

BILL ANALYSIS: SB 292

BY **Judge Shepard**, Texas Public Policy Foundation
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ISSUE

When the government determines that it wishes to take ownership of Texans' land, the process used is known as eminent domain. "Eminent domain is the right or power of a sovereign state to appropriate private property for the promotion of the general welfare" (*Exxonmobil Pipeline v. Bell*, 2002, citing *Tex. Highway Dep't v. Weber*, 1949). Here in Texas, once a parcel of land has been identified to be appropriated, and prior to a final offer on said parcel, the Office of the Attorney General (OAG) must provide a Landowner's Bill of Rights to the landowner of the parcel sought to be appropriated. The Landowner's Bill of Rights outlines the rights of property owners in eminent domain proceedings. This section mandates that the OAG prepare a written statement to inform property owners of their rights when their property is being acquired by eminent domain. The Landowner's Bill of Rights includes information on the condemnation process, the right to fair compensation, and the owner's right to contest the taking.

Senate Bill (SB) 292 introduces significant enhancements to the Landowner's Bill of Rights regarding eminent domain properties.

ANALYSIS

Section 1 adds to the Landowner's Bill of Rights, creating responsibility for damages arising from the condemning entity's property examination and/or survey. It also adds to the Landowner's Bill of Rights language that denotes a property owner's right to refuse to grant and/or negotiate the terms for permission for an entity to enter the property to examine/survey the property.

Section 2 requires that if an entity with eminent domain authority provides a survey permission form to a property owner, then the form must clearly state the landowner's rights and responsibilities. Namely, this includes the right to refuse permission to enter and survey, stating that the entity may seek a court order for access if the landowner denies access, that the landowner has the right to negotiate terms relating to a survey, and that the entity is responsible for any damages that occur as a result of the entity's access/surveying. This section creates a framework for negotiations between entities with eminent domain authority and property owners, which should ultimately encourage cohesiveness and dialogue.

Section 3 changes the time in which the Landowner's Bill of Rights is delivered to the property owner. The Landowner's Bill of Rights statement must be delivered to the landowner at the time that the eminent domain entity makes their initial offer to the landowner. This is a change from the current process in which

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the Landowner's Bill of Rights must be delivered to landowner prior to the final offer from the entity. This change gives landowners more information and advises them of their rights earlier in the eminent domain process.

Section 4 adds a requirement that the Landowner's Bill of Rights is to be included in the initial offer. Additionally, the portion of the statement regarding additional compensation (whether it be for damages to the property), an appraisal including damages to the property, and an instrument or conveyance (if the entity is a private entity) must be in bold print and a larger font than the other words on the statement. These additions delineate clearer communication requirements and ensure that property owners are adequately informed of the appraisal and offer details before proceeding.

Section 5 adds a new section to the Property Code. This section deals with offers for real property acquisitions by condemning entities. A condemning entity that wishes to acquire real property—but not through the condemnation process—must separately identify that property that it wishes to acquire without using condemnation. The entity must make a separate offer for this real property. This new section clarifies which property is being sought through the condemnation process and which property is being sought not through the condemnation process.

Section 6 directs the Office of the Attorney General to post the Landowner's Bill of Rights statement, with the changes included in this bill, on its website no later than January 1, 2026.

Section 7 establishes that the changes made to Sections 21.0112 and 21.0113 of the Property Code apply only to real property acquisitions linked to initial offers made after the effective date of the Act. It specifies that any initial offers made before this effective date will continue to be governed by the existing law prior to these changes.

Section 8 establishes that the provisions of this bill come into effect on January 1, 2026, if this bill is passed.

RECOMMENDATIONS FOR IMPROVEMENT

- Expand upon survey permission procedures to include detailed procedures regarding how survey permissions should be negotiated, possibly providing templates or guidelines to ensure fair negotiation.
- Strengthen landowner protections by incorporate provisions that require entities to provide legal assistance or consultation to landowners during negotiations, ensuring they fully understand their rights and options. This or language in the Landowner's Bill of Rights statement that recommends that landowners seek legal assistance or consultation.
- Adjustment of timeframes by extending the 14-day response period in order to give landowners more time to seek advice and make informed decisions.

REFERENCES

- ExxonMobil Pipeline Co. v. Bell*, 84 S.W.3d 800 (Tex. App. 2002). <https://casetext.com/case/exxonmobil-pipeline-v-bell>
- SB 292. Introduced. 89th Texas Legislature. Regular. (2025). <https://www.telicon.com/www/TX/89R/pdf/TX89RSB00292FIL.pdf>
- Texas Government Code § 402 (2025). <https://statutes.capitol.texas.gov/docs/gv/htm/gv.402.htm>

ABOUT THE AUTHOR



Judge A. Shepard is a Policy Analyst for the Taxpayer Protection Project with Texas Public Policy Foundation, where he focuses on Private Property Rights.

Judge holds a B.S. in Forensic Chemistry from the University of Mississippi and a J.D. from Mississippi College School of Law. While attending MC Law, he held the position of Senator for the Law Student-Body Association, was selected as a member of the Dean's Ambassadors, and served as an intern at the Reuben V. Anderson Center for Justice.

Although born and raised in West Monroe, Louisiana, Judge's family roots are deeply embedded in Texas. He is the paternal great-grandson of J.W. Shepard of Plano, Texas, and his maternal ascendants are of The Old 300. Prior to joining the Foundation, Judge held positions including Residential Appraiser for Travis Central Appraisal District, Associate at Breithaupt, DuBos & Wolleson, LLC, as well as Director of Ground Operations for his family's farm in Morehouse Parish, Louisiana.

