

## **BILL ANALYSIS**

Senate Research Center

S.B. 1812  
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Business & Commerce  
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Enrolled

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

Previous legislation required certain public and private entities to register with the comptroller of public accounts of the State of Texas (comptroller). The legislation captured a snapshot of the eminent domain authority landscape in Texas. However, without continuous registration, current law only provides a limited view of how many entities in Texas possess eminent domain authority.

S.B. 1812 creates a continuous reporting process for entities granted eminent domain authority by the Texas Legislature. A reporting platform would be developed and administered by the comptroller, facilitating registration on an annual basis so as to make reporting easy using modern database systems. The comptroller's eminent domain registry would contain an entity's contact information, a listing of statutes on which the entity bases its eminent domain authority, and the county/counties where the entity operates and exercises its eminent domain authority, in addition to other categories of data.

Reporting would be accomplished through an electronic portal—a departure from the paper-based reporting. Failure to report would result in administrative penalties to be assessed by the comptroller. Each year, the comptroller would publish a report comprised of reporting-compliance data, data related to the number of entities—public and private—in Texas with eminent domain authority, and other statistics relevant to the exercise of eminent domain authority. (Original Author's/Sponsor's Statement of Intent)

S.B. 1812 amends current law relating to transparency in the reporting and public availability of information regarding eminent domain authority and provides a civil penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 1 (Section 2206.157, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 2206, Government Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. EMINENT DOMAIN AUTHORITY REPORTING; PUBLIC AVAILABILITY**

Sec. 2206.151. **APPLICABILITY.** Provides that this subchapter applies to public and private entities, including common carriers, authorized by the state by a general or special law to exercise the power of eminent domain.

Sec. 2206.152. **CREATION DATE.** Provides that for the purposes of this subchapter, an entity described by Section 2206.151 is considered to have been created on:

- (1) the earliest date on which the entity existed if the entity was authorized to exercise the power of eminent domain on that date; or

(2) the earliest date on which the entity was authorized to exercise the power of eminent domain if the entity did not have that authority on the earliest date on which the entity existed.

Sec. 2206.153. EMINENT DOMAIN DATABASE. (a) Requires the comptroller of public accounts of the State of Texas (comptroller) to create and make accessible on the Internet website maintained by the comptroller an eminent domain database as provided by this section.

(b) Requires that the eminent domain database include with respect to each entity described by Section 2206.151:

- (1) the name of the entity;
- (2) the entity's address and public contact information;
- (3) the name of the appropriate officer or other person representing the entity and that person's contact information;
- (4) the type of entity;
- (5) each provision of law that grants the entity eminent domain authority;
- (6) the focus or scope of the eminent domain authority granted to the entity;
- (7) the earliest date on which the entity had the authority to exercise the power of eminent domain;
- (8) the entity's taxpayer identification number, if any;
- (9) whether the entity exercised the entity's eminent domain authority in the preceding calendar year by the filing of a condemnation petition under Section 21.012 (Condemnation Petition), Property Code; and
- (10) the entity's Internet website address or, if the entity does not operate an Internet website, contact information to enable a member of the public to obtain information from the entity.

(c) Authorizes the comptroller to consult with the appropriate officer of, or other person representing, each entity to obtain the information necessary to maintain the eminent domain database.

(d) Authorizes the comptroller, to the extent information required in the eminent domain database is otherwise collected or maintained by a state agency or political subdivision, to request, and requires the state agency or political subdivision to provide, that information and any update to the information as necessary for inclusion in the eminent domain database.

(e) Requires the comptroller, at least annually, to update information in the eminent domain database for each entity, as appropriate.

(f) Requires the comptroller, to the extent possible, to present information in the eminent domain database in a manner that is searchable and intuitive to users. Authorizes the comptroller to enhance and organize the presentation of the information through the use of graphical representations as the comptroller considers appropriate.

(g) Prohibits the comptroller from charging a fee to the public to access the eminent domain database.

Sec. 2206.154. REPORTING OF INFORMATION TO COMPTROLLER. (a) Requires an entity described by Section 2206.151, except as provided by Subsection (b), not later than February 1 of each year, to submit to the comptroller a report containing records and other information specified by this subchapter for the purpose of providing the comptroller with information to maintain the eminent domain database under Section 2206.153. Requires the entity to submit the report in a form and in the manner prescribed by the comptroller.

(a-1) Requires an entity described by Section 2206.151 created before and in existence for at least 180 days on September 1, 2015, to submit the entity's initial report under Subsection (a) not later than February 1, 2016. Requires an entity described by Section 2206.151 created before and in existence for less than 180 days on September 1, 2015, to submit the entity's initial report under Subsection (a) not later than the later of the 180th day after the date of the entity's creation or February 1, 2016. Provides that this subchapter expires December 1, 2016.

(b) Provides that an entity described by Section 2206.151 created on or after September 1, 2015, is not required to submit the entity's initial report under Subsection (a) before the 180th day after the date of the entity's creation.

(c) Requires an entity described by Section 2206.151, in addition to the annual report required under Subsection (a), to report to the comptroller any changes to the entity's eminent domain authority information reported under this section not later than the 90th day after the date on which the change occurred.

Sec. 2206.155. PENALTIES FOR NONCOMPLIANCE. (a) Requires the comptroller, if an entity does not timely submit a report that complies with Section 2206.154, to provide written notice to the entity:

(1) informing the entity of the entity's violation of that section; and

(2) notifying the entity that the entity will be subject to a penalty of \$1,000 if the entity does not report the required information on or before the 30th day after the date the notice is provided.

(b) Requires the entity, not later than the 30th day after the date the comptroller provides notice to an entity under Subsection (a), to report the required information.

(c) Provides that, if an entity does not report the required information as prescribed by Subsection (b):

(1) the entity is liable to the state for a civil penalty of \$1,000; and

(2) the comptroller is required to provide written notice to the entity:

(A) informing the entity of the entity's liability for the penalty; and

(B) notifying the entity that if the entity does not report the required information on or before the 30th day after the date the notice is provided:

(i) the entity will be subject to an additional penalty of \$1,000; and

(ii) the entity's noncompliance will be reflected in the eminent domain database maintained by the comptroller.

(d) Requires the entity, not later than the 30th day after the date the comptroller provides notice to an entity under Subsection (c), to report the required information.

(e) Provides that, if an entity does not report the required information as prescribed by Subsection (d):

(1) the entity is liable to the state for a civil penalty of \$1,000; and

(2) the comptroller is required to:

(A) reflect the entity's noncompliance in the database required by this subchapter by including the entity on a separately maintained list of noncomplying entities and in any other manner determined appropriate by the comptroller until the entity reports all information required under Section 2206.154; and

(B) provide written notice to the entity that the entity's noncompliance will be reflected in the database until the entity reports the required information.

(f) Authorizes the attorney general to sue to collect a civil penalty imposed by this section.

Sec. 2206.156. EMINENT DOMAIN AUTHORITY NOT AFFECTED. Provides that the reporting, failure to report, or late submission of a report by a public or private entity, including a common carrier, under this subchapter does not affect the entity's authority to exercise the power of eminent domain.

Sec. 2206.157. RULES. Authorizes the comptroller to adopt rules and establish policies and procedures to implement this subchapter.

SECTION 2. Requires the comptroller to create and post on an Internet website maintained by the comptroller the eminent domain database required by Section 2203.152, Government Code, as added by this Act, not later than September 1, 2016.

SECTION 3. Effective date: upon passage or September 1, 2015.