

BILL ANALYSIS

Senate Research Center
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S.J.R. 17
By: Armbrister
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As Filed

DIGEST

Currently, under Texas law, a landlocked property owner has few limited legal theories available to establish access easements. If a person cannot establish a right of way under any of the limited legal theories, there is no recourse under Texas law. Federal case law has suggested a broad remedy would be constitutional if an overall public purpose is served. This resolution proposes a constitutional amendment stating that the taking of property to provide an access easement to land that does not have a means of access constitutes and serves a public use and purpose.

PURPOSE

As proposed, S.J.R. 17 proposes a constitutional amendment declaring that the taking of property to provide an access easement to land that does not have a means of access constitutes and serves a public use and purpose.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 17, Article I, Texas Constitution, to provide that a taking or condemnation of property to provide an access easement to land that does not have a means of access constitutes and serves a public use and public purpose because the access enhances the welfare and prosperity of the general public by promoting the alienability of land. Provides that the fact that the owner of the land to which the access easement is provided does not reside on the land or that the access easement may be used by a relatively small percentage of the general public does not affect the declaration of public use and public purpose made by this subsection. Makes a conforming change.

SECTION 2. Requires this proposed constitutional amendment be submitted to the voters at an election to be held on November 2, 1999. Sets forth the required language for the ballot.