

SUBJECT: Valuing real property for tax rolls, condemnation

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — Craddick, Wolens, Heflin, Marchant, Oliveira, Place, Romo
0 nays
4 absent — Finnell, Holzheuser, Horn, T. Hunter

WITNESSES: For — James A. McAlister; John Prather
Against — None

BACKGROUND: Tax Code sec. 23.01 establishes that taxable property is appraised at its market value, as determined by the application of generally accepted appraisal techniques. Each property must be appraised based on the individual characteristics that affect the property's market value.

Property Code sec. 21.041 establishes guidelines for assessing special damages from a condemnation. Evidence may pertain to the value of the property, the injury to the property owner, the benefit to the property owner of the remaining value and the use of the property for the condemnation.

DIGEST: HB 2609 would establish as additional factors to be considered in appraisals and in condemnation proceedings a property's location, visibility, accessibility and highest and best use. The bill would take effect immediately if approved by two-thirds of the membership of each house.

SUPPORTERS SAY: HB 2609 is a corrective measure that would put into statute the commonsense proposition that appraisers and condemnation commissioners should consider all factors relating to the value of property, including its location, visibility, accessibility and highest and best use. It would have little or no effect on appraisals for ad valorem tax purposes but would clarify valuation standards in condemnation cases that have recently called into question.

Condemnation commissioners were able to consider all factors relating to the value of property until a 1993 Texas Supreme Court ruling, *State v. Schmidt* 867 S.W.2d 769 (Texas 1993), called the practice into question, reversing Texas statutory and common law that had been repeatedly reaffirmed over 50 years.

HB 2609 would once again make whole an injured property owner whose land is taken by the government. If an entire parcel of property is taken, its owner should be paid enough to acquire new property of equal value and utility. If only a part of the owner's land is acquired, the owner must be able to sell the remainder in the free market, take the compensation paid the owner by the government and with the total purchase a new whole property of value equal to the owner's original holding. By limiting the factors that may be taken into consideration in valuing the decrease in property value, the Supreme Court's decision will prevent the true impact on property value to be determined; HB 2609 would just restore prior practice.

OPPONENTS
SAY:

No apparent opposition.