

## **BILL ANALYSIS**

Senate Research Center  
78R16511 SMH-F

C.S.H.B. 803  
By: Geren (Duncan)  
Jurisprudence  
5/19/2003  
Committee Report (Substituted)

### **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.

C.S.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; requires a condemnation petition filed by a political subdivision of this state for the purpose of acquiring rights to groundwater or surface water to state that the facts to be proven are that the political subdivision has performed certain acts; and requires a court to deny the right to condemn unless the political subdivision proves to the court that the political subdivision has met certain requirements. C.S.H.B. 803 requires a condemnation petition filed by a political subdivision to prove that the subdivision has taken certain actions, including making a good faith effort to obtain practicable alternative water supplies; acquiring water rights by voluntary purchases or lease; and showing the need for the water rights.

### **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 B, Chapter 21, Property Code, by adding Section 21.0121, as follows:

Sec. 21.0121. CONDEMNATION TO ACQUIRE WATER RIGHTS. (a) Requires a condemnation petition filed by a political subdivision of this state for the purpose of acquiring rights to groundwater or surface water, in addition to the contents prescribed by Section 21.012(b), to state that the facts to be proven are that the political subdivision has performed certain acts.

(b) Requires a court to deny the right to condemn unless the political subdivision proves to the court that the political subdivision has met the requirements of Subsection (a).

SECTION 2. 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 real property may be used by the political subdivision to develop or use the rights to groundwater for a public purpose, 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 3. (a) Effective date: September 1, 2003.

(b) Provides that Section 21.0421, Property Code, as added 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.