

BILL ANALYSIS

Senate Research Center

H.B. 803
By: Geren (Duncan)
Jurisprudence
5/13/2003
Engrossed

DIGEST AND PURPOSE

Currently, when property is condemned by eminent domain, the landowner is compensated for the fair market value of the land. However, when land is condemned specifically for its groundwater resources, the law does not allow the fair market value of that groundwater to be considered in the compensation paid to the landowner. In a condemnation proceeding, special commissioners appointed by the court assess actual damages to a property owner based on the fair market value of the property. Current interpretation of the law rejects the right of a property owner to submit evidence or to be compensated for the local market value of the groundwater rights in addition to the local market value of the real property. H.B. 803 authorizes the special commissioners or court in a condemnation proceeding to consider and award actual damages to a property owner for the local market value of a real property's groundwater rights in certain condemnation proceedings.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 21, Property Code, by adding Section 21.0421, as follows:

- Sec. 21.0421. ASSESSMENT OF DAMAGES: GROUNDWATER RIGHTS. (a) Requires the special commissioners or court, in a condemnation proceeding initiated by a political subdivision under this chapter, to admit evidence relating to the market value of groundwater rights as property apart from the land in addition to the local market value of the real property if certain conditions exist.
- (b) Requires the evidence submitted under Subsection (a) on the market value of the groundwater rights as property apart from the land to be based on generally accepted appraisal methods and techniques, including the methods of appraisal under Subchapter A, Chapter 23, Tax Code.
 - (c) Authorizes the special commissioners or court, if the special commissioners or court finds that the right to groundwater may be developed or used for public purposes, to assess damages to the property owner based on certain criteria.
 - (d) Requires the special commissioners or court, in assessing damages based on the market value of groundwater rights under Subsection (c)(2), to consider certain factors.
 - (e) Provides that this section does not authorize groundwater rights appraised separately from the real property under this section to be appraised separately from real property for property tax appraisal purposes or subject real property condemned for the purpose described by Subsection (a) to an additional tax as provided by Section 23.46 or 23.55, Tax Code.

SECTION 2. (a) Effective date: September 1, 2003.

(b) Provides that the change in law made by this Act does not affect any litigation pending on the effective date of this Act that relates to the assessment of damages in a condemnation proceeding under Chapter 21, Property Code.