

BILL ANALYSIS

Senate Research Center

S.B. 774
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Jurisprudence
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As Filed

DIGEST

Currently, a condemnor is prohibited from gaining possession of condemned property until a special commissioners' award has been deposited with the court. A delay in obtaining possession of a necessary right-of-way can result in the delay of construction of critical highway projects. The right-of-way acquisition process needs to be expedited for high priority projects. Authorizing possession at the time of filing the condemnation petition can cut the acquisition process by two to three months. This bill will provide new procedures concerning condemnation of property by the Texas Department of Transportation.

PURPOSE

As proposed, S.B. 774 provides new procedures concerning condemnation of property by the Texas Department of Transportation.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 21B, Property Code, by adding Section 21.023, as follows:

Sec. 21.023. POSSESSION OF PROPERTY AND DECLARATION OF TAKING. Defines "department." Authorizes the Texas Department of Transportation (department) to file a declaration of taking as provided by this section with the clerk of the court in which the department files a condemnation petition or to which the eminent domain case based on the petition is assigned. Authorizes the declaration of taking to be filed concurrently with or subsequent to the filing of the condemnation petition but is required to be filed before the date on which the special commissioners make an award. Sets forth information required to be included in the declaration of taking. Sets forth regulations regarding the deposit required to accompany a declaration of taking and the notice to be given to certain persons. Provides that a property owner or party in possession who refuses to vacate the property or yield possession is subject to the forcible entry and detainer provisions under Chapter 24. Prohibits a writ of possession, if the property being condemned is a homestead or a portion of a homestead, from being executed before the 30th day after the date the property owner and any party in possession are served notice under Subsection (f). Provides that the date on which the declaration is filed is the date of taking for purpose of assessing damages to which a property owner is entitled.

SECTION 2. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 3. Emergency clause.