

SUBJECT: Recodifying eminent domain authority of Texas Woman's University

COMMITTEE: Government Reform — committee substitute recommended

VOTE: 6 ayes — Callegari, Pitts, Leibowitz, Miles, Rodriguez, W. Smith
0 nays
1 absent — Berman

WITNESSES: For — (*Registered, but did not testify:* John Colyandro, Texas Conservative Coalition)
Against — None

BACKGROUND: Art. 3264d, Vernon's Texas Civil Statutes, endows the Board of Regents of Texas Woman's University (TWU) with the power to use eminent domain as necessary for its purposes.

Education Code, sec. 65.33 of the gives the University of Texas (UT) System Board of Regents the power of eminent domain to exercise as necessary. Education Code, sec. 107.41 gives the TWU Board of Regents the same powers granted to the UT System Board of Regents.

DIGEST: CSHB 389 would repeal Art. 3264d, Vernon's Texas Civil Statutes and transfer TWU's express authorization to use eminent domain to Education Code, sec. 107.45.

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.

SUPPORTERS SAY: CSHB 389 would update statutes governing the eminent domain power of TWU, which currently is contained in outdated civil statutes. The bill would move this authority to the Education Code, sec. 107.45, where it would be adjacent to existing language in that section prohibiting the TWU Board of Regents from acquiring real property dedicated to a public use by another governmental entity.

CSHB 389 would be a small but important step in modernizing old statutes and language that authorize and establish procedures for eminent domain. Relocating the statutory basis of eminent domain authority for TWU to the Education Code would clarify that power and explicitly subject it to the processes in place for eminent domain proceedings located in Property Code, sec. 21.021. In so doing, the bill also would bring TWU's eminent domain authority into line with other Texas universities.

CSHB 389 would neither expand nor restrict TWU's authority to exercise eminent domain. TWU already possesses the same power of eminent domain as is granted to the University of Texas System. Bringing the source and scope of this power into modern, accessible statutes would help in current and future efforts to make eminent domain authority in Texas consistent and equitable for all involved parties.

A February 2006 Texas Legislative Council report identified 208 references in statutes granting entities the power of eminent domain and another 81 references limiting or prohibiting the exercise of the power. The Legislature should review carefully all eminent domain statutes and references and determine which still are relevant to agencies that exercise that power. CSHB 389 would remove an antiquated reference to eminent domain and update the statutory location of this authority as it applies to TWU.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The committee substitute modified the bill as introduced to include a section transferring TWU's eminent domain authority to Education Code, sec. 107.45.