

BILL ANALYSIS

Senate Research Center
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S.B. 444
By: Hall
Transportation
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The intent of S.B. 444 is to clarify the intent of past legislatures to protect private property. It is the intent of the legislature to prohibit private toll road entities from having eminent domain authority.

During the 79th Legislature, 2nd Called Session, 2005, S.B. 7 (Janek, Nelson; SP: Wooley et al.) was enacted to prohibit governmental or private entities from using eminent domain authority to take private property if the taking grants a private benefit to a particular private party through the use of the property. When the public use justification is merely a ploy used by corporations to take advantage of property owners, they are unquestionably violating one of Texans' most important individual rights.

Certain private corporations seem to be attempting to operate within a grey area of Texas law. The legislature repealed the law that gave private toll road entities the power of eminent domain in 1991. The Texas Turnpike Corporation claims to still have eminent domain powers because it was formed one day before the repeal went into effect. This bill seeks to remedy this situation and remove any doubt about the intent of the legislature and the voters of Texas. If a toll road corporation has the will and means to build a road they must pay fair market value, not confiscate private landowners' property.

This bill prohibits private toll road corporations from having eminent domain powers.

As proposed, S.B. 444 relates to the exercise of eminent domain by certain toll road corporations.

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 Subchapter C, Chapter 362, Transportation Code, by adding Section 362.105, as follows:

Sec. 362.105. USE OF EMINENT DOMAIN BY TOLL ROAD CORPORATION. Prohibits a corporation that has the powers, rights, and privileges of a corporation created under former Chapter 11, Title 32, Revised Statutes, as that law existed on August 31, 1991, other than a corporation to which Section 431.073(c) applies, from exercising the power of eminent domain granted under that former law, notwithstanding Section 30, Chapter 766 (H.B. 749), Acts of the 72nd Legislature, Regular Session, 1991.

SECTION 2. Effective date: upon passage or September 1, 2015.