

- SUBJECT:** Time limit for condemnation hearings after a petition is filed
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 9 ayes — Walker, Crabb, Bosse, F. Brown, Hardcastle, Howard, Krusee, Mowery, B. Turner
- 0 nays
- WITNESSES:** For — Billy Dyer, Texans for Fair Compensation; James Mann, Association of Texas Intrastate Natural Gas Pipelines
- Against — Ivan Bland, Texas Municipal League; John Gilliam, City of Plano; John Knight, City of Lubbock; David M. Laney, Texas Transportation Commission
- On — James A. Henry III, Texas Department of Transportation
- BACKGROUND:** Property Code, sec. 21.015 requires the special commissioners chosen for an eminent domain proceeding to schedule a hearing for the parties involved at the earliest practical time after a condemnation petition is filed. Special commissioners are chosen by the judge of the court where the condemnation petition is filed. Commissioners must be disinterested freeholders who reside in the county where the condemned property is located.
- DIGEST:** CSHB 1186 would specify that special commissioners in an eminent domain proceeding would have to schedule a hearing within 90 days after the condemnation petition was filed. The court responsible for the proceeding would have to dismiss the proceeding if the hearing had not begun within the required time. The 90-day deadline would not apply to situations in which the condemnor and the property owner had agreed to delay the hearing or in which the court found that the condemnor had pursued the proceeding diligently and was not responsible for the delay in beginning the hearing.
- The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. It would apply only to condemnation proceedings for which a petition was filed on or after the effective date.

SUPPORTERS
SAY:

Some property owners have been subjected to lengthy delays in condemnation proceedings because condemning entities have not followed through with the proceedings expeditiously. Such delays can drive down the value of affected property and can lead to expensive legal fees for property owners. Most property owners do not have the resources available to businesses, governments, and state agencies for extended court proceedings.

CSHB 1186 is intended to protect property owners and their land values from extended delays due to lack of expeditious action by condemners. It would encourage condemning entities to plan carefully for each condemnation of land and to conduct the proceedings in a timely and efficient manner. If the condemning entity was not responsible for the delay, it would have sufficient opportunity to demonstrate its good faith before the court.

OPPONENTS
SAY:

Automatic dismissal of a condemnation proceeding if a hearing were not held within 90 days would be unfair to condemning entities. There are many reasons why a hearing might not be conducted within 90 days through no fault of either party, including delays by the court in choosing the special commissioners or in serving notice to property owners. Condemning entities should not bear the burden of proof as to whether they pursued the condemnation proceeding “in a diligent manner.” The burden should remain with the court in which the petition was filed.

The Property Code requires a condemning entity to pay the property owner’s legal fees during a second proceeding if the entity files a second petition. Entities also would have to spend resources in a “due diligence” hearing to prove to the court that they pursued the condemnation hearing in a diligent manner. Automatic dismissal of delayed proceedings could significantly increase the costs of condemnations for businesses, state agencies, and local governments. The condemning entity could be penalized unfairly for a delay it did not cause.

NOTES:

The committee substitute added the immediate-effect language in the emergency clause and would apply the provisions of the bill only to condemnation proceedings for which a petition had been filed on or after the effective date.