 7 (2) ~~a municipality; or~~
- 8 (3) ~~the Texas Department of Transportation].~~

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

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

20 (2) an identification of the public use for which the property  
21 had been acquired, ~~and~~ a statement that the person has a right to  
22 repurchase the property under this subchapter, and an explanation of  
23 the reason under this subchapter the person has acquired the right to  
24 repurchase the property ~~[that the public use has been canceled];~~ and

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

27 Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED

1 PROPERTY. (a) A property owner or the owner's heirs, successors, or  
2 assigns may request that the condemning entity make a determination  
3 and provide a statement and other relevant information regarding:

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

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

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

14 (4) whether the initial use of the property was the public  
15 use for which the property was acquired.

16 (b) A request under this section must contain sufficient detail  
17 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 receipt  
20 of the request for information, the entity shall send a written  
21 response by certified mail, return receipt requested, to the  
22 requestor.

23 Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later than  
24 the 180th day after the date of the postmark on a [the] notice sent  
25 under Section 21.102 or a response to a request made under Section  
26 21.1021 that indicates that the property owner, or the owner's heirs,  
27 successors, or assigns, is entitled to repurchase the property

1 interest in accordance with Section 21.101, the property owner or the  
2 owner's heirs, successors, or assigns must notify the [~~governmental~~]  
3 entity of the person's intent to repurchase the property interest  
4 under this subchapter.

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

15 SECTION 21. Section 202.021, Transportation Code, is amended by  
16 adding Subsection (j) to read as follows:

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

20 (1) acquisition of access rights under Subchapter D,  
21 Chapter 203; and

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

25 SECTION 22. Section 54.209, Water Code, is amended to read as  
26 follows:

27 Sec. 54.209. LIMITATION ON USE OF EMINENT DOMAIN. A district

1 may not exercise the power of eminent domain outside the district  
2 boundaries to acquire:

3 (1) a site for a water treatment plant, water storage  
4 facility, wastewater treatment plant, or wastewater disposal plant;

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

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

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

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

12 SECTION 23. (a) Section 552.0037, Government Code, is  
13 repealed.

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

15 SECTION 24. Section 11.155, Education Code, Chapter 2206,  
16 Government Code, Sections 251.001, 261.001, 263.201, and 273.002,  
17 Local Government Code, and Chapter 21, Property Code, as amended by  
18 this Act, apply only to a condemnation proceeding in which the  
19 petition is filed on or after the effective date of this Act and to  
20 any property condemned through the proceeding. A condemnation  
21 proceeding in which the petition is filed before the effective date  
22 of this Act and any property condemned through the proceeding are  
23 governed by the law in effect immediately before that date, and that  
24 law is continued in effect for that purpose.

25 SECTION 25. The change in law made by this Act to Section  
26 202.021, Transportation Code, applies only to a sale or transfer  
27 under that section that occurs on or after the effective date of this

1 Act. A sale or transfer that occurs before the effective date of  
2 this Act is governed by the law applicable to the sale or transfer  
3 immediately before the effective date of this Act, and that law is  
4 continued in effect for that purpose.

5 SECTION 26. The changes in law made by this Act to Section  
6 54.209, Water Code, apply only to a condemnation proceeding in which  
7 the petition is filed on or after the effective date of this Act. A  
8 condemnation proceeding in which the petition is filed before the  
9 effective date of this Act is governed by the law in effect on the  
10 date the petition was filed, and that law is continued in effect for  
11 that purpose.

12 SECTION 27. This Act takes effect September 1, 2011.