

HB 3375 -- CONDEMNATION PROCEEDINGS

SPONSOR: Costlow

This bill modifies provisions relating to condemnation proceedings. The bill includes in the definition of "fair market value" the damages on the remaining or burdened property by the condemning authority's proposed use to be included in the determination of fair market value of a taking of less than the entire value of the property. Fair market value does not include any increase in the value of the remaining or burdened property caused by the condemning authority's proposed use.

The bill also modifies the definition of "heritage value" by changing the percentage assigned to property owned by the same family for more than 50 years from 50% of fair market value to 20%.

Electrical corporations may not use eminent domain for the construction or erection of any plant, tower, panel, or facility that:

- (1) Uses, captures, or converts wind or air currents to generate or manufacture electricity; or
- (2) Uses, captures, or converts the light or heat generated by the sun to generate or manufacture electricity.

A corporation, political subdivision, state agency, cooperative, or person with the authority to condemn property must give a 15-day notice to the property owner for purposes relating to surveying. Additionally, for easements acquired either by voluntary means or condemnation by corporations, political subdivisions, state agencies, cooperatives, or persons with the authority to condemn property, the bill requires 5 days notice for entry and other duties related to abandonment or damages occurring to the property. Any corporation, political subdivision, state agency, cooperative, or person that violates the notice requirement or other duties will be subject to a civil action by the property owner, the Attorney General, or prosecuting attorney for a civil penalty of up to \$1,000 for each violation for each day, not to exceed \$100,000 for all related violations.

Currently, upon the filing of a condemnation petition, a summons must be issued, giving a property owner at least 10 days from the date of service before the petition may be heard. The bill

extends the notice before a hearing from 10 days to 60 days and a property owner has 30 days from the date of service to answer such petition. A failure to answer does not constitute a default of the owner's rights to a hearing. At the initial hearing, the condemning authority will have the burden to prove that there is statutory authority to condemn the property and that the law, rules, and bylaws have been followed.

The bill also modifies just compensation for condemned property to include compensation equal to the amount of any taxes owed by a property owner as a consequence of the eminent domain proceeding. For condemnations that result in a beginning farmer taking, as defined in the bill, the just compensation is an amount equivalent to the fair market value multiplied by 125% plus the amount of such taxes.

Additionally, the condemning authority must include in the notice and written offer provided before the filing of a petition a statement that the property owner has the right to seek an award for heritage value, a homestead taking, or a beginning farmer taking, the right to seek attorney's fees if the amount awarded is greater than the offer, and a copy of the laws regarding notices by and duties of the condemning authority and the list of obligations and remedies provided.

The bill repeals the requirement that the electrical transmission line be designed to transmit electricity at 345-kilovolts or greater for determinations of good faith negotiations of condemnation of any agricultural or horticultural property for the construction of an electrical transmission line.

For considerations of alternative locations, the written statement by the condemning authority to the owner on the reasoning for the rejection or acceptance of alternative locations must be specific, rather than a brief statement. Any rejection of the landowner's suggested alternative location must not be arbitrary or capricious or induced by fraud, collusion, or bad faith, and must be supported by substantial evidence. A condemning authority or the owner can seek a determination by the circuit court that these requirements have been met.

The bill also repeals the provision that any number of owners, residents in the same county or circuit, may be joined in one petition, except that the damages must be separately assessed.

This bill is similar to SB 1699 (2026).