

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 553  
By: Schwertner et al.  
State Affairs  
3/11/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Eminent domain is the power of a governmental entity to acquire private property for a public use by providing adequate compensation. The state may also grant the power to private entities. While eminent domain can serve the greater good, it is a power ripe for abuse and misuse.

One potentially problematic aspect of the eminent domain condemnation process is the offer for compensation. Under current case law, a condemning entity is not required to tell the landowner whether the offer for compensation includes more land than the entity has the authority to take under eminent domain. As a result, the Senate State Affairs Committee's Interim Report to the 85th Legislature recommended that landowners be made more informed of which parcels of land could be taken through eminent domain. The report also recommends that landowners clearly understand condemnors' legal restrictions. This bill enacts those recommendations.

S.B. 553 ensures that property owners understand a condemning entity's offer for land by requiring clarity from the condemnor on what property is authorized to be taken through the power of eminent domain and what property would not be condemned.

Key Provisions of S.B. 553:

- Requires a condemnor to make a separate offer for desired land that the condemnor will not seek to condemn (either because the condemnor does not have authority to take the land or because the condemnor chooses not to exercise the power of eminent domain for that parcel).
- Updates the Landowner's Bill of Rights (written by the Attorney General) to include information on the provisions above.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 553 amends current law relating to the acquisition of certain real property in conjunction with the acquisition of real property for a public use through eminent domain procedures.

### **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 Section 402.031, Government Code, by adding Subsection (c-1), as follows:

(c-1) Requires the landowner's bill of rights statement to disclose that a condemning entity, other than an entity acquiring property as authorized under Subchapter D (Acquisition of Property), Chapter 203 (Modernization of State Highways; Controlled Access Highways), Transportation Code, that makes an initial offer under Section 21.0113 (Bona Fide Offer Required), Property Code, that includes real property that the entity does not seek to acquire by condemnation is required to, in the initial offer:

(1) separately identify the real property that the entity does not seek to acquire by condemnation; and

(2) make an offer for the real property that the entity does not seek to acquire by condemnation separate from the offer made for the real property sought to be acquired by condemnation.

SECTION 2. Amends Subchapter B, Chapter 21, Property Code, by adding Section 21.0114, as follows:

Sec. 21.0114. OFFER TO ACQUIRE ADDITIONAL PROPERTY; EXCEPTION. (a) Requires a condemning entity that makes an initial offer under Section 21.0113 that includes real property that the entity does not seek to acquire by condemnation, except as provided by Subsection (b), to, in the initial offer:

(1) separately identify the real property that the entity does not seek to acquire by condemnation; and

(2) make an offer for the real property that the entity does not seek to acquire by condemnation separate from the offer made for the real property sought to be acquired by condemnation.

(b) Provides that Subsection (a) does not apply to an acquisition of real property under Subchapter D, Chapter 203, Transportation Code.

SECTION 3. Effective date: September 1, 2019.