SUBJECT:	Providing access easements for partitioned property
COMMITTEE:	Land and Resource Management — favorable, without amendment
VOTE:	8 ayes — Walker, Crabb, F. Brown, Geren, Howard, Krusee, Mowery, B. Turner
	0 nays
	1 absent — Truitt
WITNESSES:	None

BACKGROUND: Property Code, chapter 23 allows a joint owner or claimant of real property or of an interest in real property to compel partition of the property or property interest by bringing a lawsuit in a district court or an appropriate county court in the county where the property is located.

Texas case law holds that claimants take their portion of land subject to any continuous, apparent, permanent, and necessary easements that exist at the time of the partition. (*Zapata County v. Llanos* (Civ. App. 1951), 239 S.W. 2d 699, ref. n.r.e.)

DIGEST: HB 2168 would allow commissioners appointed to partition property to grant a nonexclusive access easement on a portion of the partitioned property to allow access to a public road or existing easement appurtenance for another portion of the partitioned property. The access easement would have to:

!   be no more than 20 feet wide;
!   cause the least amount of damage to the tract where the easement was located; and
!   be located the greatest reasonable distance from the primary residence and related improvements.

The adjoining tract owner who received the access easement would have to maintain the easement and keep it open for public use.

The bill would take effect September 1, 2001.

SUPPORTERS
SAY:

HB 2168 would provide a mechanism to protect the rights of all landowners of partitioned property by securing reasonable access to a public road for the owner of a potentially landlocked portion of the property and by ensuring that the easement would not interfere with a home on the other portion of the property. The bill would allow this matter to be settled at the time of the partition and could help avert later litigation to resolve the access issue.

OPPONENTS
SAY:

No apparent opposition.