

SUBJECT: Limiting MUD eminent domain authority outside of their boundaries

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 6 ayes — Puente, Callegari, Bonnen, Geren, Hope, Laney

0 nays

3 absent — Campbell, Hardcastle, Hilderbran

WITNESSES: For — Richard Gibbs, Greater Great Oak Homeowners Association; Roy Zboyan, Capps Concerned Citizens Montgomery County; Joe B. Allen; Barbara Goergen; Dan McFall; Chauvet Parker

Against — None

DIGEST: CSHB 1208 would prohibit municipal utility districts (MUDs) from exercising eminent domain outside their boundaries to acquire a site for:

- a water treatment plant, water storage facility, wastewater treatment plant, or wastewater disposal facility;
- a park, swimming pool, or other recreational facility, other than a trail; or
- a trail on a homestead.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. The bill would not affect an eminent domain action initiated before its effective date.

SUPPORTERS SAY: By limiting the ability of a MUD to exercise eminent domain outside district boundaries, CSHB 1208 would be a moderate means of protecting the property rights of landowners who live near MUDs. Currently, a MUD can condemn land outside its borders to construct a water treatment or wastewater disposal plant. The MUD could choose to plat and develop all the land in its boundaries with the knowledge that it could condemn the land of individuals outside its boundaries for the construction of a water treatment plant. This bill would encourage a MUD properly to plan for its

needs by restricting the MUD's authority to condemn the land of property owners outside its boundaries.

Individuals who own land outside a MUD have no representation in the district and cannot influence the decisions of a MUD board. It is therefore necessary to protect the property rights of these landowners from abuses of eminent domain by MUDs that would abuse their condemnation power. The bill would not affect the ability of a MUD to condemn land for the construction of water and wastewater lines, drainage, or flood control purposes, only for treatment plants and recreational facilities. In addition, a MUD still could negotiate to purchase land of an adjacent landowner. The bill simply would prevent a MUD from condemning that land in these limited cases.

The bill would restrict the use of eminent domain outside a district's boundaries to acquire a homestead for the construction of a trail and any other land for the construction of other recreational facilities. MUDs should not be able to condemn the homes of people who live outside their boundaries and who have no say in such actions if the condemnation is for optional, recreational projects.

**OPPONENTS  
SAY:**

CSHB 1208 could interfere with the power of MUDs to provide water and wastewater service to their residents. If a MUD did not have an adequate, cost-effective location on which to construct a water treatment plant within its district boundaries, it could be necessary for the district to build the plant outside its boundaries. In such a case, the MUD might have to condemn land to build the plant. A landowner still would be entitled to the full market price for his or her land, as determined by an independent appraiser. While eminent domain authority may have been abused in some cases, a MUD would need the full power of this eminent domain when a compromise solution to a conflict with a landowner could not be reached.

**NOTES:**

As filed, HB 1208 would have prohibited a MUD from exercising the power of eminent domain outside its boundaries to construct a MUD facility or acquire a recreational easement.