

- SUBJECT:** Granting eminent domain authority to water utilities
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 5 ayes — Puente, Hamilton, Creighton, Hilderbran, O'Day
0 nays
4 absent — Gattis, Gallego, Guillen, Laubenberg
- WITNESSES:** For — Steve Blackhurst, Aqua Texas, Inc.; Mark Zeppa
Against — None
- BACKGROUND:** Water Code, ch. 13, subch. G governs certificates of convenience and necessity (CCNs) for water and sewer service providers. Sec. 13.242 prohibits a water utility or supplier from rendering service to the public without first obtaining from the Texas Commission on Environmental Quality (TCEQ) a certificate that public convenience and necessity will require that service. A retail public utility cannot serve any area to which service is being provided by another utility without first having obtained a CCN.
- Property Code, ch. 21 regulates acquisition and appeal procedures associated with the use of eminent domain. It entitles property owners subject to eminent domain to a hearing with special commissioners appointed by an assigned court, notice of hearing, and a right to appeal a judgment. Sec. 21.0111 requires a governmental entity exercising eminent domain authority to disclose to the subject property owner at the time an offer to purchase is made any and all existing appraisal reports produced or acquired by the governmental entity relating specifically to the owner's property and used in determining the final valuation offer in a specified timeframe. Sec. 21.012 requires a condemning authority to begin a condemnation proceeding by filing in court a petition containing basic information about the property to be acquired.
- DIGEST:** HB 2561 would grant a water and sewer utility operating in accordance with its certificate of convenience and necessity the authority to acquire by

condemnation easements or lesser property interests that were reasonably necessary to comply with state and federal sanitation regulations.

The bill would allow a water and sewer utility to exercise eminent domain power. A utility could not use eminent domain to condemn land to acquire underground water rights or for water or water rights.

A water and sewer utility could not use eminent domain in the city of Houston or in Houston's extraterritorial jurisdiction to condemn land in which the city of Houston owned a fee, easement, or lesser property interest.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.