

## **BILL ANALYSIS**

Senate Research Center  
87R2206 BEE-D

S.B. 726  
By: Schwertner et al.  
State Affairs  
4/9/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2011, the Texas Legislature passed S.B. 18 (82R) which reestablished and protected the rights of private property owners by allowing a property owner to repurchase land acquired through eminent domain if, within 10 years, the property is not used for the stated public use.

However, the law prohibits a private property owner from repurchasing the land if the entity has made "actual progress" towards the public use. Unfortunately, the definition of "actual progress" has proven to be unnecessarily broad and can be easily satisfied without establishing true progress.

S.B. 726 strengthens private property rights by increasing the requirement for how an entity demonstrates that it has made actual progress towards its stated public use.

As proposed, S.B. 726 amends current law relating to establishing actual progress for the purposes of determining the right to repurchase real property from a condemning entity.

### **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 21.101, Property Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Redefines "actual progress" in Section 21.101 (Right of Repurchase) to mean the completion of three, rather than two, or more of certain actions, including the hiring of or contracting with and the performance of a significant amount of work by an architect, engineer, or surveyor to prepare a plan, plat, or easement that includes the property or other property acquired for the same public use project for which the property owner's property was acquired, and the application for a state or federal permit or certificate to develop the property or other property acquired for the same public use project for which the property owner's property was acquired. Deletes existing text including the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner's property was acquired among certain actions described by Subsection (b). Makes conforming and nonsubstantive changes.

(b-1) Creates this subsection from existing text. Authorizes a navigation district or port authority, notwithstanding Subsection (b), to establish actual progress for purposes of Section 21.101 by the completion of one action described by Subsection (b), and by the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one action described by Subsection (b) before the 10th anniversary of the date of acquisition of the property. Makes conforming changes.

SECTION 2. Makes application of the Act prospective.

SECTION 3. Effective date: September 1, 2021.