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Every Friday, this newsletter will keep you up to speed on some of the legislation important to Texas Farm Bureau members that Austin staff are following.

Please do not hesitate to contact the appropriate staff with any questions.

Eminent Domain

[HB 901](#): Relating to the acquisition of real property by an entity with eminent domain authority.

[Burns, DeWayne \(R\)](#)

Summary:

HB 901 proposes amendments to the Texas eminent domain process. It includes the language agreed to by Texas Farm Bureau in 2019 to ensure landowners get a fair *bona fide offer* and *required easement terms* with the initial offer.

Under HB 901, a private entity with eminent domain authority has made a bona fide offer only if the initial offer includes:

- The complete written report of the property's value and the private entity's basis for initial offer; including any damages to the remaining property.
 - The value or estimate price must be determined by one of the following prepared by an appraiser or real estate broker:
 - Property appraisal,
 - Comparative market analysis,
 - Broker price opinion, or
 - Market study.
- The Landowner Bill of Rights; and
- A conveyance document with the required minimum easement terms.

Minimum Easement Terms:

- Required terms for pipeline and transmission line easements;

- The required terms are negotiable after the initial offer;
- Easement document must be filed with condemnation petition.

The Special Commissioners' hearing also stands to gain procedural efficiency. If HB 901 is passed, the condemnation court judge will appoint two alternate special commissioners if one of the three special commissioners is struck by each party. The alternate special commissioner would then serve as a replacement for the stricken commissioner. This "pre-appointment" contributes to procedural efficiency for everyone involved. Rather than waiting for the new appointment after a strike, the process is predetermined before the proceeding begins. This simply reorganizes the process for judges. They will already be searching for special commissioners and can select all five at once, rather than breaking it up into multiple searches.

Texas Farm Bureau's Position:

HB 901 includes the agreements the industry made with the landowner groups in 2019, and it only applies to private companies. HB 901 includes the agreements made on *bona fide offer* and *required easement terms*.

TFB agreed to leave *landowner meetings* out of HB 901, because the industry would not agree to a meeting that would provide landowners with the information they need in a timely manner. In lieu of requiring the condemning entities to conduct meetings, TFB initiated a program to conduct landowner meetings, and it sponsored a [landowner's guide](#) to the eminent domain process with Texas A&M AgriLife Extension.

TFB **supports** HB 901. (TFB 2021 Policy: Eminent Domain 151, Pages 61-62, Lines 9-15 and 52-62.)

Water

[HB 271](#): Relating to the procedure by which a state agency may issue an opinion that a watercourse is navigable.

[Murr, Andrew \(R\)](#)

Summary:

HB 271 proposes adding a new section to Chapter 11 of the Water Code. This new section creates requirements for a state agency's classification of a waterway as *navigable*.

Before issuing an opinion, the agency must follow procedures that ensure the affected property owners are aware of the change and can participate in a public meeting. First, the agency must perform a gradient boundary survey of the watercourse or obtain an exception from the General Land Office. Second,

the agency must provide to the waterway's abutting property owners a written notice of the upcoming opinion and public meeting. Third, the agency must hold a public meeting in which any person may present evidence, object to or support the classification as a navigable waterway.

The public meeting must be held in a publicly accessible location at least 45 days after the written notice is provided. The agency must provide information to public meeting attendees about where and when the final decision will be posted. In addition, the agency must provide a written copy of the final decision to the abutting landowners of the waterway.

The bill clarifies that some portions of the same waterway may be deemed navigable while others are not. It further clarifies that the requirements do not apply to classifications previously made that need to be refiled.

Aggrieved parties may file an appeal with the district court of the waterway's county no later than 60 days after the opinion is issued. The defendant of the appeal will be the state or government agency that originally issued the opinion.

TFB **supports** HB 271. (TFB 2021 Policy: Surface Water Section 154, Page 72, Lines 72-74.)

HB 966: Relating to the award of attorney's fees and other costs in certain suits involving a groundwater conservation district.

[Burns, DeWayne \(R\)](#)

Background:

Under current law, if a landowner loses a challenge to a Groundwater Conservation District (GCD) in court, the landowner is required to pay the district's attorney fees. Conversely, the landowner has no right to attorney fees if he or she wins the case.

The unfair, one-sided awarding of attorney fees burdens any landowner who has a legitimate complaint about a GCD's rule or permitting decision. It forces landowners to accept unfair rules or permit decisions, because they cannot take the financial risk of losing the case. It further prevents landowners from holding GCDs accountable and preventing regulatory overreach.

Summary:

HB 966 addresses the unfair attorney's fees language in the Water Code.

Burns' bill removes the mandate that a losing party must pay the GCD's attorney fees. Instead, the judge would hold the discretion to award the GCD attorney fees if the judge believes it is justified—such as when the challenge is frivolous.

It also amends the awarding of attorney fees for enforcement actions. This provision will be removed in the committee substitute, because it would hinder districts being able to enforce their rules.

TFB **supports** HB 966. TFB 2021 Policy: Real Property Rights 150, Page 57, Lines 13-16; Groundwater 153, Page 69, Lines 140-145.

Feral Hog Control

Deemed the most destructive species in North America—feral hogs create an estimated \$1.5 billion in property damage every year, with \$52 million in agricultural damages in Texas. Texans are restricted to only trapping and hunting feral hogs, which has proven to be not effective in controlling the invasive species.

The company Scimetrics has developed a warfarin-based product, Kaput, for use in feral hog control. Unfortunately, the use of Kaput became a political issue, and steps were taken to block its usage. A 2017 rider on the Texas Department of Agriculture (TDA) budget prevents the agency from approving the use of Kaput on feral hogs in Texas. Another 2017 rider on the Texas A&M Agri-Life Extension budget prevents it from even researching *Kaput* for use on feral hogs in Texas.

Other studies—and federally-approval—show that Kaput is safe and effective for controlling this invasive and destructive species.

Texas Farm Bureau supports legalizing reasonable chemical controls for feral hogs and supports maintaining all current legal methods of controlling feral hogs.

TFB **supports** removing both budget riders. (TFB 2021 Policy: Feral Hogs 114, Page 11, Lines 9-10 and 14-15 and 22-24.)

Farm Animal Liability

HB 365: Relating to the limitation of liability for farm animal activities.
[Murr, Andrew \(R\)](#)

Summary:

HB 365 amends the Farm Animal Liability Act (FALA) to expand its liability protection to include additional individuals and situations. The definitions are expanded to ensure that all farm and ranch livestock and activities are covered.

FALA limits liability when damage or injury results from dangers that are an inherent risk of livestock activities. The bill extends liability protection to routine management of farm and ranch livestock—whereas the previous version of FALA did not include owning, raising, pasturing, herding, transporting or health management for the animal. If the bill passes, employees and private contractors will no longer be excluded from liability protection under FALA.

These important sections of FALA would remain unchanged under Murr's proposal:

- Negligence in caring for or providing faulty equipment or tack;
- Failure to ensure that the injured person understood and was capable of safely engaging with the animal;
- Dangerous land conditions of which the landowner or land-controller was aware of but did not provide warning;
- The animal owner recklessly or intentionally caused the injury;
- Injury of a non-participant in a livestock show.

Notice will still be required where any activity occurs. And, a warning would still be required in every contract for an animal activity covered under FALA.

TFB **supports** HB 365. (TFB 2021 Policy: Livestock Section 120, Page 15, Lines 43-44, Property Rights Section 150, Page 58, Lines 97-99.)

[HB 1078](#): Relating to liability arising from farm animal activities.
[Landgraf, Brooks \(R\)](#)

Summary:

HB 1078 also amends the Farm Animal Liability Act (FALA). It expands FALA to include breeding, feeding or working farm animals as a vocation; and farm or ranch employees; and farm or ranch independent contractors.

The bill proposes that liability limitations are expanded to farm or ranch owners or operators in situations of property damage, injury or death when it results from dangers that are an inherent risk of the animal and situation. The bill includes the following situations:

- the nature of an animal to react to a person handling or approaching it;
- the unpredictability of an animal's reaction to an unexpected sound, movement, or object;
- equine riding hazards and collisions;

- the injured person’s own negligence or recklessness.

The situations which are still subject to civil liability are:

- Negligently kept equipment or tack;
- Failure to ensure that the injured person understood and was capable of safely engaging with the animal;
- Dangerous land conditions of which the landowner or land-controller was aware of but did not provide warning;
- The animal owner recklessly or intentionally caused the injury;
- Injury of a non-participant in a livestock show.

TFB **supports** HB 1078. (TFB 2021 Policy: Livestock Section 120, Page 15, Lines 43-44, Property Rights Section 150, Page 58, Lines 97-99.)

Truth in Labeling

HB 316: [Relating to the advertising and labeling of certain meat food products. Buckley, Brad \(R\)](#)

Summary:

HB 316, the Texas Meat and Imitation Food Act, states food that is falsely or misleadingly advertised or labeled as containing or imitating meat is considered misbranded.

If the department finds that the food is indeed misbranded, the department or attorney general may petition a district court to restrain the distribution of the misbranded food until the violations are addressed. Food in violation, or suspected violation, must bear a tag labeling it as “adulterated or misbranded” until the violation is corrected.

The Act also imposes investigative costs, court costs, reasonable attorney’s fees, witness fees and deposition expenses on the violator of the misbranding regulations. The food may be returned to the market—and all warning tags removed—once the violation is corrected and all fees are paid.

TFB **supports** HB 316. (TFB 2021 Policy: Dairy 113, Page 10, Line 9, Livestock 120, Page 15, Lines 45-57 and 177-181, Marketing 132, Page 23, Lines 69-74.)

Rural Connectivity

SB 154: Relating to the creation of the broadband office within the Public Utility Commission of Texas and the establishment of a broadband service investment grant program.

[Perry, Charles \(R\)](#)

Summary:

SB 154 proposes the creation of the Broadband Office within the Public Utilities Commission, as well as the creation of a grant program to fund connectivity projects across the state.

The Broadband Office's proposed powers and duties:

- Facilitate and coordinate the efforts of the entities involved in broadband service projects;
- Develop investment and deployment proposals for unserved areas;
- Promote and coordinate public and private solutions;
- Assist and promote local and regional planning;
- Pursue and obtain federal sources of funding;
- Develop a framework to measure service and identify unserved areas;
- Develop statewide goals for service deployment in unserved areas;
- Manage and award funds allocated for broadband projects; and
- Serve as liaison between local entities and federal funding programs.

SB 154 also proposes the creation of the Broadband Grant Program, which would award applicants for projects in unserved areas. The Broadband Office would be required to divide the state into five regions and ensure that each region receives an equitable portion of the funding. The bill lays out what the office should consider before making an award decision and limits single awards to \$250,000 or less than 30 percent of the total cost of the project.

Grant recipients must notify the Broadband Office when the project is complete. Project compliance reports will be made public. The following standards apply for three years after recipients receive funding:

- Must provide project territory service at comparable rates to those in urban and well-served areas;
- May not establish a cap on data usage in the project territory;
- Must provide annual reports to the Broadband Office on their compliance with the standards.

TFB **supports** SB 154. (TFB 2021 Policy: Rural Living Section 183, Pages 116-117, Lines 47-54.)

HB 425: Relating to the use of the universal service fund for the provision of broadband service in underserved rural areas.

[King, Ken \(R\)](#)

Summary:

HB 425 proposes an amendment to the Texas Utilities Code that extends the authority of the Universal Service Fund. It creates and funds rural broadband development projects in underserved rural areas. The bill does not increase the fee rate in order to fund the project but expands the qualification for participation in the program. Broadband service providers may elect to participate in the program, and those providers pay the uniform charge before they receive support from the Universal Service Fund.

TFB **supports** HB 425 and legislative efforts to facilitate the installation of broadband and cellular infrastructure in underserved rural communities. (TFB 2021 Policy: Rural Living Section 183, Pages 116-117, Lines 47-54.)

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