

BILL ANALYSIS

Senate Research Center

H.B. 4107
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Property owners have raised concerns that private entities do not always act fairly or transparently when utilizing eminent domain procedures, including when surveying property for purposes of locating a proposed pipeline. H.B. 4107 seeks to address this lack of good faith negotiations and transparency by requiring that a common carrier obtain written authorization, with certain requirements, for the right to enter a property before entering the property for the purpose of making a preliminary survey to be used in the exercise of eminent domain.

Key Provisions

- Requires the property owner be provided with:
 - Written notice of the carrier's intent to enter the property.
 - An indemnification provision in favor of the property owner with respect to any damages resulting from the survey.
 - Notice and indemnification:
 - Must be provided to the property owner two days before the date of entry.
 - Must include the phone number of a person whom the property owner may contact regarding any questions or objections the property owner has relating to the survey.
 - May be provided by first class mail, e-mail, personal delivery to an adult living on the property, or by any other method of service authorized by the Texas Rules of Civil Procedure.
- Entry to the property is subject to conditions that the entry:
 - is limited to only the portion of the property that is anticipated to be affected by the route of the proposed pipeline;
 - is limited to the purpose of conducting surveys;
 - unless otherwise authorized by the property owner, does not authorize the cutting, removal, or relocation of a fence for the purpose of conducting the survey without the prompt restoration or repair of the fence;
 - requires the restoration of property to be as close as reasonably possible to the original condition before entry;
 - requires all equipment and tools used in the survey to be removed by a certain date; and
 - requires 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.

H.B. 4107 amends current law relating to the notice of entry for the purpose of exercising the power of eminent domain by a common carrier pipeline.

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 Section 111.019, Natural Resources Code, by adding Subsections (d), (e), (f), and (g), as follows:

(d) Requires the common carrier or its employees, contractors, agents, or assigns, before entering property for the purpose of making a preliminary survey to be used in the exercise of the power of eminent domain granted under Section 111.019 (Right of Eminent Domain), to provide the property owner with:

(1) written notice of the carrier's intent to enter the property; and

(2) an indemnification provision in favor of the property owner with respect to damages, if any, resulting from the survey.

(e) Provides that notice and indemnification provided under Subsection (d):

(1) is required to be provided to the property owner not later than the second day before the date of entry to the property;

(2) is required to include the phone number of a person whom the property owner is authorized to contact regarding any questions or objections the property owner has relating to the survey; and

(3) is authorized to be provided by first class mail, e-mail, personal delivery to an adult living on the property, or by any other method of service authorized by the Texas Rules of Civil Procedure.

(f) Provides that entry to property for which notice is provided under Subsection (d) is subject to the conditions that the entry:

(1) is limited to only the portion of the property that:

(A) is anticipated to be affected by the route of the proposed pipeline, or a proposed pipeline appurtenance; or

(B) is required to be accessed to conduct the survey, including the property corners or property location monuments necessary to identify the boundaries of the property;

(2) is limited to the purpose of conducting surveys;

(3) unless otherwise authorized by the property owner, does not authorize the cutting, removal, or relocation of a fence for the purpose of conducting the survey without the prompt restoration or repair of the fence;

(4) requires the restoration of property to be as close as reasonably possible to the original condition before entry;

(5) requires all equipment and tools used in the survey to be removed by a certain date; and

(6) requires that the property owner, on written request, be provided, at no charge, a survey plat or depiction gathered and prepared from information obtained from the survey.

(g) Provides that this section does not prevent an entity from seeking survey access rights or seeking to prevent interference with those rights in a civil action authorized under other law.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.