

BILL ANALYSIS

Senate Research Center
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S.B. 438
By: Madla
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DIGEST AND PURPOSE

Currently, while assessing damages to a property owner under condemnation proceedings, a court will accept evidence for the existence of certain natural resources which increase the “rental value” of the property. However, a property owner cannot be compensated for the fair market value of the natural resources separately from the real property, even if the condemner’s intended use of the property is to develop and use that natural resource. As proposed, S.B. 438 allows property owners to submit evidence and be compensated for the fair market value of natural resources when the stated purpose for which the land is to be condemned is to develop and use the natural resources. It also applies only to condemnation proceedings initiated by local government entities and does not require the court or commissioners to award the property owner damages for the fair market value of the natural resources, but they will have that option.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 21C, Property Code, to add Section 21.0421, as follows:

Sec. 21.0421. ASSESSMENT OF DAMAGES: NATURAL RESOURCES. (a) Defines “natural resources.”

(b) Requires the special commissioners (three disinterested freeholders who reside in the county, appointed by the judge of a court in which a condemnation petition is filed or to which an eminent domain case is assigned, to assess the damages of the owner of the property being condemned), if a political subdivision states in its petition filed under Section 21.012 that the intended purpose for acquiring real property is to develop or use the natural resources located on or under the real property, to admit evidence in the special commissioners’ hearing relating to the local market value of the natural resources in addition to the local market value of the real property.

(c) Authorizes the special commissioners, if they are required to admit evidence relating to the local market value of natural resources under Subsection (b), to assess damage to the property owner based on the local market value of the property at the time of the hearing, and the local market value of the natural resources on or under the property at the time of the hearing.

SECTION 2. Effective date: September 1, 2001.

Provides that this Act does not affect any litigation pending on September 1, 2001, in any court of competent jurisdiction that relates to the assessment of damages in a condemnation proceeding under Chapter 21 (Eminent Domain), Property Code.