

- SUBJECT:** Establishing certain conditions for common carriers to enter property
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 7 ayes — Deshotel, Leman, Biedermann, Burrows, Rosenthal, Spiller, Thierry
- 1 nay — Craddick
- 1 absent — Romero
- WITNESSES:** For — Eric Opiela and Frank Armstrong, South Texans' Property Rights Association; (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Joy Davis, Texas Farm Bureau; Rita Beving, Texas Landowners for Eminent Domain Reform; Daniel Gonzalez and Julia Parenteau, Texas Realtors; David Yeates, Texas Wildlife Associations)
- Against — James Mann, Texas Pipeline Association; (*Registered, but did not testify*: Shayne Woodard, DCP Midstream; Michael Lozano, Permian Basin Petroleum Association; David Cagnolatti, Phillips 66; Tulsı Oberbeck, Texas Oil and Gas Association; Thure Cannon, Texas Pipeline Association)
- BACKGROUND:** Some property owners have raised concerns about common carriers not acting in a fair or transparent manner when entering the property for eminent domain purposes. Some have called for providing certain conditions to enter the property, including requiring notice on intent to enter the property and an indemnification provision in the owner's favor.
- DIGEST:** CSHB 4107 would require a common carrier or its employees, contractors, agents, or assigns to provide written notice to a property owner before entering the property for the purpose of making a preliminary survey to be used for eminent domain. The bill also would require the common carrier to provide the property owner with an

indemnification provision in favor of the property owner with respect to any damages resulting from the survey.

The notice and indemnification would have to be provided at least two days before entering the property and could be provided by first class mail, email, personal delivery, or another service authorized by the Texas Rules of Civil Procedure. The documents would have to include the phone number of a person whom the property owner could contact with questions or objections.

Entry to the property would be subject to the conditions that the entry:

- was limited to only the portion of the property anticipated to be affected by the route of the proposed pipeline;
- was limited to the purpose of conducting surveys;
- unless otherwise authorized by the property owner, did not authorize the cutting, removal, or relocation of a fence without the prompt restoration or repair;
- required the restoration of property to be as close as reasonably possible to the original condition;
- required all equipment and tools used in the survey to be removed by a certain date; and
- required that the property owner, on written request, be provided at no charge all non-privileged information gathered from the entry, including surveys, reports, maps, and photographs.

The bill would take effect September 1, 2021, and apply only to a condemnation proceeding in which the petition was filed on or after that date.