

BILL ANALYSIS

Senate Research Center
85R18519 BEE-F

C.S.S.B. 627
By: Schwertner et al.
State Affairs
4/3/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas is experiencing substantial population growth, much of which is concentrated in certain parts of the state. This concentrated growth leads to new development projects that may involve eminent domain as well as surveys of privately owned land.

Many private landowners are unfamiliar with their property rights, and are unsure of what to do when approached about their property. Misunderstandings about rights can lead to suboptimal outcomes for landowners. To help landowners make informed decisions, current law requires the Office of the Attorney General to publish a document called the Landowner's Bill of Rights. The condemning entity must present this document to a landowner by the time an entity first represents that it possesses eminent domain authority.

While the document is useful, it does not contain information concerning the ability of a person or entity to enter the land to conduct a survey. S.B. 627 places information in the landowner's bill of rights concerning existing rights and obligations of both the condemning entity and the landowner. S.B. 627 inserts in the landowner's bill of rights that: (1) the condemnor is responsible for damages arising from the survey, (2) the landowner may negotiate the terms of the survey, and (3) while a landowner has a common law right of refusal to keep the condemnor from entering the property, the condemnor may sue in court to enter the property and perform the survey. S.B. 627 also requires any survey permission forms given to landowners to include the same new information that will be included in the landowner's bill of rights.

S.B. 627 will strengthen private property rights by ensuring that both landowners and condemners understand their obligations and duties regarding surveys. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 627 amends current law relating to notice of a property owner's rights relating to the examination or survey of property by an entity with eminent domain authority.

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(c), Government Code, as follows:

(c) Requires that the Landowner's Bill of Rights statement include:

(1) makes no changes to this subdivision;

(2) a description of:

(A) makes no changes to this paragraph;

(B) the condemning entity's obligations to the property owner, including the responsibility for any actual damages arising from an examination or survey of the property;

(C) the property owner's options during a condemnation, including the property owner's right to:

(i) seek to negotiate the terms of the examination or survey of the property by the condemning entity; and

(ii) creates this subparagraph from existing text and makes no further changes to this subparagraph; and

(D) the condemning entity's right to sue for a court order authorizing the examination or survey if the property owner refuses to consent to the examination or survey.

SECTION 2. Amends Subchapter B, Chapter 21, Property Code, by adding Section 21.01101, as follows:

Sec. 21.01101. SURVEY CONSENT FORM. Requires that a form, if an entity with eminent domain authority provides a form to an owner of real property requesting the owner's consent to enter the property to examine or conduct a survey of the property in connection with the potential acquisition of the property for a public use, conspicuously state that:

(1) the owner has a right to seek to negotiate the terms of the examination or survey of the property;

(2) the entity is authorized to sue for a court order authorizing the entity to enter the property and conduct the examination or survey if the owner refuses to consent to the examination or survey; and

(3) the entity has the responsibility for any actual damages arising from an examination or survey of the property.

SECTION 3. Requires the Office of the Attorney General to make the landowner's bill of rights statement required by Section 402.031 (Preparation of Landowner's Bill of Rights Statement), Government Code, as amended by this Act, available on the attorney general's Internet website not later than January 1, 2018.

SECTION 4. Effective date: January 1, 2018.