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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.

## **Legislative Update**

### **Eminent Domain**

#### **Action Alert**

**HB 2730**: Relating to the acquisition of real property by an entity with eminent domain authority.

[Rep. Deshotel, Joe \(D\)](#)

Rep. Joe Deshotel—chairman of the House Land and Resource Management Committee—filed HB 2730: The Coalition for Critical Infrastructure’s (CCI) eminent domain bill. This is the same bill that our eminent domain champion, Rep. DeWayne Burns, already filed as HB 902.

CCI asked Chairman Deshotel to file their bill in an attempt to take control away from Rep. Burns.

As Rep. Burns explained to our leaders during the TFB Virtual Leadership Conference, he filed his bill from last session as HB 901 and the CCI bill (HB 902), so that he could negotiate with CCI and determine what parts of HB 902 could be inserted into HB 901. But he would not weaken the provisions on the bona fide offer or easement terms agreed to by CCI and landowner groups last session.

While Burns was making an honest effort to honor those agreements and negotiate a good bill for landowners, CCI asked Chairman Deshotel to file their bill. CCI was

not happy that Rep. Burns wouldn't accept their language without any changes. And CCI will not honor the agreements they made last session.

TFB staff confirmed with Chairman Deshotel's staff that they were given misinformation from CCI about the negotiations with Rep. Burns. They mischaracterized the negotiations and claimed that Rep. Burns filed HB 902 without their permission, which is completely false.

TFB **opposes** HB 2730 (TFB 2021 Policy: Eminent Domain 151 pg. 61, l. 9-11, 14-15, 52-54; pg. 62, l. 55-62; pg. 63, l. 150-151)

**Call to Action:** As a result, TFB leadership and Rep. Burns encourage TFB members to contact Chairman Deshotel to express **opposition** to HB 2730 and ask Chairman Deshotel to support Rep. Burns in passing HB 901.

**HB 2730 is NOT real eminent domain reform and is NOT what was agreed to in 2019.**

HB 2730 DOES NOT give landowners an initial offer based on fair market value and damages to the remainder.

HB 2730 lets the condemning entity use 150% of Central Appraisal District valuation as the basis of the initial offer instead of what is required as adequate compensation by the constitution.

HB 2730 DOES NOT ensure landowners are given an easement agreement with basic terms to protect their property rights.

HB 2730 includes a pipeline easement form that gives landowner LESS PROTECTION than they currently get in negotiations.

HB 2730 DOES NOT give landowners a group meeting about the project that gives them the information they need to negotiate a fair deal.

His office contact information is as follows

Email Rep. Deshotel, Joe (D): [Email Link](#)

Capitol Office Phone: (512) 463-0662

**SB 986**: Relating to the acquisition of real property by an entity with eminent domain authority.

[Sen, Kolkhorst, Lois \(R\)](#)

## **Summary**

In response to CCI trying to take control away from Representative Burns, Sen. Kolkhorst filed SB 986. This bill is the language of SB 421 that passed the Senate in 2019, along with some additional provisions for landowners.

## **Landowners' Rights and Resources**

The Attorney General would be required to accept public comments on proposed changes to the Landowner Bill of Rights. In addition, an ombudsman office would be established at the Texas Real Estate Commission to serve as a resource for landowners subject to condemnation by a private entity—specifically for when landowners have questions about their rights during the condemnation process.

## **Land Brokers' Certification, Education, and Professionalism**

The bill would require land brokers to complete continuing education to receive subsequent certification as right of way agents. They would be required to complete course work in eminent domain law, landowners' property rights, professionalism in contact with landowners, and ethics in condemnations. The bill also adds a new provision to revoke the the brokers' certificate if they accept a bribe to purposely make a low offer to a landowner.

## **Bona Fide Offer & Minimum Easement Terms**

Under SB 986, a private entity with eminent domain authority has made a bona fide offer only if the initial offer includes:

1. 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.
2. The Landowner Bill of Rights; and
3. A conveyance document with the required 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.

### **Special Commissioners' Hearing**

The Special Commissioners' hearing also stands to gain procedural efficiency. If SB 986 is passed, the condemnation court judge will appoint two alternate special commissioners in the event that 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.

### **Notice of Impending Condemnation**

SB 986 proposes that notice of an impending eminent domain condemnation should be held to the same standards as other notices in this States. The bill would require that notice be served in accordance with the Texas Rules of Civil Procedure.

### **Property Owner Information Meeting**

Kolkhorst's SB 986 also proposes that landowners be entitled to a *Property Owner Information Meeting*, which applies only when the private entity's project concerns more than 25 tracts of property. Railroads that exist before September 2019 and electric transmission line projects are exempt from the meeting requirement. High-Speed Rail will not be exempt from the requirement and would have to hold meetings. Transmission lines would have to include information about eminent domain in their public meeting on the construction of the transmission line.

### **Compensation for Damages to Remaining Property**

Lastly, SB 986 outlines the factors in determining compensation for damages to the owners' remaining property. In estimating damages in a condemnation proceeding, the special commissioners would consider:

- The characteristics of any infrastructure on the condemned property, including the size or visibility of the infrastructure or the pressure or voltage range provided by the infrastructure;
- Any potential for future expansion of the infrastructure; and
- Terms of the easement and the alignment of an easement across the property.

TFB **supports** SB 986. (TFB 2021 Policy: Eminent Domain 151, Pages 61-62, Lines 9-15 and 52-62.)

## Rural Connectivity

**SB 5**: Relating to the expansion of broadband services to certain areas.

[Sen. Nichols, Robert \(R\)](#)

[Sen. Hancock, Kelly \(R\)](#)

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

[Sen. West, Royce \(D\)](#)

Lt. Gov. Dan Patrick identified SB 5 as the priority rural broadband legislation within the Senate. You can read more about the Lt. Governor's priority legislation in Issue 7 of the Austin Newsletter [here](#).

### Summary

SB 5 proposes creating a State Broadband Development Office to promote, research, and develop the expansion of access to broadband service in Texas. The State Broadband Development Office board of advisors would be comprised of 11 appointed members, who would be responsible for directing and controlling the development office. The members, who would serve staggered two-year terms, would be appointed as follows:

- 4 Members, each appointed respectively by the board of regents of the University of Houston, Texas A&M University, Texas Tech University, and the University of Texas.
- 1 Member appointed by the Governor.
- 3 Members appointed by the Speaker of the House—with at least one being from a rural area and at least one being versed in the telemedicine health industry.
- 3 members appointed by the Lieutenant Governor—with at least one being from a rural area and at least one being versed in the education system.

In addition to appointing one board of advisors' member, the University of Texas would be the administrative foundation of the State Broadband Development Office. The university would be funded to employ the individuals necessary for the operation of the office. The board of advisors would meet with the State Broadband Development Office at least once every month to evaluate progress and oversee operations.

A person appointed by the office to serve on the Governor's Broadband Development Council would assist the council in accountability and follow up research to ensure that rural connectivity is meeting the goals of the broadband development program.

The *Broadband Development Program* would award grants, low-interest loans, and other financial incentives to applicants for broadband projects in unserved the areas designated on the *Broadband Development Map*. The map would identify *eligible areas*—where less than 80% of the addresses in the block have access to broadband service. The map must be published and regularly updated on the comptroller's website.

Program funding, placed into the *Broadband Development Account*, would come from a variety of sources: legislature appropriations, gifts, donations, federal grants, and interest earned on the investment of the account.

TFB **supports** SB 5. (TFB 2021 Policy: Rural Living Section 183, Pages 116-117, Lines 47-54.)

## **Commodities**

[HB 2089](#) and [SB 731](#): Relating to the detection and mitigation of plant pests and diseases.

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

[Rep. Burrows, Dustin \(R\)](#)

### **Summary**

Companions HB 2089 and SB 731 propose creating a “cooperative agreement” between the Texas Department of Agriculture (TDA), interested farming organizations, and state universities to research and develop the detection and mitigation of plant pests and diseases.

The organizations listed so far are Plains Cotton Growers, South Texas Cotton and Grain Association, Texas Citrus Mutual, Texas Corn Producers, Texas Farm Bureau, Texas Grain Sorghum Association, and Texas Nursery and Landscape Association.

An institution of higher education may apply to participate in the cooperative study. TDA will decide which education institutions are most appropriate for the region at issue.

TFB **supports** HB 2089 and SB 731. (TFB 2021 Policy: Wheat and Feed Grains 129, Page 19, Lines 9-12 / Animal Species Generally 148, Page 55, Lines 13-15 & 31-34 / Fruits and Vegetables 116, Page 12, Lines 4-7 / Pecans 123, Page 18, Lines 6-7 / Plant Diseases and Insects 136, Page 29, Lines 6-8 & 31 & 39-44.)

## **Feral Hog Control & TDA Budget Issues**

On Monday, March 1, Texas Farm Bureau District 8 State Director Mickey Edwards testified on behalf of TFB at the Senate Finance Committee hearing. He asked the committee to repeal the budget riders that prevent TDA from approving the use of warfarin to control feral hogs. Studies over the past four years have proven that the product, Kaput, is safe for use by landowners. Therefore, it is time to allow landowners access to this product to control feral hogs.

Other budget issues followed closely by Texas Farm Bureau and addressed during the hearing were continued funding of the boll weevil eradication program and TDA's ability to manage their fund balances to efficiently operate their programs. Texas Farm Bureau supports both these issues.

Read more about these hearings in the [Texas Agriculture Daily](#).

## Contact Information

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