

**SUBJECT:** No eminent domain power for certain municipal management districts

**COMMITTEE:** Land and Resource Management — Favorable, without amendment

**VOTE:** 9 ayes — Mowery, Harper-Brown, Blake, R. Cook, Escobar, Leibowitz, Miller, Orr, Pickett  
0 nays

**SENATE VOTE:** On final passage, March 17 — 31-0, on Local and Uncontested Calendar

**WITNESSES:** *(On House companion bill, HB 1478 by Wong:)*  
For — Trey Larry, Allen Boone Humphries Robinson LLP  
Against — None

**BACKGROUND:** Municipal management districts are created to enhance city or county services in areas such as employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and public welfare. Property owners may petition the Legislature to create a municipal management district, which is managed by a voluntary board of directors appointed by a municipal governing body.

Eminent domain is the authority given to government to claim private property for public benefit. This authority requires the private property owner to be compensated at the fair market value.

Most municipal management districts are authorized under Local Government Code, ch. 375, which expressly denies them power of eminent domain. Seventeen districts, however, are authorized under Local Government Code, ch. 376, which grants to municipal management districts the powers given to water districts and expressly denies the power of eminent domain to some, but not all, of the districts under its authority. Water Code ch. 49.222 grants the power of eminent domain to conservation and reclamation districts, which include municipal management districts.

A 2004 attorney general's opinion (GA-0268) determined that municipal management districts created under Local Government Code, ch. 376 have the power of eminent domain only if expressly authorized in statute.

**DIGEST:** SB 224 would deny the power of eminent domain to 21 municipal management districts in Harris and Fort Bend counties.

The 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.

**SUPPORTERS SAY:** In accordance with the attorney general's recent opinion, SB 224 would clarify current law and eliminate any ambiguity about whether municipal management districts have the power of eminent domain by explicitly denying them that authority.

The bill would not negatively affect these municipal management districts. These districts operate in ways that do not infringe upon public utilities, rights-of-way, or private property and would not use the power of eminent domain even if they had it. Even districts governed by statutes that do not expressly deny the power of eminent domain generally assume they do not have such authority and have never attempted to exercise it.

Municipal management districts should not hold the power of eminent domain because their boards are not publicly elected. Such authority given to an appointed board could undermine private property rights.

**OPPONENTS SAY:** No apparent opposition.

**NOTES:** HB 1478 by Wong, the House companion bill, passed the House on March 23 and is scheduled for public hearing by the Senate Intergovernmental Relations Committee on May 20.