



Required Documentation of Eminent Domain Authority in Texas

What action must be taken: Per Senate Bill 18 enacted by the 82nd Legislature, all public and private entities authorized to exercise the power of eminent domain in Texas are required to submit a letter to the Comptroller of Public Accounts detailing their legal authority to exercise this power. The letter must be sent by certified, return receipt mail not later than December 31, 2012. (Per the bill, the authority of an entity to exercise the power of eminent domain expires on September 1, 2013, unless the letter has been submitted by the deadline.)

About this form: This form is designed to guide entities in submitting the required information on eminent domain authority. Once the fields have been completed, the form can be printed and mailed via certified, return receipt to the address provided to meet the requirements of the bill.

Entity Information

- 1. Full, legal name of entity: Tom Green County, Texas
- 2. Alternate name of entity (if any): _____
- 3. Primary address: Street or P.O. Box 112 W. Beauregard
City, State, Zip Code San Angelo, Texas 76903
- 4. Primary phone number (with area code): 325-653-3318
- 5. Entity contact: First name Mike Last name Brown
Phone number (with area code): 325-653-3318 E-mail address: mike.brown@co.tom-green.tx.us
- 6. Alternate contact: First name Steve Last name Floyd
Phone number (with area code): 325-450-2233 E-mail address: steve.floyd@co.tom-green.tx.us

Eminent Domain Authority

- 7. Does your entity have eminent domain authority in Texas? Yes No
- 8. If "yes" to question 7, please identify all of the applicable provisions of state law that grant eminent domain authority to this entity. Please cite as Title of Code or Article, Section Number/Name (for example, Texas Government Code, Section 43.136 or Article 7849, Auxiliary Water Laws).

See the attached "Powers of Eminent Domain for Texas Counties"

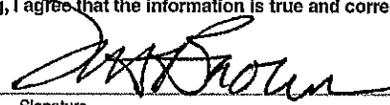
- 9. Please indicate the first year in which this entity exercised eminent domain authority (if known): unknown

DISCLAIMER: Chapter 2206, Subchapter C, Government Code (as added by Senate Bill 18, 82nd Regular Session) requires the Comptroller of Public Account to collect information and report to the Legislature all entities in the state of Texas that have the authority to exercise the power of eminent domain. Entities that provide information to the Comptroller represent and warrant that the information is accurate and complete to the best of their knowledge. Entities that provide information acknowledge that it is their responsibility to submit a letter by certified mail, return receipt requested to the Comptroller's office, indicating that the Entity is authorized to exercise eminent domain authority and to identify each law that grants such authority. The Entity further acknowledges that the Comptroller's office is not responsible to submit said letter, nor is it responsible for the Entity's failure to submit said letter as required by law, and that such failure may cause the entity's power of eminent domain to expire on September 1, 2013. The Entity also acknowledges that the Comptroller of Public Accounts is a state agency subject to Chapter 552 of the Texas Gov't Code (the "Texas Public Information Act") and court interpretations thereof, and that the information submitted to this office may be subject to disclosure to the public under Section 552.101, et seq., of the Code.

Under Ch. 559, Government Code, you are entitled to review, request, and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at the address on this form or sb18compliance@cpa.state.tx.us.

By signing, I agree that the information is true and correct.

Mail this form via certified mail to:
COMPTROLLER OF PUBLIC ACCOUNTS
 P.O. Box 13942
 Austin, Texas 78711

sign here 
 Signature

Michael D. (Mike) Brown, County Judge
 Print Name/Title

OCT 10 2012
 Date

325-653-3318
 Phone (area code and number)



Powers of Eminent Domain for Texas Counties*

Can be found at: www.county.org; www.cuc.org; and www.cjcat.org

Legal Authority	Item	Notes	
Texas Constitution	<u>Article 1, Section 17</u>	Property for public use.	No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by the state, a political subdivision of the state, or the public at large
Texas Constitution	<u>Article 3, Section 52i</u>	Sale of real property.	A governmental entity may sell real property acquired through eminent domain to the person who owned the real property interest immediately before the governmental entity acquired the property interest.
Government Code	<u>Chapter 2206</u>	Limitations of purpose and use of property acquired through eminent domain.	Limitations on use of eminent domain.
Property Code	<u>Chapter 21</u>	Eminent domain jurisdiction, procedure, damages and costs, judgment, and repurchase.	Procedural requirements for eminent domain.
Agriculture Code	<u>Section 167.059</u>	Tick eradication dipping facilities.	Acquire necessary land for the construction or maintenance of dipping facilities, dipping facilities that have already been constructed, or land necessary for ingress and egress to and from those facilities (commissioners court).
Government Code	<u>Section 1474.151</u>	County water improvements and related irrigation powers.	Acquire a necessary right-of-way or other land; acquire any other improvement required for the proper and efficient irrigation of land in the county.
Government Code	<u>Section 1475.002</u>	Canal or waterway authorized by federal legislation.	Acquire right-of-way and necessary dumping privileges.
Government Code	<u>Section 1475.052</u>	Intracoastal canals.	Acquire public or private land, a right-of-way, an easement, or dumping ground privileges.
Government Code	<u>Section 1477.071</u>	Adequate source of surface or subterranean fresh water for supplying water to the county's courthouse or for other county purposes.	Acquire real property and easements.
Government Code	<u>Section 1477.120, 1477.121</u>	Natural gas system for supplying natural gas to county buildings adequately and dependably.	Acquire land or an easement; may not acquire a natural gas system or a facility of a natural gas system.
Government Code	<u>Sections 2267.061, 2267.062, and 2267.063.</u>	Qualifying project, including any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, or other similar facility currently available or to be made available to a governmental entity for public use, or any improvements necessary or desirable to unimproved real estate owned by a governmental entity.	Acquire qualifying project in the event of a material default by the contracting person; acquire any land or property interest to the extent that the responsible governmental entity dedicates the land or property interest to public use and finds that the action serves the public purpose; relocation of facilities affected by the qualifying project.
Health and Safety Code	<u>Section 263.022</u>	Hospital or medical or other health facility.	Acquire real property and easements to real property (commissioners court).
Health and Safety Code	<u>Section 264.028</u>	County Hospital Authorities.	Authority may acquire fee simple title to land, other property, and easements under Chapter 21, Property Code.
Health and Safety Code	<u>Section 265.052</u>	Joint Municipal and County Hospitals.	Board may acquire fee simple title or other interest in property pursuant to Chapter 21, Property Code.
Health and Safety Code	<u>Section 281.054</u>	Hospital Districts/Counties of at least 190,000.	Power to acquire interest in property located in the district if necessary to exercise authority of district.

Health and Safety Code	<u>Section 282.046</u>	Hospital Districts in Counties of 75,000 or less.	May exercise the power for the acquisition of property necessary to carry out powers and duties of district.
Health and Safety Code	<u>Section 364.014</u>	Solid waste disposal systems (plant, composting process plant, incinerator, sanitary landfill, or other works and equipment that are acquired, installed, or operated to collect, handle, store, treat, neutralize, stabilize, or dispose of solid waste, and includes the sites).	Acquire property or an interest in property; may not acquire real property if that power conflicts with a corporation's power of eminent domain as provided by law.
Human Resources Code	<u>Section 63.017</u>	Residential facility for the placement of juveniles formed by a single county.	Acquire real property for the purpose of locating a facility on such property (commissioners court).
Human Resources Code	<u>Section 63.018</u>	Residential facility for the placement of juveniles created by two or more counties.	Acquire real property (commissioners courts of the forming counties).
Local Government Code	<u>Section 241.903</u>	Airport hazards.	Acquire an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use (municipality or county).
Local Government Code	<u>Section 261.001</u>	Construction of a jail, courthouse, hospital, or library, or for another public use authorized by law.	Condemn and acquire land, an easement in land, or a right-of-way. Right extends to public or private land, but not to land used for cemetery purposes.
Local Government Code	<u>Section 263.201</u>	To carry out an act of the US Congress in aid of navigation, irrigation, flood control, or improvement of water courses and to accomplish a purpose specified by Section 2204.101, Government Code.	Acquire and, on request, convey to the United States, with or without monetary consideration, land or an interest in land (commissioners court of county that has a part of its boundary coincident with a part of the international boundary between the United States and Mexico, or that is contiguous to such a county).
Local Government Code	<u>Section 273.001 (a)</u>	Acquisition of property for public purposes.	Acquire property jointly with municipality or other governmental entity.
Local Government Code	<u>Section 273.002</u>	Land for the use of local governments.	Condemnation shall be in accordance with state law relating to Chapter 21, Property Code. Or other state law relating to condemnation of land for public uses by municipality.
Local Government Code	<u>Section 273.003</u>	Necessary alterations for use by local governments.	Any alteration necessary shall be made at the sole expense of the municipality or other governmental entity.
Local Government Code	<u>Section 280.001</u>	Land for the use of the US government.	Acquire land separately or jointly with a municipality for the use of the US government.
Local Government Code	<u>Section 280.003</u>	Hospital purposes.	County may issue bonds and use the proceeds from the sale of the bonds to acquire property through condemnation.
Local Government Code	<u>Section 293.026</u>	County Building Authority Act.	Authorizes acquiring property through eminent domain.
Local Government Code	<u>Section 325.037</u>	Sports facility purposes.	District may acquire land for a sports facility if board determines, after notice and hearing, that it is necessary.
Local Government Code	<u>Sections 331.001 and 331.003</u>	Public parks, playgrounds, or historical museums. Land on which are located historic buildings, sites, or landmarks of statewide historical significance associated with historic events or personalities; prehistoric ruins, burial grounds, or archaeological or vertebrate paleontological sites; or sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historic buildings, markers, monuments, or historical features.	Acquire land and/or buildings to be used for public parks, playgrounds or historical museums.
Local Government Code	<u>Section 335.071</u>	Sports and Community Venue Districts.	May perform any act to the full exercise of the district's powers.
Local Government Code	<u>Section 351.136</u>	Acquisition of property for county jails and law enforcement	District may acquire property necessary to construct or improve jail facility; lease property on terms advantageous to district; acquire land for jail facility by condemnation under Chapter 21, Property Code; make necessary alteration at district's sole expense.
Local Government Code	<u>Section 383.063</u>	County development districts.	May exercise the power to acquire land for the purpose of providing water and sewer services.

Local Government Code	<u>Section 392.061</u>	Housing authorities (municipalities and counties)	May acquire interest by eminent domain after adopting a resolution and declaring the acquisition necessary.
Local Government Code	<u>Section 507.103</u>	Spaceport development corporations	may exercise the power of eminent domain to acquire property.
Local Government Code	<u>Section 561.001</u>	Canals, drains, levees, and other improvements to provide for flood control and water outlets.	Acquire public or private real property, including easements and rights-of-way.
Local Government Code	<u>Section 562.016</u>	Water or sewer utility system to serve an unincorporated area of the county.	Acquire any interest in property necessary to operate a water of utility system.
Local Government Code	<u>Section 571.004</u>	Seawall, breakwater, levee, floodway, or drainway.	Acquire property that is necessary for the establishment, construction, and maintenance (county or municipality that borders the Gulf of Mexico).
Local Government Code	<u>Section 572.012 and 572.013</u>	Facility necessary or incidental to the collection, transportation, treatment, or disposal of sewage or to the conservation, storage, transportation, treatment, or distribution of water.	Acquire land, easements, and property for a facility (county, municipality, or district or authority); may not use eminent domain authority to acquire an interest in a facility that belongs to another public entity or a private entity.
Natural Resources Code	<u>Section 183.057</u>	Protected Land; Notice of Taking (Conservation Easements)	Texas Farm and Ranch lands conservation program.
Natural Resources Code	<u>Section 221.021a</u>	Wetland mitigation bank or buffer zone.	Acquire property inside or outside the eligible political subdivision (state agency or eligible political subdivision); power of eminent domain granted by this section does not enable a state agency or eligible political subdivision to acquire by condemnation an interest in land that is owned or used by a public utility.
Tax Code	<u>Section 311.008</u>	Special Property Tax Provisions: Tax Increment Financing Act.	Acquire blighted, deteriorated, undeveloped or inappropriately developed property for the preservation or restoration of historic sites, for beautification, or the provision of public works.
Transportation Code	<u>Section 22.011</u>	Airport or air navigation facility.	Acquire an interest in property, including an easement in an airport hazard or land outside the boundaries of an airport or airport site (county or municipality). With specified consent, may acquire an existing airport or air navigation facility.
Transportation Code	<u>Section 172.159</u>	Rural Rail Transportation Districts Powers and Duties.	Suit in eminent domain must be brought in the county in which land is located.
Transportation Code	<u>Section 173.160</u>	Intermunicipal Commuter Rail Districts Powers and Duties.	Suit in eminent domain must be brought in the county in which land is located.
Transportation Code	<u>Section 174.159</u>	Commuter Rail Districts Powers and Duties.	Suit in eminent domain must be brought in the county in which land is located.
Transportation Code	<u>Section 203.065</u>	Modernization of State Highways.	Acquire property necessary to lay out, construct, maintain, or operate a section of a state highway as a freeway.
Transportation Code	<u>Section 224.002</u>	Highway right-of-way.	Acquire highway right-of-way requested by department (county or municipality).
Transportation Code	<u>Section 224.003</u>	State highway.	Acquire real property, including a right-of-way, or material (commissioners court).
Transportation Code	<u>Section 251.006</u>	Obtaining Material for Public Road.	Acquire material necessary to construct, repair, or maintain public roads if the owner of the material rejects the price that the court determines to be a fair price (commissioners court).
Transportation Code	<u>Section 251.051</u>	Public roads.	Authority to order that public roads be laid out, opened, discontinued, closed, abandoned, vacated, or altered (commissioners court).
Transportation Code	<u>Section 251.101</u>	Road that forms or will form a connecting link in the county road system or in a state highway.	Acquire real property, a right-of-way, or an easement in public or private real property in a municipality.
Transportation Code	<u>Section 254.005</u>	Streambed diversion and drainage channels for county roads.	Acquire any new or wider right-of-way not wider than 100 feet (commissioners court).
Transportation Code	<u>Section 280.001</u>	Streets in an unincorporated community near railroad roadbeds.	Condemn railroad roadbed on the petition of at least 20 freeholders of an unincorporated community (commissioners court).
Transportation Code	<u>Section 281.002</u>	Private road.	Acquire a public interest.

Transportation Code	<u>Section 282.011</u>	Underpass, tunnel, or approach.	Condemn right-of-way or easement in real property (counties with population of 350,000 or more).
Transportation Code	<u>Section 283.003 and 283.101</u>	Causeway, bridge, or tunnel, including a necessary approach, fixture, accessory, or equipment.	Acquire a project, condemn property (county that borders on the Gulf of Mexico and has a population of at least 20,000).
Transportation Code	<u>Section 284.003, 284.061, 284.066 and 284.067</u>	Causeway, bridge, tunnel, turnpike, highway, ferry, or any combination of those facilities.	Acquire projects and property (county that has a population of 50,000 or more and borders the Gulf of Mexico or a bay or inlet opening into the gulf; has a population of two million or more; is adjacent to a county that has a population of two million or more; or borders the United Mexican States.
Transportation Code	<u>Section 364.022</u>	Property to own, hold, control, maintain, and operate the toll bridge and to make or provide for any repairs or improvements to the bridge.	Acquire property (county bordering the Rio Grande and that acquires a toll bridge under Section 364.001).
Transportation Code	<u>Section 457.106</u>	County Mass Transit Authority.	Exercise of eminent domain power is subject to the eminent domain power of the local government in which property is located.
Transportation Code	<u>Section 460.107</u>	County Mass Transit Authority.	Exercise of eminent domain power is subject to the eminent domain power of the local government in which property is located.
Utilities Code	<u>Section 163.013</u>	Joint Powers Agencies.	General rights, powers and duties of entities
Utilities Code	<u>Section 163.014</u>	Electric facility jointly owned by public and private entities.	Acquire land, easements, and property (agency or political subdivision of this state).
Vernon's Civil Statutes	<u>Title 116, Article 6812b, Sec. 13</u>	Lay out and construct any road or highway in or through the county or any part thereof. Constructing, building, opening, widening, straightening, draining, grading, improving, repairing or maintaining any public road or highway.	Condemn such land and condemn land for right of way (counties having a population of 198,000 to 400,000).
Water Code	<u>Section 11.033</u>	Water necessary for domestic, municipal, and manufacturing uses and for other purposes authorized by this code, including the irrigation of land for all requirements of agricultural employment.	Right to take and right to recover (all political subdivisions of the state).
Water Code	<u>Section 49.066</u>	General Law Districts - Administrative Provisions	Deposit requirement in eminent domain proceeding.
Water Code	<u>Section 49.222</u>	General Law Districts - Powers and Duties.	May acquire land necessary for water, sanitary sewer, storm drainage, or flood drainage for projects or purposes; exercise in manner provided in Chapter 21, Property Code; power may not be used for condemnation of land for purpose of acquiring rights to underground water or water rights.
Water Code	<u>Section 49.224</u>	General Law Districts - Powers and Duties.	Power to Condemn Cemeteries.
Water Code	<u>Section 57.269</u>	Levee Improvement Districts.	Condemn land necessary for right-of-way.

SECTION 2206.101, GOVERNMENT CODE, as added by SB 18

§ 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY; EXPIRATION OF AUTHORITY. (a) This section does not apply to an entity that was created or that acquired the power of eminent domain on or after December 31, 2012.

(b) Not later than December 31, 2012, an entity, including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain shall submit to the comptroller a letter stating that the entity is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the entity that authority. The entity must send the letter by certified mail, return receipt requested.

(c) The authority of an entity to exercise the power of eminent domain expires on September 1, 2013, unless the entity submits a letter in accordance with Subsection (b).

(d) Not later than March 1, 2013, the comptroller shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officers of the appropriate standing committees of the senate and the house of representatives, and the Texas Legislative Council a report that contains:

(1) the name of each entity that submitted a letter in accordance with this section; and
(2) a corresponding list of the provisions granting eminent domain authority as identified by each entity that submitted a letter.

CONSTITUTIONAL PROVISIONS GRANTING EMINENT DOMAIN AUTHORITY TO COUNTIES AND RELATED ENTITIES

**THE TEXAS CONSTITUTION
ARTICLE 1. BILL OF RIGHTS**

§ 17. TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES. (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for:

(1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by:

(A) the State, a political subdivision of the State, or the public at large; or

(B) an entity granted the power of eminent domain under law; or

(2) the elimination of urban blight on a particular parcel of property.

(b) In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues.

(c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house.

(d) When a person's property is taken under Subsection (a) of this section, except for the use of the State, compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof.

ARTICLE 3. LEGISLATIVE DEPARTMENT

Sec. 52j. SALE OF REAL PROPERTY ACQUIRED THROUGH EMINENT DOMAIN. A governmental entity may sell real property acquired through eminent domain to the person who owned the real property interest immediately before the governmental entity acquired the property interest, or to the person's heirs, successors, or assigns, at the price the entity paid at the time of acquisition if:

- canceled;
- (1) the public use for which the property was acquired through eminent domain is
- or
- (2) no actual progress is made toward the public use during a prescribed period of time;
- (3) the property is unnecessary for the public use.

(Added Nov. 6, 2007.)

STATUTES PROVIDING COUNTIES AND RELATED ENTITIES EMINENT DOMAIN AUTHORITY

AGRICULTURE CODE

TITLE 6. PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS

SUBTITLE C. CONTROL OF ANIMAL DISEASES AND PESTS

CHAPTER 167. TICK ERADICATION

§ 167.059. DIPPING FACILITIES (a) The commissioners court of each county, including a county in the free area, in all or part of which the commission conducts tick eradication shall cooperate with the commission and shall furnish facilities necessary to the dipping of livestock in that county. The commissioners court shall furnish dipping vats, pens, chutes, and other necessary facilities in the number, at the locations, and of the type specified by the commission. In addition, the county, at its expense, shall maintain the facilities and repair or remodel them as necessary, shall provide the water for filling the vats, and shall clean and refill the vats as necessary.

(b) For the purpose of constructing, purchasing, or leasing dipping facilities, and for the purpose of providing necessary land, labor, or materials, a commissioners court may appropriate money out of the general fund of the county or may incur indebtedness by the issuance of warrants. A warrant issued may not draw interest at a rate of more than six percent per year and may not have a term of more than 20 years. The commissioners court may levy taxes to pay interest on warrants and may establish a sinking fund for the payment of warrants.

(c) For the purpose of acquiring necessary land for the construction or maintenance of dipping facilities, for the purpose of acquiring dipping facilities that have already been constructed, or for the purpose of acquiring land necessary for ingress and egress to and from those facilities, a commissioners court has the power of eminent domain. The commissioners court shall exercise the power of eminent domain in the manner provided by law for acquiring land for the building and maintenance of public buildings, except that the court shall institute and prosecute condemnation proceedings on written request from the presiding officer of the commission. The request from the commission shall designate:

- (1) the land to be condemned and its location;
- (2) the name of the owner of the land to be condemned; and
- (3) the easement to be acquired for ingress and egress.

(d) In acquiring land or facilities by eminent domain, the commissioners court may retain the property for permanent use by making appropriate compensation or may acquire the property for temporary use by making proper compensation for the period of time determined necessary by the commissioners court.

GOVERNMENT CODE
TITLE 9. PUBLIC SECURITIES
SUBTITLE I. SPECIFIC AUTHORITY FOR COUNTIES TO ISSUE SECURITIES
CHAPTER 1474. BONDS FOR COUNTY WATER IMPROVEMENTS

§ 1474.151. COUNTY POWERS

A county acting under this chapter may:

- (1) own or construct a reservoir, dam, levee, well, canal, or other improvement;
- (2) acquire a necessary right-of-way or other land by purchase or by condemnation in the manner provided by Chapter 21, Property Code; or
- (3) perform any other work or construct or acquire any other improvement required for the proper and efficient irrigation of land in the county.

GOVERNMENT CODE
TITLE 9. PUBLIC SECURITIES
SUBTITLE I. SPECIFIC AUTHORITY FOR COUNTIES TO ISSUE SECURITIES
CHAPTER 1475. COUNTY BONDS AND WARRANTS FOR NAVIGATION PURPOSES
SUBCHAPTER A. RIGHT-OF-WAY FOR FEDERAL NAVIGATION PROJECTS

§ 1475.002. AUTHORITY TO ACQUIRE RIGHT-OF-WAY AND DUMPING PRIVILEGES

(a) For the purpose of navigation or to aid in navigation, a county may, in accordance with Section 1475.003, acquire right-of-way and necessary dumping privileges for a canal or waterway the construction of which is authorized by federal legislation.

(b) The county may:

- (1) acquire the right-of-way and necessary dumping privileges by purchase, through donation, or by exercising the county's power of eminent domain; and
- (2) convey the right-of-way and dumping privileges to the United States by a deed executed in the manner that other deeds by a county must be executed.

(c) In lieu of exercising its power of eminent domain, the county may:

- (1) allow the United States to acquire the right-of-way and necessary dumping privileges through the United States' power of eminent domain; and
- (2) lend the county's credit by guaranteeing the United States that the county will pay the resulting judgment or assessment of damages for the value of the condemned property.

GOVERNMENT CODE
TITLE 9. PUBLIC SECURITIES
SUBTITLE I. SPECIFIC AUTHORITY FOR COUNTIES TO ISSUE SECURITIES
CHAPTER 1475. COUNTY BONDS AND WARRANTS FOR NAVIGATION PURPOSES
SUBCHAPTER B. PROPERTY FOR INTRACOASTAL CANAL PURPOSES

§ 1475.052. AUTHORITY TO ACQUIRE LAND AND CERTAIN INTERESTS IN LAND FOR CANAL PURPOSES

(a) If the acquisition is necessary for the construction of an intracoastal canal, a county may, by purchase or by exercising the county's power of eminent domain, acquire public or private land, a right-of-way, an easement, or dumping ground privileges.

(b) The county must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code. A county may not condemn land under Subsection (a) if the land is used for cemetery purposes.

GOVERNMENT CODE
TITLE 9. PUBLIC SECURITIES
SUBTITLE I. SPECIFIC AUTHORITY FOR COUNTIES TO ISSUE SECURITIES CHAPTER 1477.
OBLIGATIONS FOR OTHER COUNTY PURPOSES
SUBCHAPTER B. BONDS FOR WATER SUPPLY FOR COUNTY PURPOSES

§ 1477.071. EMINENT DOMAIN

(a) In exercising any power granted by this subchapter, a county may acquire real property and easements by the exercise of the power of eminent domain in accordance with Chapter 21, Property Code.

(b) The commissioners court shall determine the amount and character of interest in real property and easements to be acquired by the exercise of the power of eminent domain.

GOVERNMENT CODE
TITLE 9. PUBLIC SECURITIES
SUBTITLE I. SPECIFIC AUTHORITY FOR COUNTIES TO ISSUE SECURITIES CHAPTER 1477.
OBLIGATIONS FOR OTHER COUNTY PURPOSES
SUBCHAPTER C. NATURAL GAS SYSTEM FOR COUNTY BUILDINGS IN CERTAIN COUNTIES

§ 1477.120. EMINENT DOMAIN

(a) The county may not acquire a natural gas system or a facility of a natural gas system under this subchapter by the exercise of the power of eminent domain or exercise the power of eminent domain under this subchapter outside the county's boundaries. The county may acquire land or an easement for a purpose authorized by this subchapter by the exercise of the power of eminent domain in the manner provided by Chapter 21, Property Code.

(b) The commissioners court shall determine the amount of and character of interest in the land or easement to be acquired by the exercise of the power of eminent domain.

GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE E. GOVERNMENT PROPERTY
CHAPTER 2206. EMINENT DOMAIN

SUBCHAPTER A. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED THROUGH
EMINENT DOMAIN

Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES.

(a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

(1) a state agency, including an institution of higher education as defined by Section 61.003, Education Code;

(2) a political subdivision of this state; or

(3) a corporation created by a governmental entity to act on behalf of the entity.

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

(1) confers a private benefit on a particular private party through the use of the property;

(2) is for a public use that is merely a pretext to confer a private benefit on a particular private party;

(3) is for economic development purposes, unless the economic development is a secondary purpose resulting from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from slum or blighted areas under:

(A) Chapter 373 or 374, Local Government Code, other than an activity described by Section 373.002(b)(5), Local Government Code; or

(B) Section 311.005(a)(1)(I), Tax Code; or

(4) is not for a public use.

(b-1) Subsection (b)(3) does not prohibit the taking of private property through the use of eminent domain for economic development purposes if the economic development is a secondary purpose resulting from the elimination of urban blight under Subchapter I, Chapter 214, Local Government Code. This subsection expires December 31, 2016.

(c) This section does not affect the authority of an entity authorized by law to take private property through the use of eminent domain for:

(1) transportation projects, including, but not limited to, railroads, airports, or public roads or highways;

(2) entities authorized under Section 59, Article XVI, Texas Constitution, including:

(A) port authorities;

(B) navigation districts; and

(C) any other conservation or reclamation districts that act as ports;

(3) water supply, wastewater, flood control, and drainage projects;

(4) public buildings, hospitals, and parks;

(5) the provision of utility services;

(6) a sports and community venue project approved by voters at an election held on or before December 1, 2005, under Chapter 334 or 335, Local Government Code;

(7) the operations of:

(A) a common carrier pipeline; or

(B) an energy transporter, as that term is defined by Section 186.051, Utilities Code;

(8) a purpose authorized by Chapter 181, Utilities Code;

(9) underground storage operations subject to Chapter 91, Natural Resources Code;

(10) a waste disposal project; or

(11) a library, museum, or related facility and any infrastructure related to the facility.

(d) This section does not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(e) The determination by the governmental or private entity proposing to take the property that the taking does not involve an act or circumstance prohibited by Subsection (b) does not create a presumption with respect to whether the taking involves that act or circumstance.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 1, Sec. 1, eff. November 18, 2005.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 693, Sec. 1, eff. September 1, 2011.

Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) This section applies only to an easement acquired by an entity for the purpose of a pipeline to be used for oil or gas exploration or production activities.

(b) A property owner whose property is acquired through the use of eminent domain under Chapter 21, Property Code, for the purpose of creating an easement through that owner's property may construct streets or roads, including gravel, asphalt, or concrete streets or roads, at any locations above the easement that the property owner chooses.

(c) The portion of a street or road constructed under this section that is within the area covered by the easement:

(1) must cross the easement at or near 90 degrees; and

(2) may not:

(A) exceed 40 feet in width;

(B) cause a violation of any applicable pipeline regulation; or

(C) interfere with the operation and maintenance of any pipeline.

(d) At least 30 days before the date on which construction of an asphalt or concrete street or road that will be located wholly or partly in an area covered by an easement used for a pipeline is scheduled to begin, the property owner must submit plans for the proposed construction to the owner of the easement.

(e) Notwithstanding the provisions of this section, a property owner and the owner of the easement may agree to terms other than those stated in Subsection (c).

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 2, eff. September 1, 2011.

SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE

EMINENT DOMAIN PROCEEDINGS

Sec. 2206.051. SHORT TITLE. This subchapter may be cited as the Truth in Condemnation Procedures Act.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 2, eff. September 1, 2011.

Sec. 2206.052. APPLICABILITY. The procedures in this subchapter apply only to the use of eminent domain under the laws of this state by a governmental entity.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 2, eff. September 1, 2011.

Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN.

(a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must:

(1) authorize the initiation of the condemnation proceeding at a public meeting by a record vote; and

(2) include in the notice for the public meeting as required by Subchapter C, Chapter 551, in addition to other information as required by that subchapter, the consideration of the use of eminent domain to condemn property as an agenda item.

(b) A single ordinance, resolution, or order may be adopted for all units of property to be condemned if:

(1) the motion required by Subsection (e) indicates that the first record vote applies to all units of property to be condemned; and

(2) the minutes of the governmental entity reflect that the first vote applies to all of those units.

(c) If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated, a separate record vote must be taken for each unit of property.

(d) For the purposes of Subsections (a) and (c), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(e) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the (name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(f) If a project for a public use described by Section 2206.001(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the governmental entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(g) An ordinance, resolution, or order adopted under Subsection (f) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 2, eff. September 1, 2011.

SUBCHAPTER C. EXPIRATION OF CERTAIN EMINENT DOMAIN AUTHORITY

Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY; EXPIRATION OF AUTHORITY.

(a) This section does not apply to an entity that was created or that acquired the power of eminent domain on or after December 31, 2012.

(b) Not later than December 31, 2012, an entity, including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain shall submit to the comptroller a letter stating that the entity is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the entity that authority. The entity must send the letter by certified mail, return receipt requested.

(c) The authority of an entity to exercise the power of eminent domain expires on September 1, 2013, unless the entity submits a letter in accordance with Subsection (b).

(d) Not later than March 1, 2013, the comptroller shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officers of the appropriate standing committees of the senate and the house of representatives, and the Texas Legislative Council a report that contains:

(1) the name of each entity that submitted a letter in accordance with this section; and

(2) a corresponding list of the provisions granting eminent domain authority as identified by each entity that submitted a letter.

(e) The Texas Legislative Council shall prepare for consideration by the 84th Legislature, Regular Session, a nonsubstantive revision of the statutes of this state as necessary to reflect the state of the law after the expiration of an entity's eminent domain authority effective under Subsection (c).

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 2, eff. September 1, 2011.

GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT
SUBCHAPTER B. QUALIFYING PROJECTS

§ 2267.061. MATERIAL DEFAULT; REMEDIES

(a) If the contracting person commits a material default, the responsible governmental entity may assume the responsibilities and duties of the contracting person of the qualifying project. If the responsible governmental entity assumes the responsibilities and duties of the contracting person, the responsible governmental entity has all the rights, title, and interest in the qualifying project, subject to any liens on revenue previously granted by the contracting person to any person providing financing for the project.

(b) A responsible governmental entity that has the power of eminent domain under state law may exercise that power to acquire the qualifying project in the event of a material default by the contracting person. Any person who has provided financing for the qualifying project, and the contracting person to the extent of its capital investment, may participate in the eminent domain proceedings with the standing of a property owner.

(c) The responsible governmental entity may terminate, with cause, any applicable interim or comprehensive agreement and exercise any other rights and remedies available to the governmental entity at law or in equity.

(d) The responsible governmental entity may make any appropriate claim under the letters of credit or other security or the performance and payment bonds required by Section 2267.058(a)(1).

(e) If the responsible governmental entity elects to assume the responsibilities and duties for a qualifying project under Subsection (a), the responsible governmental entity may:

- (1) develop or operate the qualifying project;
- (2) impose user fees;
- (3) impose and collect lease payments for the use of the project; and
- (4) comply with any applicable contract to provide services.

(f) The responsible governmental entity shall collect and pay to secured parties any revenue subject to a lien to the extent necessary to satisfy the contracting person's obligations to secured parties, including the maintenance of reserves. The liens shall be correspondingly reduced and, when paid off, released.

(g) Before any payment is made to or for the benefit of a secured party, the responsible governmental entity may use revenue to pay the current operation and maintenance costs of the qualifying project, including compensation to the responsible governmental entity for its services in operating and maintaining the qualifying project. The right to receive any payment is considered just compensation for the qualifying project.

(h) The full faith and credit of the responsible governmental entity may not be pledged to secure any financing of the contracting person that was assumed by the governmental entity when the governmental entity assumed responsibility for the qualifying project.

§ 2267.062. EMINENT DOMAIN

(a) At the request of the contracting person, the responsible governmental entity may exercise any power of eminent domain that it has under law to acquire any land or property interest to the extent that the responsible governmental entity dedicates the land or property interest to public use and finds that the action serves the public purpose of this chapter.

(b) Any amounts to be paid in any eminent domain proceeding shall be paid by the contracting person.

§ 2267.063. AFFECTED FACILITY OWNER

(a) The contracting person and each facility owner, including a public utility, a public service company, or a cable television provider, whose facilities will be affected by a qualifying project shall cooperate fully in planning and arranging the manner in which the facilities will be affected.

(b) The contracting person and responsible governmental entity shall ensure that a facility owner whose facility will be affected by a qualifying project does not suffer a disruption of service as a result of the construction or improvement of the qualifying project.

(c) A governmental entity possessing the power of eminent domain may exercise that power in connection with the relocation of facilities affected by the qualifying project or facilities that must be relocated to the extent that the relocation is necessary or desirable by construction of, renovation to, or improvements to the qualifying project, which includes construction of, renovation to, or improvements to temporary facilities to provide service during the period of construction or improvement. The governmental entity shall exercise its power of eminent domain to the extent required to ensure an affected facility owner does not suffer a disruption of service as a result of the construction or improvement of the qualifying project during the construction or improvement or after the qualifying project is completed or improved.

(d) The contracting person shall pay any amount owed for the crossing, constructing, or relocating of facilities.

HEALTH AND SAFETY CODE
TITLE 4. HEALTH FACILITIES
SUBTITLE C. LOCAL HOSPITALS
CHAPTER 263. COUNTY HOSPITALS AND OTHER HEALTH FACILITIES
SUBCHAPTER B. ESTABLISHING, ENLARGING, SELLING, AND CLOSING COUNTY HOSPITALS

§ 263.022. POWERS AND DUTIES OF COMMISSIONERS COURT AFTER PASSAGE OF BOND PROPOSITION

(a) If a bond proposition under Section 263.021 is approved by a majority of the qualified voters voting at the election, the commissioners court of the county shall establish or enlarge a hospital or medical or other health facility as provided in the proposition and maintain the hospital or facility.

(b) In establishing, enlarging, or maintaining a hospital or facility, the commissioners court may:

- (1) purchase or lease real or personal property or acquire real property and easements to real property by condemnation;
- (2) purchase or construct any necessary buildings;
- (3) make necessary improvements, repairs, and alterations to an existing building;
- (4) impose property taxes in the county for all necessary expenditures related to the hospital or facility, including maintenance expenses;
- (5) issue county bonds to provide funds to establish, enlarge, and equip the hospital or facility or make any necessary permanent improvements in connection with the hospital or facility; and
- (6) accept and hold a grant or devise of land or a gift or bequest of money or personal property in trust for the county and apply the principal or income, or both, for the benefit of the hospital or facility and in accordance with the terms of the gift.

(c) Subject to this chapter, the commissioners court may purchase or lease real or personal property, or both, in an adjacent county if the court considers the purchase or lease necessary for hospital purposes. The commissioners court may not acquire real property in an adjacent county by condemnation.

HEALTH AND SAFETY CODE
TITLE 4. HEALTH FACILITIES
SUBTITLE C. LOCAL HOSPITALS
CHAPTER 264. COUNTY HOSPITAL AUTHORITIES
SUBCHAPTER C. POWERS AND DUTIES

§ 264.028. EMINENT DOMAIN

(a) To carry out a power granted by this chapter, the authority may acquire the fee simple title to land, other property, and easements by condemnation under Chapter 21, Property Code.

(b) The authority is considered to be a municipal corporation for the purposes of Section 21.021(c), Property Code.

(c) The board shall determine the amount and character of the interest in land, other property, and easements to be acquired under this section.

HEALTH AND SAFETY CODE
TITLE 4. HEALTH FACILITIES
SUBTITLE C. LOCAL HOSPITALS
CHAPTER 265. JOINT MUNICIPAL AND COUNTY HOSPITALS
SUBCHAPTER D. JOINT COUNTY-MUNICIPAL HOSPITAL BOARDS

§ 265.052. EMINENT DOMAIN

(a) The hospital board may acquire the fee simple title to or any other interest in land and other property by condemnation under Chapter 21, Property Code, to carry out any power, duty, or function under this subchapter.

(b) The board has the same rights as a county or municipality under Section 21.021, Property Code.

(c) The board shall determine the amount and character of the interest in land or other property to be acquired under this section.

HEALTH AND SAFETY CODE
TITLE 4. HEALTH FACILITIES
SUBTITLE D. HOSPITAL DISTRICTS
CHAPTER 281. HOSPITAL DISTRICTS IN COUNTIES OF AT LEAST 190,000
SUBCHAPTER C. GENERAL POWERS AND DUTIES

§ 281.054. EMINENT DOMAIN

- (a) The district has the power of eminent domain to acquire any interest in real, personal, or mixed property located in the district if the property interest is necessary or convenient for the exercise of the rights or authority conferred on the district by this chapter.
- (b) The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, but the district is not required to deposit with the trial court money or a bond as provided by Section 21.021(a), Property Code.
- (c) In a condemnation proceeding brought by the district, the district is not required to:
- (1) pay in advance or give bond or other security for costs in the trial court;
 - (2) give bond for the issuance of a temporary restraining order or a temporary injunction; or
 - (3) give bond for costs or supersedeas on an appeal or writ of error.

HEALTH AND SAFETY CODE
TITLE 4. HEALTH FACILITIES
SUBTITLE D. HOSPITAL DISTRICTS
CHAPTER 282. HOSPITAL DISTRICTS IN COUNTIES OF 75,000 OR LESS
SUBCHAPTER C. GENERAL POWERS AND DUTIES

§ 282.046. EMINENT DOMAIN

- (a) On a resolution by the board, the district may exercise the power of eminent domain for the acquisition of property necessary to carry out the powers and duties of the district, including preventing damage to district property, property rights, equipment, hospital facilities and systems, and property adjacent to district property.
- (b) The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, for the exercise of that power by a municipality.
- (c) The district may not exercise the power of eminent domain against:
- (1) a hospital, clinic, or sanatorium operated as a charitable, nonprofit establishment or operated by a religious organization; or
 - (2) a privately owned or operated hospital or clinic, whether or not incorporated.

HEALTH AND SAFETY CODE
TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY
SUBTITLE B. SOLID WASTE, TOXIC CHEMICALS, SEWAGE, LITTER, AND WATER
CHAPTER 364. COUNTY SOLID WASTE
SUBCHAPTER B. COUNTY SOLID WASTE MANAGEMENT

§ 364.014. ACQUISITION OF PROPERTY

- (a) A county may acquire by purchase, lease, gift, condemnation, or any other manner and may own, maintain, use, and operate property or an interest in property necessary or convenient to the exercise of the powers and purposes provided by this chapter.
- (b) The power of eminent domain is restricted to the county and may be exercised in the manner provided by law.
- (c) A county may not exercise the power of eminent domain to acquire real property under this section if that power conflicts with a corporation's power of eminent domain as provided by law.

HUMAN RESOURCES CODE
TITLE 3. FACILITIES AND SERVICES FOR CHILDREN
SUBTITLE A. FACILITIES FOR CHILDREN
CHAPTER 63. RESIDENTIAL FACILITIES FOR CERTAIN DELINQUENT CHILDREN

§ 63.017. SINGLE COUNTY FACILITY: ACQUISITION OF REAL PROPERTY; RULES FOR ADMISSION; RATES CHARGED.

- (a) In the instance of a facility formed by a single county, the commissioners court of the creating county may acquire, through gift, purchase, condemnation, or any other method, real property for the purpose of locating a facility on such property. Such property may be acquired outside of the boundaries of the creating county if, in the opinion of the commissioners court of the forming county, there will exist a demand for the services to be provided by the facility in the county in which the facility is to be located in addition to any need which may already exist within the boundaries of the creating county.
- (b) The board of trustees for a facility created by a single county shall establish rules and regulations for the admission of juveniles into the facility from other than the forming county. Such rules may allow that the forming county shall have priority in the placement of its juveniles into the facility. The board may establish a rate of charges to be paid by the county of origin of the juvenile being placed into the facility, and such rates may be reduced for those juveniles being admitted from the county which created the facility.

§ 63.018. COMBINATION OF COUNTIES FACILITY: ACQUISITION OF REAL PROPERTY; RULES FOR ADMISSION; RATES CHARGED.

- (a) In the instance of a facility being created by two or more counties, the commissioners courts of the forming counties may acquire, by gift, purchase, condemnation, or other means, real property for the purpose of locating the facility on such property. The method of acquisition and the amount of cost sharing between those counties shall be negotiated among the forming counties and reduced to contract. Such property to be acquired shall be situated within the boundaries of any one of the creating counties.
- (b) The board of trustees for a facility created by an organizational component of two or more counties shall establish rules and regulations for the admission of juveniles who are residents of other than the creating counties. The board may establish a rate of charges to be paid by the county of origin of the juvenile being placed into the facility, and those rates may be reduced for juveniles being admitted from a county that was part of the organizational component that created the facility.

LOCAL GOVERNMENT CODE
TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES
SUBTITLE C. REGULATORY AUTHORITY APPLYING TO MORE THAN ONE TYPE OF LOCAL
GOVERNMENT

CHAPTER 241. MUNICIPAL AND COUNTY ZONING AUTHORITY AROUND AIRPORTS
SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

§ 241.903. ACQUISITION OF AIR RIGHTS OR OTHER PROPERTY

(a) A political subdivision may acquire from a person or other political subdivision an air right, aviation easement, or other estate or interest in property or in a nonconforming structure or use if:

(1) the acquisition is necessary to accomplish the purposes of this chapter;

(2) the property or nonconforming structure or use is located within the political subdivision, the political subdivision owns the airport, or the political subdivision is served by the airport; and

(3)(A) the political subdivision desires to remove, lower, or terminate the nonconforming structure or use;

(b) airport zoning regulations are not sufficient to provide necessary approach protection because of constitutional limitations; or

(c) the acquisition of a property right is more advisable than an airport zoning regulation in providing necessary approach protection.

(d) An acquisition under this section may be by purchase, grant, or condemnation in the manner provided by Subchapter B, Chapter 21, Property Code.

LOCAL GOVERNMENT CODE
TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY
SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY
CHAPTER 261. COUNTY RIGHT OF EMINENT DOMAIN

§ 261.001. RIGHT OF EMINENT DOMAIN

(a) A county may exercise the right of eminent domain to condemn and acquire land, an easement in land, or a right-of-way if the acquisition is necessary for the construction of a jail, courthouse, hospital, or library, or for another public use authorized by law.

(b) The right of eminent domain conferred by this section extends to public or private land, but not to land used for cemetery purposes.

LOCAL GOVERNMENT CODE
TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY
SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY
CHAPTER 263. SALE OR LEASE OF PROPERTY BY COUNTIES
SUBCHAPTER E. CONVEYANCE OF REAL PROPERTY FROM COUNTY TO UNITED STATES

§ 263.201. ACQUISITION AND CONVEYANCE OF LAND FOR WATER PROJECTS

(a) If a county that has a part of its boundary coincident with a part of the international boundary between the United States and Mexico, or that is contiguous to such a county, has made an agreement with the United States to acquire and, on request, convey to the United States, with or without monetary consideration, land or an interest in land desired by the United States to enable the United States or an establishment of the United States to carry out an act of the United States Congress in aid of navigation, irrigation, flood control, or improvement of water courses and to accomplish a purpose specified by Section 2204.101, Government Code, the commissioners court of the county may:

(1) on request by the United States through its proper officer for the conveyance of land, or an interest in land, that is necessary for the construction, operation, or maintenance of the water project, acquire the land or interest in land by gift or purchase or by condemnation in accordance with Chapter 21, Property Code, for ultimate conveyance to the United States; and

(2) pay for the land or interest in land from special flood control funds or other available county funds.

(b) In a condemnation by the county, the county, after the award by the special commissioners appointed under Chapter 21, Property Code, may file a declaration of taking adopted by resolution of the commissioners court and signed by the county judge.

(c) The declaration of taking must contain:

(1) a declaration that the land or interest in land described in the original petition is taken for a public use and for ultimate conveyance to the United States;

(2) a description of the land sufficient for the identification of the land;

(3) a statement of the estate or interest in the land being taken;

(4) a statement of the public use to be made of the land;

(5) a plan showing the land being taken; and

(6) a statement of the amount of damages awarded by the special commissioners, or by the jury on appeal, for the taking of the land.

(d) When the commissioners court files the declaration of taking with the county clerk, deposits money in an amount equal to the amount of the award against the county with the county clerk subject to the order of the defendant, and pays any costs awarded against the county:

(1) the land is considered to be condemned and taken for the uses specified in the declaration;

(2) the title to the estate or interest in the land specified in the declaration vests in the county;

and

(3) the right to just compensation vests in the person entitled to the compensation.

(e) When title passes, the commissioners court may immediately convey the land or interest in land to the United States.

(f) An appeal from an award of the special commissioners or the service of process by publication does not suspend the vesting of title in the county. On appeal the only issue is the amount of damages due from the county to the owner of the land or interest in land for its taking.

LOCAL GOVERNMENT CODE
TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY
SUBTITLE C. ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO MORE THAN ONE TYPE
OF LOCAL GOVERNMENT
CHAPTER 273. ACQUISITION OF PROPERTY FOR PUBLIC PURPOSES BY MUNICIPALITIES,
COUNTIES, AND OTHER LOCAL GOVERNMENTS

§ 273.001. ACQUISITION OF PROPERTY; EXERCISE OF POLICE POWER

(a) A municipality may, in accordance with this chapter, acquire property separately or jointly with another municipality or other governmental entity by gift, dedication, or purchase, with or without condemnation.

(b) The property must be located within the county where the municipality or other governmental entity is located. The property may be located inside or outside the corporate limits of the municipality.

(c) The property must be used for the following public purposes:

(1) parks and playgrounds;

(2) hospitals;

- (3) the extension, improvement, and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, watersheds, and dams;
 - (4) the laying, building, maintenance, and construction of water mains;
 - (5) the laying, erection, establishment, and maintenance of necessary appurtenances or facilities that will furnish to the inhabitants of the municipality an abundant supply of wholesome water;
 - (6) sewage plants and systems;
 - (7) rights of way for water and sewer lines;
 - (8) airports and landing fields;
 - (9) incinerators and garbage disposal plants;
 - (10) streets, boulevards, alleys, or other public ways; or
 - (11) a right of way needed in connection with property used for any of these purposes.
- (d) The municipality may exercise police power within an area acquired under this section.

§ 273.002. CONDEMNATION

Condemnation of property under this chapter shall be in accordance with state law relating to eminent domain, which may be Chapter 21, Property Code, or any other state law governing and relating to the condemnation of land for public uses by a municipality.

§ 273.003. NECESSARY ALTERATIONS

(a) If, in acting under this chapter, it is necessary for a municipality or other governmental entity to exercise the power of eminent domain, a police power, or any other power in order to make an alteration, including relocating, raising, lowering, rerouting, changing the grade, or altering the construction of a railroad, electric transmission, telegraph or telephone line, conduit, pole, property or facility, or pipeline outside the corporate limits of municipalities, the alteration shall be made at the sole expense of the municipality or other governmental entity.

(b) In this section, "sole expense" means the actual cost of an alteration made under Subsection (a) and of the provision of a comparable replacement without enhancement of the facility, after deducting the net salvage value derived from the old facility.

LOCAL GOVERNMENT CODE
TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY
SUBTITLE C. ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO MORE THAN ONE TYPE
OF LOCAL GOVERNMENT
CHAPTER 280. MISCELLANEOUS PROVISIONS AFFECTING ACQUISITION, SALE, OR LEASE OF
PROPERTY BY MUNICIPALITIES AND COUNTIES

§ 280.001. LAND FOR USE OF UNITED STATES

(a) A municipality or county, separately or jointly, may acquire land for the use of the United States government, either by a lease for a term of years or in fee simple title.

(b) Land acquired under this section by a county must be located within the county. Land acquired under this section by a municipality must be located within the county in which the municipality is located.

(c) For the purpose of acquiring land under this section, a municipality or county may appropriate any available funds and issue time warrants in payment. If time warrants are issued, the provisions of Chapter 252 or Subchapter C of Chapter 262 shall be followed to the extent applicable.

(d) For the purpose of acquiring land under this section, a municipality or county may condemn land. The condemnation may be for any period of years or in fee simple title. Condemnation may be in the name of the municipality or county.

(e) Prior to the filing of a petition for condemnation, the commissioners court of the county or the governing body of the municipality shall estimate an amount of money to be the just compensation for the interest in the land taken, and the petition shall state that amount.

(f) Immediately after filing a condemnation suit, the municipality or county may take possession of the land by depositing with the county clerk the amount of money estimated. After a hearing as provided by law, if the special commissioners appointed under the condemnation statutes find the just compensation to be greater than the amount fixed by the commissioners court or governing body, an additional amount shall be deposited with the county clerk by the taking authority to equal the amount found by the special commissioners.

(g) After the date of the taking, which is the date of the deposit of the money estimated by the commissioners court or governing body or the date of deposit of the amount fixed by the special commissioners if the taking is not desired until after the special commissioners have acted, the municipality or county may transfer the interest acquired by the taking to the United States government.

(h) A municipality or county may contract with the United States government obligating itself to acquire a lease-hold interest or fee simple title in land as authorized by this section.

§ 280.003. HOSPITAL SITES IN COUNTY OR MUNICIPALITY

(a) The commissioners court of a county or the governing body of a municipality may issue bonds that are payable from ad valorem taxes and use the proceeds from the sale of the bonds to acquire by purchase, condemnation, or both, land to be used for hospital purposes.

(b) A county or municipality that has sufficient money in its general fund may use money in that fund to acquire land to be used for hospital purposes.

(c) A county or municipality that owns land suitable for hospital purposes, including land acquired under Subsection (a) or (b), may donate the land to this state or to the United States for hospital purposes if this state or the United States agrees to erect and maintain a hospital on the land.

(d) A county or municipality may accept a nominal award as full compensation for land that is suitable for hospital purposes in a condemnation proceeding brought by this state or by the United States to acquire the land for hospital purposes.

(e) If bonds are issued under Subsection (a), the commissioners court or the governing body must impose the taxes in compliance with the applicable provisions of Subtitles A and C, Title 9, Government Code.

LOCAL GOVERNMENT CODE
TITLE 9. PUBLIC BUILDINGS AND GROUNDS
SUBTITLE B. COUNTY PUBLIC BUILDINGS
CHAPTER 293. COUNTY BUILDING AUTHORITY ACT
SUBCHAPTER B. CREATION AND OPERATION

§ 293.026. POWERS OF AUTHORITY

(a) The authority may:

(1) construct, enlarge, furnish, and equip a building to be used primarily as a county courthouse, subject to the approval of the commissioners court;

(2) sue or be sued, implead or be impleaded, and complain or defend in court;

- (3) adopt, use, and alter a corporate seal;
 - (4) make bylaws for the management and regulation of its affairs;
 - (5) make contracts and execute instruments necessary or convenient for conducting its business;
 - (6) acquire, purchase, hold, and use land necessary for carrying out its purposes;
 - (7) lease land or an interest in land from the county for a term of not more than 99 years at nominal rent or annual rent determined by contract with the county;
 - (8) lease real or personal property or an interest in such property to the county for a term of not more than 99 years at nominal rent or annual rent determined by contract with the county;
 - (9) lease real or personal property or an interest in such property to a person other than a county for a term of not more than 40 years at an annual rent determined by contract with the person;
 - (10) borrow money and accept grants from, and enter into contracts, leases, or other transactions with, federal agencies;
 - (11) invest the proceeds of its bonds, until the money is needed, in direct obligations of or obligations unconditionally guaranteed by the United States government, to the extent authorized in the bond resolution or trust indenture;
 - (12) fix, alter, charge, and collect rates, rentals, and other charges for services of the authority or use of facilities of the authority or project;
 - (13) exercise the power of eminent domain to the extent, in the manner, and under the laws applicable to counties, for the purpose of acquiring property needed for a purpose authorized by this chapter; and
 - (14) do anything necessary or convenient to accomplish the purposes of the authority or carry out a power granted to the authority by statute.
- (b) A lease under Subsection (a)(9) may not impair the authority's obligations under the bond resolution or trust indenture. On notice specified in the contract, a lessee under such a lease shall surrender possession of the property to the authority if and to the extent that the county requires use of the property.
- (c) The power provided by Subsection (a)(10) is not subject to the limitations relating to other powers granted under this section.

LOCAL GOVERNMENT CODE
TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE B. COUNTY PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
CHAPTER 325. SPORTS FACILITY DISTRICT ESTABLISHED BY COUNTY
SUBCHAPTER C. POWERS AND DUTIES

§ 325.037. EMINENT DOMAIN

- (a) The district may acquire land for a sports facility by condemnation if the board determines, after notice and hearing, that it is necessary.
- (b) The right of eminent domain must be exercised in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.
- (c) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or changing in grade, or alteration of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, changing in grade, or alteration of construction shall be accomplished at the sole expense of the district. "Sole expense" means the actual cost of relocation, raising, lowering, rerouting, or changing in grade, or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old

facility.

LOCAL GOVERNMENT CODE
TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE C. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES PROVISIONS
APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
CHAPTER 331. MUNICIPAL AND COUNTY AUTHORITY TO ACQUIRE AND MAINTAIN PARKS,
MUSEUMS, AND HISTORIC SITES

§ 331.001. GENERAL AUTHORITY

(a) A municipality or county may improve land for park purposes and may operate and maintain parks. The authority to improve the land includes the authority to construct buildings, lay out and pave driveways and walks, construct ditches or lakes, and set out trees and shrubs.

(b) A municipality or county may by gift, devise, purchase, or eminent domain proceeding acquire:

(1) land and buildings to be used for public parks, playgrounds, or historical museums; or

(2) land on which are located:

A) historic buildings, sites, or landmarks of statewide historical significance associated with historic events or personalities;

B) prehistoric ruins, burial grounds, or archaeological or vertebrate paleontological sites;

or

C) sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historic buildings, markers, monuments, or historical features.

(c) Land acquired by a municipality under Subsection (b) may be situated inside or outside the municipality but must be within the county in which the municipality is situated, and land acquired by a county under Subsection (b) must be within the limits of the county. The land may be acquired in any size tract considered suitable by the governing body of the municipality or county.

§ 331.003. EMINENT DOMAIN

A municipality or county may exercise eminent domain under Section 331.001(b) for the acquisition of a historic site, building, or structure only on a showing that it is necessary to prevent the destruction or deterioration of the site, building, or structure.

LOCAL GOVERNMENT CODE
TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE C. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES PROVISIONS
APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
CHAPTER 335. SPORTS AND COMMUNITY VENUE DISTRICTS
SUBCHAPTER E. POWERS AND DUTIES

§ 335.071. GENERAL POWERS OF DISTRICT

(a) A district may:

(1) perform any act necessary to the full exercise of the district's powers;

(2) accept a gift, grant, or loan from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(3) acquire, sell, lease, convey, or otherwise dispose of property or an interest in property, including a right-of-way or easement or an approved venue project, under terms and conditions determined by the district;

(4) employ necessary personnel; and

(5) adopt rules to govern the operation of the district and its employees and property.

(b) A district may contract with a public or private person, including one or more political subdivisions that created the district or a sports team, club, organization, or other entity, to:

(1) plan, acquire, establish, develop, construct, or renovate an approved venue project; or

(2) perform any other act the district is authorized to perform under this chapter, other than conducting an election under this chapter.

(c) A district may contract with or enter into an interlocal agreement with a school district, junior or community college district, or an institution of higher education as defined by Section 61.003, Education Code, for a purpose described by Subsection (b). The contract or interlocal agreement may provide for joint ownership and operation or joint use.

(d) The competitive bidding laws, including Chapter 271, do not apply to the planning, acquisition, establishment, development, construction, or renovation of an approved venue project.

(e) A district may impose any tax a municipality or county may impose under Chapter 334, subject to approval of the voters of the district as prescribed by this chapter and Chapter 334. The district shall impose the tax in the same manner as a county or municipality and may issue bonds in lieu of a county or municipality as required by Chapter 334.

(f) A district may not levy an ad valorem tax.

(g) In a transaction with another public entity that is made as provided by Subsection (a)(3), the public purpose found by the legislature under Section 335.074 is adequate consideration for the district and the other public entity.

(h) A district has the right and power of eminent domain under Chapter 21, Property Code, to acquire and condemn any interest, including a fee simple interest, in real property in the district, in connection with the planning, acquisition, establishment, development, construction, renovation, repair, maintenance, or operation of an approved venue project. A district is not required to provide bond for appeal or bond for costs under Section 21.021(a)(2) or (3), Property Code, in any lawsuit to which the district is a party and is not required to deposit more than the amount of the award in a suit.

LOCAL GOVERNMENT CODE
TITLE 11. PUBLIC SAFETY
SUBTITLE B. COUNTY PUBLIC SAFETY
CHAPTER 351. COUNTY JAILS AND LAW ENFORCEMENT
SUBCHAPTER G. JAIL DISTRICT

§ 351.136. ACQUISITION OF PROPERTY FOR SITE; LEASE; EMINENT DOMAIN

(a) The district may acquire by gift, grant, purchase, or condemnation any land, easements, rights-of-way,

and other property interests necessary to construct or improve a jail facility.

(b) The district may lease property on terms and conditions the board determines advantageous to the district.

(c) The district may acquire land for a jail facility by condemnation if the board determines, after notice and hearing, that it is necessary. The right of eminent domain must be exercised in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(d) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or changing in grade or alteration of the construction of any highway, railroad, electric transmission or distribution line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, changing in grade, or alteration of construction shall be accomplished at the sole expense of the district. "Sole expense" means the actual cost of relocation, raising, lowering, rerouting, or changing in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

LOCAL GOVERNMENT CODE
TITLE 12. PLANNING AND DEVELOPMENT
SUBTITLE B. COUNTY PLANNING AND DEVELOPMENT
CHAPTER 383. COUNTY DEVELOPMENT DISTRICTS
SUBCHAPTER D. POWERS AND DUTIES

§ 383.063. EMINENT DOMAIN

(a) A district that is not located within a municipality may exercise the power of eminent domain to acquire land or interests in land in the district considered necessary by the board for the purpose of providing water and sewer services to an authorized project.

(b) The power of eminent domain shall be exercised in the manner provided by Chapter 21, Property Code.

LOCAL GOVERNMENT CODE
TITLE 12. PLANNING AND DEVELOPMENT
SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE
OF LOCAL GOVERNMENT
CHAPTER 392. HOUSING AUTHORITIES ESTABLISHED BY MUNICIPALITIES AND COUNTIES
SUBCHAPTER D. POWERS AND DUTIES OF A HOUSING AUTHORITY

§ 392.061. EMINENT DOMAIN

(a) An authority may acquire an interest in real property, including a fee simple interest, by the exercise of the power of eminent domain after it adopts a resolution describing the real property and declaring the acquisition of the property necessary for the purposes of the authority under this chapter.

(b) An authority may exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, or by other applicable statutory provisions for the exercise of the power of eminent domain.

(c) An authority may exercise the power of eminent domain to acquire property already devoted to public use, but the authority may not acquire real property belonging to a municipality, a county, another political subdivision, or the state without the consent of the governmental entity.

LOCAL GOVERNMENT CODE
TITLE 12. PLANNING AND DEVELOPMENT
SUBTITLE C1. ADDITIONAL PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE
THAN ONE TYPE OF LOCAL GOVERNMENT
CHAPTER 507. SPACEPORT DEVELOPMENT CORPORATIONS
SUBCHAPTER C. POWERS AND DUTIES

§ 507.103. EMINENT DOMAIN

(a) A spaceport development corporation may exercise the power of eminent domain to acquire property for a spaceport, including the power to:

(1) acquire fee title in land condemned;

(2) relocate or modify a railroad, utility line, pipeline, or other facility that may interfere with a spaceport; or

(3) impose a reasonable restriction on using the surface of the property for mineral development if the corporation does not own the mineral rights.

(b) Before exercising the power of eminent domain under this chapter, a spaceport development corporation must obtain a resolution approving the proposed condemnation from the governing body of a county or municipality in which the property is located. For purposes of this chapter, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality.

(c) Chapter 21, Property Code, governs the exercise of the power of eminent domain by a spaceport development corporation.

LOCAL GOVERNMENT CODE
TITLE 13. WATER AND UTILITIES
SUBTITLE B. COUNTY WATER
CHAPTER 561. WATER CONTROL BY COUNTIES

§ 561.001. FLOOD CONTROL PROPERTY; CONDEMNATION

(a) A county may acquire public or private real property, including easements and rights-of-way, for the purpose of building canals, drains, levees, and other improvements to provide for flood control and water outlets. The county has the right of eminent domain to make an acquisition under this section.

(b) An appeal from a finding and assessment of damages by special commissioners in a condemnation case does not act to suspend the work for which the property is acquired.

(c) A county may, if the commissioners court of the county considers it necessary, obtain the fee title to the property that is the subject of the condemnation. However, a county may not obtain through condemnation the fee title to property lawfully used or occupied by a public utility, railroad, canal, levee, or any other person devoting its property to a public use. This prohibition does not prevent the county from condemning an easement or a right-of-way in favor of the county.

(d) If the commissioners court considers it necessary to condemn an easement on the property of a person that also has the power of eminent domain, the expense of acquisition, construction, and maintenance of the flood control or drainage project is the obligation of the county, flood control district, or drainage district, as the case may be.

LOCAL GOVERNMENT CODE
TITLE 13. WATER AND UTILITIES
SUBTITLE B. COUNTY WATER
CHAPTER 562. COUNTY WATER SUPPLY
SUBCHAPTER B. WATER SUPPLY AND SEWAGE

§ 562.016. COUNTY WATER AND SEWER SYSTEM

- (a) A county may acquire, own, finance, operate, or contract for the operation of, a water or sewer utility system to serve an unincorporated area of the county in the same manner and under the same regulations as a municipality under Chapter 552. The county must comply with all provisions of Chapter 13, Water Code, that apply to a municipality. However, a county with a population of two million or more and any adjoining county may, with the municipality's approval, serve an area within a municipality.
- (b) To finance the water or sewer utility system, a county may issue bonds payable solely from the revenue generated by the water or sewer utility system. A bond issued under this section is not a debt of the county but is only a charge on the revenues pledged and is not considered in determining the ability of the county to issue bonds for any other purpose authorized by law. This subsection does not authorize the issuance of general obligation bonds payable from ad valorem taxes to finance a water or sewer utility system. However, a county with a population of two million or more and any adjoining county may issue general obligation bonds with the approval of qualified voters.
- (c) A county may acquire any interest in property necessary to operate a system authorized by this section through any means available to the county, including eminent domain. A county may not use eminent domain under this subsection to acquire property in a municipality. Provided, however, a county with a population of two million or more and any adjoining county may, with the municipality's approval, use the power of eminent domain under this subsection to acquire property within a municipality.

LOCAL GOVERNMENT CODE
TITLE 13. WATER AND UTILITIES
SUBTITLE C. WATER PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL
GOVERNMENT
CHAPTER 571. SEAWALLS AND LEVEES IN COASTAL MUNICIPALITIES AND COUNTIES
SUBCHAPTER A. AUTHORITY OF COUNTY OR MUNICIPALITY BORDERING GULF

§ 571.004. ACQUISITION OF PROPERTY; EMINENT DOMAIN

- (a) The county or municipality may acquire property that is necessary for the establishment, construction, and maintenance of a seawall, breakwater, levee, floodway, or drainway.
- (b) The county or municipality may exercise the right of eminent domain to condemn an interest in real property for the purposes described by Subsection (a). The county or municipality must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code.
- (c) Before exercising the power of eminent domain under this section the commissioners court or municipal authority, by order, ordinance, or resolution entered in its minutes, shall define and describe the real property to be acquired and shall determine whether an easement or fee simple interest in the real property is to be taken.

LOCAL GOVERNMENT CODE
TITLE 13. WATER AND UTILITIES
SUBTITLE C. WATER PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL
GOVERNMENT
CHAPTER 572. PUBLIC UTILITY AGENCIES FOR PROVISION OF WATER OR SEWER SERVICE
SUBCHAPTER B. COOPERATION BY PUBLIC AND PRIVATE ENTITIES

§ 572.012. GENERAL RIGHTS, POWERS, AND DUTIES OF PUBLIC ENTITIES

(a) Each participating public entity may:

(1) use the entity's money to plan, acquire, construct, own, operate, and maintain its interest in a facility;

(2) share in the facility;

(3) issue bonds and other securities to raise money for a purpose described by Subdivision (1) in the same manner and to the same extent and subject to the same conditions as would be applicable if the public entity had sole ownership of the facility;

(4) acquire, for the use and benefit of each participating public entity, land, easements, and property for a facility by purchase or by exercising the power of eminent domain; and

(5) transfer or otherwise convey the land, property, or property interest or otherwise have the land, property, or property interest become vested in other participating public entities to the extent and in the manner agreed between the entities.

(b) In relation to a participating public entity's undivided interest in a facility, the entity has each right, privilege, exemption, power, duty, and liability the entity would have if the entity had sole ownership.

§ 572.013. USE OF EMINENT DOMAIN

(a) A participating public entity has the power of eminent domain to be exercised as provided by this section.

(b) The use of eminent domain authority by a participating public entity is governed by the law relating to an eminent domain proceeding involving a municipality in this state.

(c) A participating public entity may acquire a fee title to the condemned real property, excluding mineral interests.

(d) A participating public entity may not use eminent domain authority to acquire an interest in a facility that belongs to another public entity or a private entity.

NATURAL RESOURCES CODE
TITLE 8. ACQUISITION OF RESOURCES
CHAPTER 183. CONSERVATION EASEMENTS
SUBCHAPTER B. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

§ 183.057. PROTECTED LAND; NOTICE OF TAKING

(a) A department or agency of this state, a county, a municipality, another political subdivision, or a public utility may not approve any program or project that requires the use or taking through eminent domain of private land encumbered by an agricultural conservation easement purchased under this subchapter unless the governmental entity or public utility acting through its governing body or officers determines that:

(1) there is no feasible and prudent alternative to the use or taking of the land; and

(2) the program or project includes all reasonable planning to minimize harm to the land resulting from the use or taking.

(b) A determination required by Subsection (a) may be made only at a properly noticed public hearing.

(c) The governing body or officers of the governmental entity or public utility may consider clearly enunciated local preferences, and the provisions of this subchapter do not constitute a mandatory prohibition against the use of the area if the determinations required by Subsection (a) are made.

(d) If, after making the determination required by Subsection (a), a department or agency of this state, a county, a municipality, another political subdivision, or a public utility acquires by eminent domain a fee simple interest in land encumbered by an agricultural conservation easement purchased under this

subchapter:

- (1) the easement on the condemned property terminates; and
 - (2) the entity exercising the power of eminent domain shall:
 - (A) pay for an appraisal of the fair market value, as that term is defined by Section 183.056, of the property subject to condemnation;
 - (B) pay to the qualified easement holder an amount equal to the amount paid by the holder for the portion of the easement affecting the property to be condemned;
 - (C) pay to the landowner an amount equal to the fair market value of the condemned property less the amount paid to the qualified easement holder under Paragraph (B); and
 - (D) pay to the landowner and the qualified easement holder any additional damages to their interests in the remaining property, as determined by the special commissioners under Section 21.042, Property Code.
- (e) If, after making the determination required by Subsection (a), a department or agency of this state, a county, a municipality, another political subdivision, or a public utility acquires by eminent domain an interest other than a fee simple interest in land encumbered by an agricultural conservation easement purchased under this subchapter:
- (1) the entity exercising the power of eminent domain shall pay for an appraisal of the fair market value, as that term is defined by Section 183.056, of the property subject to condemnation; and
 - (2) the special commissioners shall consider the fair market value as the value of the property for purposes of assessing damages under Section 21.042, Property Code.
- (f) The qualified easement holder shall pay to the fund any amounts received under Subsections (d) and (e), not to exceed the amount paid by the fund for the purchase of the easement. municipal utility district.
- (b) The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:
- (1) a road project authorized by Section 3872.104; or
 - (2) a recreational facility as defined by Section 49.462, Water Code.

NATURAL RESOURCES CODE
TITLE 12. WETLANDS
CHAPTER 221. WETLAND MITIGATION
SUBCHAPTER A. GENERAL PROVISIONS
SUBCHAPTER B. WETLAND MITIGATION BANKING AND CONTRACTS

§ 221.021. ACTIONS TO ESTABLISH OR MAINTAIN MITIGATION BANK

(a) With the approval of the General Land Office, a state agency or eligible political subdivision may take any necessary and reasonable action to comply with a federal requirement to establish or maintain a mitigation bank. An action under this section may include:

- (1) authorizing or making a continuing study of wetland areas and wetland mitigation programs;
- (2) consistent with federal requirements, engaging in a wetland mitigation program and adopting and enforcing permanent land use and control measures on land the agency or subdivision owns in a mitigation bank;

- (3) consulting with, providing information to, and entering into an agreement with a federal agency to identify and publish information about wetland areas;
 - (4) cooperating with a federal or state agency in connection with a study or investigation regarding the adequacy of a local measure with respect to a federal or state wetland program;
 - (5) improving the long-range management or use of wetland or a wetland mitigation bank;
 - (6) purchasing, leasing, condemning, or otherwise acquiring property inside or outside the eligible political subdivision that is necessary for a wetland mitigation bank or buffer zone and, as necessary, improving the land or other property as a wetland mitigation bank, including any adjacent buffer zone, to comply with a federal requirement;
 - (7) requesting or receiving aid from a federal or state agency or an eligible political subdivision;
 - (8) purchasing, selling, or contracting to purchase or sell a mitigation credit in a mitigation bank;
 - (9) incurring a liability or borrowing money on terms approved by the governing body of the subdivision;
 - (10) acquiring, holding, using, selling, leasing, or disposing of real or personal property, including a license, patent, right, or interest, that is necessary, convenient, or useful for the full exercise of a power under this chapter;
 - (11) contracting with any operator to use or operate any part of a mitigation bank; and
 - (12) procuring any type of insurance and paying an insurance premium in an amount the governing body of the eligible political subdivision considers necessary or advisable.
- (b) The power of eminent domain granted by this section does not enable a state agency or eligible political subdivision to acquire by condemnation an interest in land that is owned or used by a public utility. In this subsection, "public utility" has the meaning assigned by the Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes).

PROPERTY CODE
TITLE 4. ACTIONS AND REMEDIES
CHAPTER 21. EMINENT DOMAIN
SUBCHAPTER A. JURISDICTION

Sec. 21.001. CONCURRENT JURISDICTION. District courts and county courts at law have concurrent jurisdiction in eminent domain cases. A county court has no jurisdiction in eminent domain cases.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.002. TRANSFER OF CASES. If an eminent domain case is pending in a county court at law and the court determines that the case involves an issue of title or any other matter that cannot be fully adjudicated in that court, the judge shall transfer the case to a district court.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.003. DISTRICT COURT AUTHORITY. A district court may determine all issues, including the authority to condemn property and the assessment of damages, in any suit:

(1) in which this state, a political subdivision of this state, a person, an association of persons, or a corporation is a party; and

(2) that involves a claim for property or for damages to property occupied by the party under the party's eminent domain authority or for an injunction to prevent the party from entering or using the property under the party's eminent domain authority.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

SUBCHAPTER B. PROCEDURE

Sec. 21.011. STANDARD PROCEDURE. Exercise of the eminent domain authority in all cases is governed by Sections 21.012 through 21.016 of this code.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED; INITIAL OFFER.

(a) An entity with eminent domain authority that wants to acquire real property for a public use shall, by certified mail, return receipt requested, disclose to the property owner at the time an offer to purchase or lease the property is made any and all appraisal reports produced or acquired by the entity relating specifically to the owner's property and prepared in the 10 years preceding the date of the offer.

(b) A property owner shall disclose to the entity seeking to acquire the property any and all current and existing appraisal reports produced or acquired by the property owner relating specifically to the owner's property and used in determining the owner's opinion of value. Such disclosure shall take place not later than the earlier of:

(1) the 10th day after the date of receipt of an appraisal report; or

(2) the third business day before the date of a special commissioner's hearing if an appraisal report is to be used at the hearing.

(c) An entity seeking to acquire property that the entity is authorized to obtain through the use of eminent domain may not include a confidentiality provision in an offer or agreement to acquire the property. The entity shall inform the owner of the property that the owner has the right to:

(1) discuss any offer or agreement regarding the entity's acquisition of the property with others; or

(2) keep the offer or agreement confidential, unless the offer or agreement is subject to Chapter 552, Government Code.

(d) A subsequent bona fide purchaser for value from the acquiring entity may conclusively presume that the requirement of this section has been met. This section does not apply to acquisitions of real property for which an entity does not have eminent domain authority.

Added by Acts 1995, 74th Leg., ch. 566, Sec. 1, eff. Aug. 28, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 7, eff. September 1, 2011.

Sec. 21.0112. PROVISION OF LANDOWNER'S BILL OF RIGHTS STATEMENT REQUIRED.

(a) Not later than the seventh day before the date a governmental or private entity with eminent domain authority makes a final offer to a property owner to acquire real property, the entity must send by first-class mail or otherwise provide a landowner's bill of rights statement provided by Section 402.031, Government Code, to the last known address of the person in whose name the property is listed on the most recent tax roll of any appropriate taxing unit authorized by law to levy property taxes against the property. In addition to the other requirements of this subsection, an entity with eminent domain authority shall provide a copy of the landowner's bill of rights statement to a landowner before or at the same time as the entity first represents in any manner to the landowner that the entity possesses eminent domain authority.

(b) The statement must be:

(1) printed in an easily readable font and type size; and

(2) if the entity is a governmental entity, made available on the Internet website of the entity if technologically feasible.

Added by Acts 2007, 80th Leg., R.S., Ch. 1201, Sec. 3, eff. February 1, 2008.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 1145, Sec. 1, eff. January 15, 2010.

Sec. 21.0113. BONA FIDE OFFER REQUIRED.

(a) An entity with eminent domain authority that wants to acquire real property for a public use must make a bona fide offer to acquire the property from the property owner voluntarily.

(b) An entity with eminent domain authority has made a bona fide offer if:

(1) an initial offer is made in writing to a property owner;

(2) a final offer is made in writing to the property owner;

(3) the final offer is made on or after the 30th day after the date on which the entity makes a written initial offer to the property owner;

(4) before making a final offer, the entity obtains a written appraisal from a certified appraiser of the value of the property being acquired and the damages, if any, to any of the property owner's remaining property;

(5) the final offer is equal to or greater than the amount of the written appraisal obtained by the entity;

(6) the following items are included with the final offer or have been previously provided to the owner by the entity:

(A) a copy of the written appraisal;

(B) a copy of the deed, easement, or other instrument conveying the property sought to be acquired; and

(C) the landowner's bill of rights statement prescribed by Section 21.0112; and

(7) the entity provides the property owner with at least 14 days to respond to the final offer and the property owner does not agree to the terms of the final offer within that period.

Added by Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 8, eff. September 1, 2011.

Sec. 21.012. CONDEMNATION PETITION.

(a) If an entity with eminent domain authority wants to acquire real property for public use but is unable to agree with the owner of the property on the amount of damages, the entity may begin a condemnation proceeding by filing a petition in the proper court.

(b) The petition must:

(1) describe the property to be condemned;

(2) state with specificity the public use for which the entity intends to acquire the property;

(3) state the name of the owner of the property if the owner is known;

(4) state that the entity and the property owner are unable to agree on the damages;

(5) if applicable, state that the entity provided the property owner with the landowner's bill of rights statement in accordance with Section 21.0112; and

(6) state that the entity made a bona fide offer to acquire the property from the property owner voluntarily as provided by Section 21.0113.

(c) An entity that files a petition under this section must provide a copy of the petition to the property owner by certified mail, return receipt requested.

Acts 1983, 68th Leg., p. 3498, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 1201, Sec. 4, eff. February 1, 2008. Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 9, eff. September 1, 2011.

Sec. 21.0121. CONDEMNATION TO ACQUIRE WATER RIGHTS.

(a) In addition to the contents prescribed by Section 21.012(b), a condemnation petition filed by a political subdivision of this state for the purpose of acquiring rights to groundwater or surface water must state that the facts to be proven are that the political subdivision has:

- (1) prepared a drought contingency plan;
- (2) developed and implemented a water conservation plan that will result in the highest practicable levels of water conservation and efficiency achievable in the political subdivision's jurisdiction;
- (3) made a bona fide good faith effort to obtain practicable alternative water supplies to the water rights the political subdivision proposes to condemn;
- (4) made a bona fide good faith effort to acquire the rights to the water the political subdivision proposes to condemn by voluntary purchase or lease; and
- (5) made a showing that the political subdivision needs the water rights to provide for the domestic needs of the political subdivision within the next 10-year period.

(b) A court shall deny the right to condemn unless the political subdivision proves to the court that the political subdivision has met the requirements of Subsection (a).

Added by Acts 2003, 78th Leg., ch. 1032, Sec. 1, eff. Sept. 1, 2003.

Sec. 21.013. VENUE; FEES AND PROCESSING FOR SUIT FILED IN DISTRICT COURT.

(a) The venue of a condemnation proceeding is the county in which the owner of the property being condemned resides if the owner resides in a county in which part of the property is located. Otherwise, the venue of a condemnation proceeding is any county in which at least part of the property is located.

(b) Except where otherwise provided by law, a party initiating a condemnation proceeding in a county in which there is one or more county courts at law with jurisdiction shall file the petition with any clerk authorized to handle such filings for that court or courts.

(c) A party initiating a condemnation proceeding in a county in which there is not a county court at law must file the condemnation petition with the district clerk. The filing fee shall be due at the time of filing in accordance with Section 51.317, Government Code.

(d) District and county clerks shall assign an equal number of eminent domain cases in rotation to each court with jurisdiction that the clerk serves.

Acts 1983, 68th Leg., p. 3499, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1993, 73rd Leg., ch. 760, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 756, Sec. 1, eff. June 18, 1999.

Sec. 21.014. SPECIAL COMMISSIONERS.

(a) The judge of a court in which a condemnation petition is filed or to which an eminent domain case is assigned shall appoint three disinterested real property owners who reside in the county as special commissioners to assess the damages of the owner of the property being condemned. The judge appointing the special commissioners shall give preference to persons agreed on by the parties. The judge shall provide each party a reasonable period to strike one of the three commissioners appointed by the judge. If a person fails to serve as a commissioner or is struck by a party to the suit, the judge shall appoint a replacement.

(b) The special commissioners shall swear to assess damages fairly, impartially, and according to the law.

(c) Special commissioners may compel the attendance of witnesses and the production of testimony, administer oaths, and punish for contempt in the same manner as a county judge.

Acts 1983, 68th Leg., p. 3499, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 10, eff. September 1, 2011.

Sec. 21.015. HEARING.

(a) The special commissioners in an eminent domain proceeding shall promptly schedule a hearing for the parties at the earliest practical time but may not schedule a hearing to assess damages before the 20th day after the date the special commissioners were appointed. The special commissioners shall schedule a hearing for the parties at a place that is as near as practical to the property being condemned or at the county seat of the county in which the proceeding is being held.

(b) After notice of the hearing has been served, the special commissioners shall hear the parties at the scheduled time and place or at any other time or place to which they may adjourn the hearing.

Acts 1983, 68th Leg., p. 3500, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 11, eff. September 1, 2011.

Sec. 21.016. NOTICE.

(a) Each party in an eminent domain proceeding is entitled to written notice issued by the special commissioners informing the party of the time and place of the hearing.

(b) Notice of the hearing must be served on a party not later than the 20th day before the day set for the hearing. A person competent to testify may serve the notice.

(c) A person who serves a notice shall return the original notice to the special commissioners on or before the day set for hearing. The person shall write a return of service on the notice that states how and when it was served.

(d) Notice may be served:

(1) by delivering a copy of the notice to the party or to the party's agent or attorney;

(2) if the property being condemned belongs to a deceased's estate or to a minor or other legally disabled person and the person or estate has a legal representative, by delivering a copy of the notice to the legal representative; or

(3) if the property being condemned belongs to a nonresident of this state and there has been no personal service on the owner, if the identity or the residence of the property owner is unknown,

or if the property owner avoids service of notice by hiding, by publication in the same manner as service of citation by publication in other civil cases in the district courts or county courts at law.

Acts 1983, 68th Leg., p. 3500, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 12, eff. September 1, 2011.

Sec. 21.017. ALTERNATIVE PLEADINGS.

(a) This state, a political subdivision of this state, a person, an association of persons, or a corporation that is a party to a suit covered by Section 21.003 of this code by petition, cross-bill, or plea of intervention may assert a claim to the property or, alternatively, seek to condemn the property.

(b) A plea under this section is not an admission of an adverse party's title to the property in controversy.

Acts 1983, 68th Leg., p. 3501, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.018. APPEAL FROM COMMISSIONERS' FINDINGS.

(a) A party to a condemnation proceeding may object to the findings of the special commissioners by filing a written statement of the objections and their grounds with the court that has jurisdiction of the proceeding. The statement must be filed on or before the first Monday following the 20th day after the day the commissioners file their findings with the court.

(b) If a party files an objection to the findings of the special commissioners, the court shall cite the adverse party and try the case in the same manner as other civil causes.

Acts 1983, 68th Leg., p. 3501 ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.019. DISMISSAL OF CONDEMNATION PROCEEDINGS.

(a) A party that files a condemnation petition may move to dismiss the proceedings, and the court shall conduct a hearing on the motion. However, after the special commissioners have made an award, in an effort to obtain a lower award a condemnor may not dismiss the condemnation proceedings merely to institute new proceedings that involve substantially the same condemnation against the same property owner.

(b) A court that hears and grants a motion to dismiss a condemnation proceeding made by a condemnor under Subsection (a) shall make an allowance to the property owner for reasonable and necessary fees for attorneys, appraisers, and photographers and for the other expenses incurred by the property owner to the date of the hearing.

(c) A court that hears and grants a motion to dismiss a condemnation proceeding made by a property owner seeking a judicial denial of the right to condemn or that otherwise renders a judgment denying the right to condemn may make an allowance to the property owner for reasonable and necessary fees for attorneys, appraisers, and photographers and for the other expenses incurred by the property owner to the date of the hearing or judgment.

Acts 1983, 68th Leg., p. 3501, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1987, 70th Leg., ch. 483, Sec. 1, eff. Aug. 31, 1987.

Sec. 21.0195. DISMISSAL OF CERTAIN CONDEMNATION PROCEEDINGS; TEXAS DEPARTMENT OF TRANSPORTATION.

(a) This section applies only to the dismissal of a condemnation proceeding that involves the Texas Department of Transportation.

(b) The department may move to dismiss a proceeding it files, and the court shall conduct a hearing on the motion. The court may grant the motion only if the court determines that the property owner's interest will not be materially affected by the dismissal. The department may not dismiss the condemnation proceedings merely to institute new proceedings that involve substantially the same condemnation against the same property owner solely to obtain a lower condemnation award.

(c) If a court dismisses a condemnation proceeding on the motion of the department or as a result of the failure of the department to bring the proceeding properly, the court shall make an allowance to the property owner for the value of the department's use of the property while in possession of the property, any damage that the condemnation has caused to the property owner, and any expenses the property owner has incurred in connection with the condemnation, including reasonable and necessary fees for attorneys.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.46(a), eff. Sept. 1, 1997.

Sec. 21.020. REINSTATEMENT OF CONDEMNATION PROCEEDINGS. If a condemnor moves to dismiss a condemnation proceeding and subsequently files a petition to condemn substantially the same property interest from the same property owner, the court may not appoint new special commissioners but shall enter the award of the special commissioners in the first proceeding as the award in the second. The court shall award the property owner triple the amount of the expenses that were allowed the property owner prior to the dismissal of the first proceeding.

Acts 1983, 68th Leg., p. 3502, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.021. POSSESSION PENDING LITIGATION.

(a) After the special commissioners have made an award in a condemnation proceeding, except as provided by Subsection (c) of this section, the condemnor may take possession of the condemned property pending the results of further litigation if the condemnor:

(1) pays to the property owner the amount of damages and costs awarded by the special commissioners or deposits that amount of money with the court subject to the order of the property owner;

(2) deposits with the court either the amount of money awarded by the special commissioners as damages or a surety bond in the same amount issued by a surety company qualified to do business in this state, conditioned to secure the payment of an award of damages by the court in excess of the award of the special commissioners; and

(3) executes a bond that has two or more good and solvent sureties approved by the judge of the court in which the proceeding is pending and conditioned to secure the payment of additional costs that may be awarded to the property owner by the trial court or on appeal.

(b) A court shall hold money or a bond deposited under Subdivision (1) or (2) of Subsection (a) to secure the payment of the damages that have been or that may be awarded against the condemnor.

(c) This state, a county, or a municipal corporation or an irrigation, water improvement, or water power control district created under legal authority is not required to deposit a bond or the amount equal to the award of damages under Subdivisions (2) and (3) of Subsection (a).

(d) If a condemnor deposits money with a court under Subdivision (2) of Subsection (a), the condemnor may instruct the court to deposit or invest the money in any account with or certificate or security issued by a state or national bank in this state. The court shall pay the interest that accrues from the deposit or investment to the condemnor.

Acts 1983, 68th Leg., p. 3502, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 18, Sec. 1(b), eff. Oct. 2, 1984.

Sec. 21.0211. PAYMENT OF AD VALOREM TAXES.

(a) A court may not authorize withdrawal of any money deposited under Section 21.021 unless the petitioner for the money files with the court:

(1) a tax certificate issued under Section 31.08, Tax Code, by the tax collector for each taxing unit that imposes ad valorem taxes on the condemned property showing that there are no delinquent taxes, penalties, interest, or costs owing on the condemned property or on any larger tract of which the condemned property forms a part; and

(2) in the case of a whole taking that occurs after the date the ad valorem tax bill for taxes imposed by a taxing unit on the property is sent, a tax receipt issued under Section 31.075, Tax Code, by the tax collector of the taxing unit that imposes ad valorem taxes showing that the taxes on the condemned property for the current tax year, prorated under Section 26.11, Tax Code, have been paid.

(b) For purposes of Subsection (a)(2), a "case of a whole taking" means a case in which the location, size, and boundaries of the property assessed for ad valorem taxes are identical to that of the condemned property.

Added by Acts 2005, 79th Leg., Ch. 1126, Sec. 27, eff. September 1, 2005.

Sec. 21.022. AUTHORITY OF COURTS. Laws that formerly governed the performance of functions by county clerks and judges in eminent domain proceedings are applicable to the clerks and judges of district courts and county courts at law.

Acts 1983, 68th Leg., p. 3503, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF ACQUISITION. An entity with eminent domain authority shall disclose in writing to the property owner, at the time of acquisition of the property through eminent domain, that:

(1) the owner or the owner's heirs, successors, or assigns may be entitled to:

(A) repurchase the property under Subchapter E; or

(B) request from the entity certain information relating to the use of the property and any actual progress made toward that use; and

(2) the repurchase price is the price paid to the owner by the entity at the time the entity acquired the property through eminent domain.

Added by Acts 2003, 78th Leg., ch. 1307, Sec. 1, eff. Jan. 1, 2004.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 13, eff. September 1, 2011.

Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES.

(a) Notwithstanding any other law, an entity that is not subject to Chapter 552, Government Code, and is authorized by law to acquire private property through the use of eminent domain is required to produce information as provided by this section if the information is:

(1) requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding; and

(2) related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court with eminent domain jurisdiction in the county in which the entity has its principal place of business.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines that the refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 14, eff. September 1, 2011.

SUBCHAPTER C. DAMAGES AND COSTS

Sec. 21.041. EVIDENCE. As the basis for assessing actual damages to a property owner from a condemnation, the special commissioners shall admit evidence on:

(1) the value of the property being condemned;

(2) the injury to the property owner;

(3) the benefit to the property owner's remaining property; and

(4) the use of the property for the purpose of the condemnation.

Acts 1983, 68th Leg., p. 3504, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.042. ASSESSMENT OF DAMAGES.

(a) The special commissioners shall assess damages in a condemnation proceeding according to the evidence presented at the hearing.

(b) If an entire tract or parcel of real property is condemned, the damage to the property owner is the local market value of the property at the time of the special commissioners' hearing.

(c) If a portion of a tract or parcel of real property is condemned, the special commissioners shall determine the damage to the property owner after estimating the extent of the injury and benefit to the property owner, including the effect of the condemnation on the value of the property owner's remaining property.

(d) In estimating injury or benefit under Subsection (c), the special commissioners shall consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's

ownership, use, or enjoyment of the particular parcel of real property, including a material impairment of direct access on or off the remaining property that affects the market value of the remaining property, but they may not consider an injury or benefit that the property owner experiences in common with the general community, including circuity of travel and diversion of traffic. In this subsection, "direct access" means ingress and egress on or off a public road, street, or highway at a location where the remaining property adjoins that road, street, or highway.

(e) If a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system, or for the use, construction, development, operation, or maintenance of an improvement or project by a metropolitan rapid transit authority created before January 1, 1980, with a principal municipality having a population of less than 1.9 million and established under Chapter 451, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a claim for damages to the remaining property. In awarding compensation or assessing the damages, the special commissioners shall consider any special and direct benefits that arise from the highway improvement or the transit authority improvement or project that are peculiar to the property owner and that relate to the property owner's ownership, use, or enjoyment of the particular parcel of remaining real property.

(f) In awarding compensation or assessing damages for a condemnation by an institution of higher education, as defined by Section 61.003, Education Code, the special commissioners may not include in the compensation or damages any amount that compensates for, or is based on the present value of, an exemption from ad valorem taxation applicable to the property before its condemnation.

(g) Notwithstanding Subsection (d), if a portion of a tract or parcel of real property that, for the then current tax year was appraised for ad valorem tax purposes under a law enacted under Section 1-d or 1-d-1, Article VIII, Texas Constitution, and is outside the municipal limits or the extraterritorial jurisdiction of a municipality with a population of 5,000 or more is condemned for state highway purposes, the special commissioners shall consider the loss of reasonable access to or from the remaining property in determining the damage to the property owner.

Acts 1983, 68th Leg., p. 3504, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 29, Sec. 1, eff. Oct. 2, 1984; Acts 1989, 71st Leg., ch. 734, Sec. 5, eff. June 15, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.244, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 117, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1266, Sec. 1.15, eff. June 20, 2003.

Amended by: Acts 2005, 79th Leg., Ch. 281, Sec. 2.94, eff. June 14, 2005. Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 15, eff. September 1, 2011.

Sec. 21.0421. ASSESSMENT OF DAMAGES: GROUNDWATER RIGHTS.

(a) In a condemnation proceeding initiated by a political subdivision under this chapter, the special commissioners or court shall admit evidence relating to the market value of groundwater rights as property apart from the land in addition to the local market value of the real property if:

(1) the political subdivision proposes to condemn the fee title of real property; and

(2) the special commissioners or court finds, based on evidence submitted at the hearing, that the real property may be used by the political subdivision to develop or use the rights to groundwater for a public purpose.

(b) The evidence submitted under Subsection (a) on the market value of the groundwater rights as property apart from the land shall be based on generally accepted appraisal methods and techniques, including the methods of appraisal under Subchapter A, Chapter 23, Tax Code.

(c) If the special commissioners or court finds that the real property may be used by the political subdivision to develop or use the rights to groundwater for a public purpose, the special commissioners or court may assess damages to the property owner based on:

(1) the local market value of the real property, excluding the value of the groundwater in place, at the time of the hearing; and

(2) the market value of the groundwater rights as property apart from the land at the time of the hearing.

(d) In assessing damages based on the market value of groundwater rights under Subsection (c)(2), the special commissioners or court shall consider:

(1) the amount of groundwater the political subdivision can reasonably be expected to produce from the property on an annual basis;

(2) the number of years the political subdivision can reasonably be expected to produce groundwater from the property;

(3) the quality of the groundwater;

(4) the location of the real property in relation to the political subdivision for conveyance purposes;

(5) any potential environmental impact of producing groundwater from the real property;

(6) whether or not the real property is located within the boundaries of a political subdivision that can regulate the production of groundwater from the real property;

(7) the cost of alternative water supplies to the political subdivision; and

(8) any other reasonable factor that affects the market value of a groundwater right.

(e) This section does not:

(1) authorize groundwater rights appraised separately from the real property under this section to be appraised separately from real property for property tax appraisal purposes; or

(2) subject real property condemned for the purpose described by Subsection (a) to an additional tax as provided by Section 23.46 or 23.55, Tax Code.

Added by Acts 2003, 78th Leg., ch. 1032, Sec. 2, eff. Sept. 1, 2003.

Sec. 21.043. DISPLACEMENT FROM DWELLING OR PLACE OF BUSINESS.

(a) A property owner who is permanently physically displaced from the property owner's dwelling or place of business and who is not entitled to reimbursement for moving expenses under another law may recover, in addition to the property owner's other damages, the reasonable expenses of moving the property owner's personal property from the dwelling or place of business.

(b) A recovery under this section may not exceed the market value of the property being moved. The maximum distance of movement to be considered is 50 miles.

Acts 1983, 68th Leg., p. 3504, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.044. DAMAGES FROM TEMPORARY POSSESSION.

(a) If a court finally determines that a condemnor who has taken possession of property pending litigation did not have the right to condemn the property, the court may award to the property owner the damages that resulted from the temporary possession.

(b) The court may order the payment of damages awarded under this section from the award or other money deposited with the court. However, if the award paid to or appropriated by the property owner exceeds the court's final determination of the value of the property, the court shall order the property owner to return the excess to the condemnor.

Acts 1983, 68th Leg., p. 3505, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.045. TITLE ACQUIRED. Except where otherwise expressly provided by law, the interest acquired by a condemnor under this chapter does not include the fee simple title to real property, either public or private. An interest acquired by a condemnor is not lost by the forfeiture or expiration of the condemnor's charter and is subject to an extension of the charter or the grant of a new charter without a new condemnation.

Acts 1983, 68th Leg., p. 3505, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.046. RELOCATION ASSISTANCE PROGRAM.

(a) A department, agency, instrumentality, or political subdivision of this state shall provide a relocation advisory service for an individual, a family, a business concern, a farming or ranching operation, or a nonprofit organization that is compatible with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C.A. 4601, et seq.

(b) This state or a political subdivision of this state shall, as a cost of acquiring real property, pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with the acquisition.

(c) A department, agency, instrumentality, or political subdivision of this state that initiates a program under Subsection (b) shall adopt rules relating to the administration of the program.

(d) Neither this state nor a political subdivision of this state may authorize expenditures under Subsection (b) that exceed payments authorized under the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C.A. 4601, et seq.

(e) If a person moves or discontinues the person's business, moves personal property, or moves from the person's dwelling as a direct result of code enforcement, rehabilitation, or a demolition program, the person is considered to be displaced because of the acquisition of real property.

Acts 1983, 68th Leg., p. 3505, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 16, eff. September 1, 2011.

Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

(a) Special commissioners may adjudge the costs of an eminent domain proceeding against any party. If the commissioners award greater damages than the condemnor offered to pay before the proceedings began or if the decision of the commissioners is appealed and a court awards greater damages than the commissioners awarded, the condemnor shall pay all costs. If the commissioners' award or the court's determination of the damages is less than or equal to the amount the condemnor offered before proceedings began, the property owner shall pay the costs.

(b) A condemnor shall pay the initial cost of serving a property owner with notice of a condemnation proceeding. If the property owner is ordered to pay the costs of the proceeding, the condemnor may recover the expense of notice from the property owner as part of the costs.

(c) A court that has jurisdiction of an eminent domain proceeding may tax \$10 or more as a reasonable fee for each special commissioner as part of the court costs of the proceeding.

(d) If a court hearing a suit under this chapter determines that a condemnor did not make a bona fide offer to acquire the property from the property owner voluntarily as required by Section 21.0113, the court shall abate the suit, order the condemnor to make a bona fide offer, and order the condemnor to pay:

(1) all costs as provided by Subsection (a); and

(2) any reasonable attorney's fees and other professional fees incurred by the property owner that are directly related to the violation.

Acts 1983, 68th Leg., p. 3506, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 17, eff. September 1, 2011. Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 18, eff. September 1, 2011.

Sec. 21.048. STATEMENT OF DAMAGES AND COSTS. After the special commissioners in an eminent domain proceeding have assessed the damages, they shall:

(1) make a written statement of their decision stating the damages, date it, sign it, and file it and all other papers connected with the proceeding with the court on the day the decision is made or on the next working day after the day the decision is made; and

(2) make and sign a written statement of the accrued costs of the proceeding, naming the party against whom the costs are adjudged, and file the statement with the court.

Acts 1983, 68th Leg., p. 3507, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 18, Sec. 1(c), eff. Oct. 2, 1984.

Sec. 21.049. NOTICE OF DECISION OF SPECIAL COMMISSIONERS. The judge of a court hearing a proceeding under this chapter shall inform the clerk of the court as to a decision by the special commissioners on the day the decision is filed or on the next working day after the day the decision is filed. Not later than the next working day after the day the decision is filed, the clerk shall send notice of the decision by certified or registered United States mail, return receipt requested, to the parties in the proceeding, or to their attorneys of record, at their addresses of record.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 18, Sec. 1(d), eff. Oct. 2, 1984.

SUBCHAPTER D. JUDGMENT

Sec. 21.061. JUDGMENT ON COMMISSIONERS' FINDINGS. If no party in a condemnation proceeding files timely objections to the findings of the special commissioners, the judge of the court that has jurisdiction of the proceeding shall adopt the commissioners' findings as the judgment of the court, record the judgment in the minutes of the court, and issue the process necessary to enforce the judgment.

Acts 1983, 68th Leg., p. 3507, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.062. WRIT OF POSSESSION. If a condemnor in a condemnation proceeding has taken possession of property pending litigation and the court finally decides that the condemnor does not have the right to condemn the property, the court shall order the condemnor to surrender possession of the property and issue a writ of possession to the property owner.

Acts 1983, 68th Leg., p. 3507, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.063. APPEAL.

(a) The appeal of a judgment in a condemnation proceeding is as in other civil cases.

(b) A court hearing an appeal from the decision of a trial court in a condemnation proceeding may not suspend the judgment of the trial court pending the appeal.

Acts 1983, 68th Leg., p. 3507, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.064. INJUNCTIVE RELIEF.

(a) A court hearing a suit covered by Section 21.003 of this code may grant injunctive relief under the rules of equity.

(b) Instead of granting an injunction under this section, a court may require a condemnor to provide security adequate to compensate the property owner for damages that might result from the condemnation.

Acts 1983, 68th Leg., p. 3508, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 21.065. VESTED INTEREST. A judgment of a court under this chapter vests a right granted to a condemnor.

Acts 1983, 68th Leg., p. 3508, ch. 576, Sec. 1, eff. Jan. 1, 1984.

SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING ENTITY

Sec. 21.101. RIGHT OF REPURCHASE.

(a) A person from whom a real property interest is acquired by an entity through eminent domain for a public use, or that person's heirs, successors, or assigns, is entitled to repurchase the property as provided by this subchapter if:

(1) the public use for which the property was acquired through eminent domain is canceled before the property is used for that public use;

(2) no actual progress is made toward the public use for which the property was acquired between the date of acquisition and the 10th anniversary of that date; or

(3) the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

(b) In this section, "actual progress" means the completion of two or more of the following actions:

(1) the performance of a significant amount of labor to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(2) the provision of a significant amount of materials to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(3) the hiring of and performance of a significant amount of work by an architect, engineer, or surveyor to prepare a plan or plat that includes the property or other property acquired for the same public use project for which the property owner's property was acquired;

(4) application for state or federal funds to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(5) application for a state or federal permit to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(6) 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; or

(7) for a governmental entity, 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 Subdivisions (1)-(6) before the 10th anniversary of the date of acquisition of the property.

(c) A district court may determine all issues in any suit regarding the repurchase of a real property interest acquired through eminent domain by the former property owner or the owner's heirs, successors, or assigns.

Added by Acts 2003, 78th Leg., ch. 1307, Sec. 2, eff. Jan. 1, 2004.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 19, eff. September 1, 2011.

Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED. Not later than the 180th day after the date an entity that acquired a real property interest through eminent domain determines that the former property owner is entitled to repurchase the property under Section 21.101, the entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice containing:

(1) an identification, which is not required to be a legal description, of the property that was acquired;

(2) an identification of the public use for which the property had been acquired and a statement that:

(A) the public use was canceled before the property was used for the public use;

(B) no actual progress was made toward the public use; or

(C) the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition; and

(3) a description of the person's right under this subchapter to repurchase the property.

Added by Acts 2003, 78th Leg., ch. 1307, Sec. 2, eff. Jan. 1, 2004.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 19, eff. September 1, 2011.

Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED PROPERTY.

(a) On or after the 10th anniversary of the date on which real property was acquired by an entity through eminent domain, a property owner or the owner's heirs, successors, or assigns may request that the condemning entity make a determination and provide a statement and other relevant information regarding:

(1) whether the public use for which the property was acquired was canceled before the property was used for the public use;

(2) whether any actual progress was made toward the public use between the date of acquisition and the 10th anniversary of that date, including an itemized description of the progress made, if applicable; and

(3) whether the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

(b) A request under this section must contain sufficient detail to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) Not later than the 90th day following the date of receipt of the request for information, the entity shall send a written response by certified mail, return receipt requested, to the requestor.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 19, eff. September 1, 2011.

Sec. 21.1022. LIMITATIONS PERIOD FOR REPURCHASE RIGHT. Notwithstanding Section 21.103, the right to repurchase provided by this subchapter is extinguished on the first anniversary of the expiration of the period for an entity to provide notice under Section 21.102 if the entity:

(1) is required to provide notice under Section 21.102;

(2) makes a good faith effort to locate and provide notice to each person entitled to notice before the expiration of the deadline for providing notice under that section; and

(3) does not receive a response to any notice provided under that section in the period for response prescribed by Section 21.103.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 19, eff. September 1, 2011.

Sec. 21.103. RESALE OF PROPERTY; PRICE.

(a) Not later than the 180th day after the date of the postmark on a notice sent under Section 21.102 or a response to a request made under Section 21.1021 that indicates that the property owner, or the owner's heirs, successors, or assigns, is entitled to repurchase the property interest in accordance with Section 21.101, the property owner or the owner's heirs, successors, or assigns must notify the entity of the person's intent to repurchase the property interest under this subchapter.

(b) As soon as practicable after receipt of a notice of intent to repurchase under Subsection (a), the entity shall offer to sell the property interest to the person for the price paid to the owner by the entity at the time the entity acquired the property through eminent domain. The person's right to repurchase the property expires on the 90th day after the date on which the entity makes the offer.

Added by Acts 2003, 78th Leg., ch. 1307, Sec. 2, eff. Jan. 1, 2004.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 81, Sec. 19, eff. September 1, 2011.

TAX CODE
TITLE 3. LOCAL TAXATION
SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS
CHAPTER 311. TAX INCREMENT FINANCING ACT

§ 311.008. POWERS OF MUNICIPALITY OR COUNTY

(a) In this section, "educational facility" includes equipment, real property, and other facilities, including a public school building, that are used or intended to be used jointly by the municipality or county and an independent school district.

(b) A municipality or county may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means and sell real property, on the terms and conditions and in the manner it considers advisable, to implement project plans;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality or county to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes;

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities, but not including educational facilities; or

(C) in a reinvestment zone created on or before September 1, 1999, acquire, construct, or reconstruct educational facilities in the municipality.

(c) The powers authorized by Subsection (b)(2) prevail over any law or municipal charter to the contrary.

(d) A municipality or county may make available to the public on request financial information regarding the acquisition by the municipality or county of land in the zone when the municipality or county acquires the land.

(e) The implementation of a project plan to alleviate a condition described by Section 311.005(a)(1), (2), or (3) and to promote development or redevelopment of a reinvestment zone in accordance with this chapter serves a public purpose.

TRANSPORTATION CODE

TITLE 3. AVIATION

CHAPTER 22. COUNTY AND MUNICIPAL AIRPORTS

SUBCHAPTER B. ESTABLISHMENT, ACQUISITION, OPERATION, MAINTENANCE, AND DISPOSAL OF AIRPORTS AND AIR NAVIGATION FACILITIES

§ 22.011. GENERAL POWERS REGARDING AIRPORTS AND AIR NAVIGATION FACILITIES

(a) A local government may plan, establish, construct, improve, equip, maintain, operate, regulate, protect, and police an airport or air navigation facility in or outside:

(1) the territory of the local government; or

(2) the territory of this state.

(b) The power granted under Subsection (a) includes:

(1) constructing, installing, equipping, maintaining, and operating at an airport a building or other facility, including a building or other facility for:

(A) the landing and takeoff of aircraft;

(B) cargo, freight, and mail handling, storage, and processing;

(C) the servicing or retrofitting of aircraft, aerospace aircraft, and other equipment and vehicles related to air transportation or aerospace flight; and

(D) the comfort and accommodation of air travelers, including a facility commonly found and provided at an airport; and

(2) buying and selling goods as an incident to the operation of the local government's airport.

(c) A local government, by eminent domain or any other method, may acquire an interest in property, including an easement in an airport hazard or land outside the boundaries of an airport or airport site:

(1) for a purpose described by Subsection (a); and

(2) as necessary to permit the safe and efficient operation of the airport or to prevent, eliminate, or mark an airport hazard.

(d) A local government may acquire an existing airport or air navigation facility but may not acquire or take over an airport or air navigation facility owned or controlled by another local government or public agency of this state or another state without the consent of the other local government or the public agency.

TRANSPORTATION CODE
TITLE 5. RAILROADS
SUBTITLE I. SPECIAL DISTRICTS
CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS [EFFECTIVE APRIL 1, 2011]
SUBCHAPTER D. GENERAL POWERS AND DUTIES

§ 172.159. [Effective April 1, 2011] SUITS

(a) A district may:

(1) sue and be sued;

(2) institute and prosecute suits without giving security for costs; and

(3) appeal from a judgment without giving a supersedeas or cost bond.

(b) An action at law or in equity against the district must be brought in the county in which the principal office of the district is located, except that a suit in eminent domain must be brought in the county in which the land is located.

TRANSPORTATION CODE
TITLE 5. RAILROADS
SUBTITLE I. SPECIAL DISTRICTS
CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS
SUBCHAPTER D. GENERAL POWERS AND DUTIES

§ 173.160. SUITS

(a) A district may:

(1) sue and be sued;

(2) institute and prosecute suits without giving security for costs; and

(3) appeal from a judgment without giving a supersedeas or cost bond.

(b) An action at law or in equity against the district must be brought in the county in which a principal office of the district is located, except that a suit in eminent domain must be brought in the county in which the land is located.

TRANSPORTATION CODE
TITLE 5. RAILROADS
SUBTITLE I. SPECIAL DISTRICTS
CHAPTER 174. COMMUTER RAIL DISTRICTS
SUBCHAPTER D. GENERAL POWERS AND DUTIES

§ 174.159. SUITS

(a) A district may:

- (1) sue and be sued;
- (2) institute and prosecute suits without giving security for costs; and
- (3) appeal from a judgment without giving a supersedeas or cost bond.

b) An action at law or in equity against the district must be brought in the county in which a principal office of the district is located, except that a suit in eminent domain involving an interest in land must be brought in the county in which the land is located.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION
CHAPTER 203. MODERNIZATION OF STATE HIGHWAYS; CONTROLLED ACCESS HIGHWAYS
SUBCHAPTER D. ACQUISITION OF PROPERTY

§ 203.065. ACQUISITION OF FREEWAY BY COUNTY COMMISSIONERS COURT.

(a) A county commissioners court may acquire by gift, devise, purchase, or condemnation a property necessary to lay out, construct, maintain, or operate a section of a state highway as a freeway.

(b) In this section, "freeway" has the meaning assigned by Section 203.064(b).

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE B. STATE HIGHWAY SYSTEM
CHAPTER 224. ACQUISITION, CONSTRUCTION, AND MAINTENANCE
SUBCHAPTER A. ACQUISITION GENERALLY

§ 224.002. ACQUISITION BY COUNTY OR MUNICIPALITY GENERALLY

(a) A county or municipality shall acquire, in the manner provided by law, the highway right-of-way that is requested by the department.

(b) Chapter 21, Property Code, governs the procedure for an acquisition by eminent domain.

§ 224.003. ACQUISITION BY COMMISSIONERS COURT

(a) The commissioners court of a county may acquire by purchase or eminent domain any real property, including a right-of-way, or material, including timber, earth, stone, or gravel, that the commission determines is necessary or convenient to a state highway to be constructed, reconstructed, maintained, widened, straightened, or extended. Real property acquired for streambed diversion may not exceed 100 feet in width.

(b) The commission shall furnish to the commissioners court the plats or field notes of the real property and the description of any required materials. After receiving the plats, notes, or description, the commissioners court may make the acquisition in accordance with those documents.

(c) The acquisition is on behalf of the state with title to the State of Texas.

(d) The commissioners court may exercise the power of eminent domain within the limits of a municipality only with the prior consent of the municipality's governing body.

(e) The county may pay for the acquisition from the county road and bridge fund, a special road fund, or any other available county fund.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE C. COUNTY ROADS AND BRIDGES
CHAPTER 251. GENERAL COUNTY AUTHORITY RELATING TO ROADS AND BRIDGES
SUBCHAPTER A. GENERAL PROVISIONS

§ 251.006. OBTAINING MATERIAL FOR PUBLIC ROADS

(a) The commissioners court of a county may condemn material necessary to construct, repair, or maintain public roads if the owner of the material rejects the price that the court determines to be a fair price.

(b) The commissioners court shall appoint commissioners to condemn the material. A condemnation commissioner is entitled to a fee of \$2 for each day of service. The fee shall be paid on order of the commissioners court from the same fund from which payment for the materials is made.

(c) The condemnation commissioners shall hold a hearing to set a fair and reasonable value for the material according to the current method for pricing or valuing the material. The compensation awarded by the condemnation commissioners for the material shall be paid to the owner of the material or deposited with the county treasurer to the owner's credit. When the payment or deposit is made, the county has the right to enter on and use the material.

(d) If the owner of the material or the county is not satisfied with the compensation awarded, the owner or county may appeal the award in the manner provided for appeal of a condemnation case.

(e) Payment for material needed for the general system of county roads shall be made from the county road and bridge fund or from the proceeds of any county bond issue. Payment for material to be used for the benefit of a defined district or political subdivision of the county shall be made from the district or subdivision's funds derived from the sale of bonds or the collection of special taxes.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE C. COUNTY ROADS AND BRIDGES
CHAPTER 251. GENERAL COUNTY AUTHORITY RELATING TO ROADS AND BRIDGES
SUBCHAPTER B. ESTABLISHING AND CLOSING ROADS

§ 251.051. GENERAL AUTHORITY OF COMMISSIONERS COURT

(a) The commissioners court of a county shall:

(1) order that public roads be laid out, opened, discontinued, closed, abandoned, vacated, or altered; and

(2) assume control of streets and alleys in a municipality that does not have an active de facto municipal government.

(b) A unanimous vote of the commissioners court is required to:

(1) close, abandon, or vacate a public road; or

(2) alter a public road, except to shorten it from end to end.

(c) The commissioners court of a county may not discontinue a public road until a new road designated by the court as a replacement is ready to replace it.

(d) The commissioners court may not discontinue, close, or abandon an entire first-class or second-class road unless the road has been vacated or unused for at least three years.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE C. COUNTY ROADS AND BRIDGES
CHAPTER 251. GENERAL COUNTY AUTHORITY RELATING TO ROADS AND BRIDGES
SUBCHAPTER D. ACQUISITION OF RIGHT-OF-WAY FOR COUNTY ROADS

§ 251.101. CONDEMNATION FOR COUNTY ROAD IN MUNICIPALITY

(a) A county may exercise the power of eminent domain in a municipality with the prior consent of the governing body of the municipality to condemn and acquire real property, a right-of-way, or an easement in public or private real property that the commissioners court determines is necessary or convenient to any road that forms or will form a connecting link in the county road system or in a state highway.

(b) This section does not authorize the condemnation of property used for cemetery purposes.

(c) A condemnation proceeding under this section must be instituted under the direction of the commissioners court and in the name of the county. The procedure established by Chapter 21, Property Code, governs condemnation under this section.

(d) An appeal from the finding and assessment of damages by the condemnation commissioners may not suspend work by the county in connection with which the real property, right-of-way, or easement is sought to be acquired. In an appeal, the county is not required to give a bond for costs or other purposes.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE C. COUNTY ROADS AND BRIDGES
CHAPTER 254. DRAINAGE ON PUBLIC ROADS

§ 254.005. AUTHORITY TO PROVIDE DRAINAGE

(a) The commissioners court of a county may order the construction or maintenance of ditches as provided by this chapter at any regular session of the court.

(b) If a ditch is constructed under this chapter, the ditch must be placed on or within the exterior lines of a public road in the county and must have the capacity to carry off into a natural waterway all surface water reasonably adjacent that may collect in the ditch from natural causes.

(c) The commissioners court shall:

(1) make a drain on each side of a public road when necessary and use the dirt from the drain excavation to build the road; and

(2) drain a public road when necessary and have one or more ditches cut for that purpose, taking into account the natural waterflow and causing as little damage as possible to adjacent property owners.

(d) In connection with its authority to construct and maintain ditches, the commissioners court may construct any necessary side, lateral, spur, or branch ditch.

(e) The commissioners court may acquire by purchase or condemnation any new or wider right-of-way not wider than 100 feet for streambed diversion and drainage channels, but only for locating, constructing, or maintaining a county road. The cost of acquisition may be paid from the county road and bridge fund or any available county money.

(f) If damages are suffered by a property owner, the commissioners court shall determine the damages and pay the property owner out of the county general fund. If the commissioners court and the property owner disagree as to the amount of damages, the amount may be determined by civil suit.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE C. COUNTY ROADS AND BRIDGES
CHAPTER 280. MISCELLANEOUS PROVISIONS

§ 280.001. CONDEMNING RAILROAD ROADBED

The commissioners court of a county may condemn a railroad roadbed on the petition of at least 20 freeholders of an unincorporated community for the purpose of opening, widening, or extending a street in the community.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE D. ROAD LAWS RELATING TO PARTICULAR COUNTIES
CHAPTER 281. ACQUISITION OF PUBLIC INTEREST IN PRIVATE ROAD BY CERTAIN COUNTIES

§ 281.002. ACQUISITION OF PUBLIC INTEREST IN PRIVATE ROAD.

A county may acquire a public interest in a private road only by:

- (1) purchase;
- (2) condemnation;
- (3) dedication; or
- (4) a court's final judgment of adverse possession.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE D. ROAD LAWS RELATING TO PARTICULAR COUNTIES
CHAPTER 282. TOLL UNDERPASS OR TUNNEL IN CERTAIN COUNTIES

§ 282.011. CONDEMNATION OF RIGHT-OF-WAY OR EASEMENT

A county may condemn a right-of-way or easement in real property necessary to construct an underpass, tunnel, or approach

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE D. ROAD LAWS RELATING TO PARTICULAR COUNTIES
CHAPTER 283. CAUSEWAYS, BRIDGES, AND TUNNELS IN CERTAIN COUNT
SUBCHAPTER A. GENERAL PROVISIONS

§ 283.003. GENERAL AUTHORITY TO ACT

- (a) Except as provided in Subsection (b), a county acting through its commissioners court may:
- (1) construct, acquire, improve, operate, and maintain a project;
 - (2) authorize by resolution and issue revenue bonds, including interim bonds, to pay the cost of construction, acquisition, or improvement of the project; and
 - (3) accept a loan, gift, or grant from this state or the United States and enter into any agreement necessary to obtain the loan, gift, or grant.
- (b) A county may not construct a bridge that traverses a ship channel or waterway with a maintained depth of 20 feet or more.
- (c) Except as provided by Section 283.104, a county may act as authorized by this chapter without the consent, approval, supervision, or regulation of the state.

(d) A county performs an essential governmental function when it acts as authorized by this chapter.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE D. ROAD LAWS RELATING TO PARTICULAR COUNTIES
CHAPTER 283. CAUSEWAYS, BRIDGES, AND TUNNELS IN CERTAIN COUNTIES
SUBCHAPTER B. PROVISIONS RELATING TO A PROJECT

§ 283.101. ACQUISITION OF PROPERTY

(a) A county acting under this chapter may enter on land, water, or other premises to make a survey, sounding, or examination of the property.

(b) When a condemnation proceeding is filed by a county, the county may take immediate possession of the property being condemned pending the results of the proceeding if the county tenders a bond or other security approved by the court that is sufficient to secure the property owner for damages to the property.

(c) The state grants to a county any easement or right-of-way traversing state property that is necessary or convenient to the construction, acquisition, or efficient operation of a project.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE D. ROAD LAWS RELATING TO PARTICULAR COUNTIES
CHAPTER 284. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS IN CERTAIN COUNTIES
SUBCHAPTER A. GENERAL PROVISIONS

§ 284.003. PROJECT AUTHORIZED; CONSTRUCTION, OPERATION, AND COST

(a) A county, acting through the commissioners court of the county, or a local government corporation, without state approval, supervision, or regulation, may:

- (1) construct, acquire, improve, operate, maintain, or pool a project located:
 - (A) exclusively in the county;
 - (B) in the county and outside the county; or
 - (C) in one or more counties adjacent to the county;
- (2) issue tax bonds, revenue bonds, or combination tax and revenue bonds to pay the cost of the construction, acquisition, or improvement of a project;
- (3) impose tolls or charges as otherwise authorized by this chapter;
- (4) construct a bridge over a deepwater navigation channel, if the bridge does not hinder maritime transportation;
- (5) construct, acquire, or operate a ferry across a deepwater navigation channel;
- (6) in connection with a project, on adoption of an order exercise the powers of a regional mobility authority operating under Chapter 370; or
- (7) enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a proposed or existing project in the county to the extent and in the manner applicable to the department under Chapter 223 or to a regional tollway authority under Chapter 366.

(b) The county or a local government corporation may exercise a power provided by Subsection (a)(6) only in a manner consistent with the other powers provided by this chapter. To the extent of a conflict between this chapter and Chapter 370, this chapter prevails.

(c) A project or any portion of a project that is owned by the county and licensed or leased to a private entity or operated by a private entity under this chapter to provide transportation services to the

general public is public property used for a public purpose and exempt from taxation by this state or a political subdivision of this state.

(d) If the county constructs, acquires, improves, operates, maintains, or pools a project under this chapter, before December 31 of each even-numbered year the county shall submit to the department a plan for the project that includes the time schedule for the project and describes the use of project funds. The plan may provide for and permit the use of project funds and other money, including state or federal funds, available to the county for roads, streets, highways, and other related facilities in the county that are not part of a project under this chapter. A plan is not subject to approval, supervision, or regulation by the commission or the department, except that:

- (1) any use of state or federal highway funds must be approved by the commission;
- (2) any work on a highway in the state highway system must be approved by the department; and
- (3) the department shall supervise and regulate work on a highway in the state highway system.

(e) Except as provided by federal law, an action of a county taken under this chapter is not subject to approval, supervision, or regulation by a metropolitan planning organization.

(f) The county may enter into a protocol or other agreement with the commission or the department to implement this section through the cooperation of the parties to the agreement.

(g) An action of a county taken under this chapter must comply with the requirements of applicable federal law. The foregoing compliance requirement shall apply to the role of metropolitan planning organizations under federal law, including the approval of projects for conformity to the state implementation plan relating to air quality, the use of toll revenue, and the use of the right-of-way of and access to federal-aid highways. Notwithstanding an action of a county taken under this chapter, the commission or department may take any action that is necessary in its reasonable judgment to comply with any federal requirement to enable the state to receive federal-aid highway funds.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE D. ROAD LAWS RELATING TO PARTICULAR COUNTIES
CHAPTER 284. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS IN
CERTAIN COUNTIES
SUBCHAPTER C. CONSTRUCTION AND OPERATION

§ 284.061. ACQUISITION OF PROPERTY

(a) To acquire property useful in connection with a project, a county may enter on any real property, water, or premises to make a survey, sounding, or examination.

(b) A county may acquire by eminent domain property to use in or useful for a project under this chapter.

(c) Except as provided by Section 284.0615, if applicable, the county is entitled to immediate possession of property subject to a condemnation proceeding brought by the county after:

- (1) a tender of a bond or other security in an amount sufficient to secure the owner for damages; and
- (2) the approval of the bond or security by the court.

(d) Subject to the reimbursement requirements of Section 373.102, a county has full easements and rights-of-way through, across, under, and over any property owned by this state that are necessary or convenient to construct, acquire, or efficiently operate a project under this chapter.

§ 284.066. OPERATING BOARD

(a) A commissioners court may appoint an operating board if the commissioners court determines that a project under this chapter could be developed, constructed, operated, and managed better and more efficiently by an operating board.

(b) Except as provided by Subsections (c) and (d), an operating board has the same authority as the commissioners court, including the power of eminent domain, regarding the development, construction, operation, and management of a project under this chapter.

(c) The operating board's authority is subject to the limitations prescribed by the commissioners court.

(d) An operating board may not:

(1) impose a tax or borrow money; or

(2) exercise the authority of the commissioners court under Section 284.071 except as provided by order of the commissioners court.

§ 284.067. PROJECTS EXTENDING INTO OTHER COUNTIES.

(a) A county may not construct or acquire a project that is financed under this chapter and any part of which is in another county until the commissioners court of the other county adopts a resolution consenting to the construction or acquisition.

(b) A part of a project that has not been designated as part of the state highway system and that is not a turnpike project as defined in Chapter 361 is a part of the county road system of the county in which the part is located. A law relating to the maintenance and operation of a county road applies to a project constructed or acquired under this chapter to the extent the law does not conflict with this chapter.

(c) Any county into which the project extends, by condemnation or another method under general law, may acquire the property necessary for the project, except that a county may not condemn property in another county until after the resolution required by Subsection (a) is adopted. The county issuing the bonds may use the bond proceeds to acquire property necessary for the project in any county into which the project extends.

(d) Payment of the purchase price, award, or other cost of the project may be on the terms to which the commissioners courts of the county issuing the bonds and the other county or counties agree. Proceeds from bonds issued under this chapter may be used to pay a cost incurred under this section.

(e) Two-tenths of one percent of the toll revenue shall be shared equally between the permanent school fund and the General Land Office. The General Land Office shall use its share for the acquisition of real property in a natural state in the county of the project. The acquired land shall be maintained in a natural state.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE G. TURNPIKES AND TOLL PROJECTS
CHAPTER 364. TOLL BRIDGES IN COUNTIES BORDERING THE RIO GRANDE
SUBCHAPTER B. ADMINISTRATION OF TOLL BRIDGES

§ 364.022. MAINTENANCE AND OPERATION OF TOLL BRIDGES

(a) A county through the commissioners court of the county may own, hold, control, maintain, and operate the toll bridge and may make or provide for any repairs or improvements to the bridge. To carry out this subsection, the county may acquire property by eminent domain under general law.

(b) The county may:

(1) renew or extend an existing franchise or obtain a new or additional franchise for the toll bridge; and

(2) render services to the public and to the users of the toll bridge.

(c) To accomplish the purposes of this section, the county may enter into and carry out a contract, agreement, or undertaking of any kind required by the United States or the United Mexican States or a department, officer, governmental agency, or public authority of the United Mexican States.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE K. MASS TRANSPORTATION
CHAPTER 457. COUNTY MASS TRANSIT AUTHORITY
SUBCHAPTER C. POWERS OF AUTHORITY

§ 457.106. USE AND ACQUISITION OF PROPERTY OF OTHERS

(a) An authority may not alter or damage any property of this state or a political subdivision of this state or owned by a person rendering public services and may not disrupt services being provided by others or inconvenience in any other manner an owner of property, without first having obtained:

(1) the written consent of the owner; or

(2) the right from the governing body of the municipality to take the action under the municipality's power of eminent domain.

(b) An authority may agree with an owner of property to provide for:

(1) a necessary relocation or alteration of property by the owner or a contractor chosen by the owner; and

(2) the reimbursement by the authority to the owner of the costs incurred by the owner in making the relocation or alteration.

(c) The authority shall pay the cost of any relocation, rerouting, or other alteration in the construction made under this chapter and is liable for any damage to property occurring because of the change.

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE K. MASS TRANSPORTATION
CHAPTER 460. COORDINATED COUNTY TRANSPORTATION AUTHORITIES
SUBCHAPTER C. POWERS OF AUTHORITY

§ 460.107. ACQUISITION OF PROPERTY

(a) As necessary or useful in the construction, repair, maintenance, or operation of a public transportation system, an authority may use a public way, including an alley.

(b) An authority may acquire by eminent domain any interest in real property, including a fee simple interest and the use of air or subsurface space, except the right of eminent domain may not be exercised:

(1) in a municipality without the approval of the proposed acquisition by the governing body of the municipality; or

(2) in an unincorporated area without the approval of the proposed acquisition by the

commissioners court of the county in which the property to be condemned is located.

(c) If an authority, through the exercise of eminent domain, makes any relocation necessary, the relocation costs shall be paid by the authority.

(d) An eminent domain proceeding by an authority is initiated by the adoption by the executive committee of a resolution authorizing the exercise that:

(1) describes the property to be condemned;

(2) declares the public necessity for the acquisition; and

(3) declares that the acquisition is necessary for the construction, extension, improvement, or development of the public transportation system.

(e) A resolution adopted under this section and approved by the appropriate municipal governing body or commissioners court is conclusive evidence of the public necessity for the acquisition described in the resolution.

(f) Chapter 21, Property Code, applies to an eminent domain proceeding by an authority.

[Although most special districts created under Title 4 of the Water Code are independent of a county after creation, levee improvement districts may be created by a commissioners court without an election, and a levee improvement district's board may be appointed by the commissioners court. Therefore, these provisions of the Water Code are included.]

UTILITIES CODE
TITLE 4. DELIVERY OF UTILITY SERVICES
SUBTITLE A. UTILITY CORPORATIONS AND OTHER PROVIDERS
CHAPTER 163. JOINT POWERS AGENCIES
SUBCHAPTER B. COOPERATION BY PUBLIC AND PRIVATE ENTITIES

§ 163.013. GENERAL RIGHTS, POWERS, AND DUTIES OF ENTITIES

(a) A participating entity may:

(1) use its means and assets to plan, acquire, construct, own, operate, and maintain its interest in an electric facility;

(2) issue bonds and other securities to raise money for a purpose described by Subdivision (1) in the same manner and to the same extent and subject to the same conditions as would be applicable if the entity had sole ownership of the electric facility;

(3) acquire, for the use and benefit of each participating entity, land, easements, and property for an electric facility by purchase or by exercising the power of eminent domain; and

(4) transfer or otherwise convey the acquired land, property, or property interest or otherwise cause the land, property, or interest to become vested in other participating entities to the extent to which and in the manner in which the participating entities agree.

(b) Each participating entity is a cotenant or co-owner of the electric facility and in relation to the entity's undivided interest in the facility has each right, privilege, exemption, power, duty, and liability the entity would have had if the entity had sole ownership.

§ 163.014. USE OF EMINENT DOMAIN

(a) A participating entity has the power of eminent domain to be exercised as provided by this section.

(b) The use of eminent domain authority by a participating entity is governed by the law relating to an eminent domain proceeding involving a municipality in this state.

(c) A participating entity may acquire a fee title to the condemned real property.

(d) A participating entity may not use eminent domain authority to acquire:

(1) an interest in an electric facility that belongs to another entity; or

(2) an interest in real property to drill, mine, or produce from that property oil, gas, geothermal resources, geothermal/geopressured resources, or lignite, coal, sulphur, uranium, plutonium, or other minerals that belong to another person regardless of whether the material is in place or is in the process of being drilled, mined, or produced.

(e) Subsection (d) does not affect the authority of a participating entity to acquire full title to real property for a plant site and any related surface installation or equipment, including a cooling reservoir.

WATER CODE
TITLE 2. WATER ADMINISTRATION
SUBTITLE B. WATER RIGHTS
CHAPTER 11. WATER RIGHTS
SUBCHAPTER B. RIGHTS IN STATE WATER

§ 11.033. EMINENT DOMAIN

The right to take water necessary for domestic and municipal supply purposes is primary and fundamental, and the right to recover from other uses water which is essential to domestic and municipal supply purposes is paramount and unquestioned in the policy of the state. All political subdivisions of the state and constitutional governmental agencies exercising delegated legislative powers have the power of eminent domain to be exercised as provided by law for domestic, municipal, and manufacturing uses and for other purposes authorized by this code, including the irrigation of land for all requirements of agricultural employment.

WATER CODE
TITLE 4. GENERAL LAW DISTRICTS
CHAPTER 49. PROVISIONS APPLICABLE TO ALL DISTRICTS
SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 49.066. SUITS

(a) A district may sue and be sued in the courts of this state in the name of the district by and through its board. A suit for contract damages may be brought against a district only on a written contract of the district approved by the district's board. All courts shall take judicial notice of the creation of the district and of its boundaries.

(b) Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

(c) The president or the general manager of any district shall be the agent of the district on whom process, notice, or demand required or permitted by law to be served upon the district may be served.

(d) Except as provided in Subsection (e), no suit may be instituted in any court of this state contesting:

(1) the validity of the creation and boundaries of a district created under this code;

(2) any bonds or other obligations created under this code; or

(3) the validity or the authorization of a contract with the United States by the district.

(e) The matters listed in Subsection (d) may be judicially inquired into at any time and determined in any suit brought by the State of Texas through the attorney general. The action shall be brought on

good cause shown, except where otherwise provided by other provisions of this code or by the Texas Constitution. It is specifically provided, however, that no such proceeding shall affect the validity of or security for any bonds or other obligations theretofore issued by a district if such bonds or other obligations have been approved by the attorney general as provided by Section 49.184.

(f) A district or water supply corporation shall not be required to give bond for appeal, injunction, or costs in any suit to which it is a party and shall not be required to deposit more than the amount of any award in any eminent domain proceeding.

WATER CODE
TITLE 4. GENERAL LAW DISTRICTS
CHAPTER 49. PROVISIONS APPLICABLE TO ALL DISTRICTS
SUBCHAPTER H. POWERS AND DUTIES

§ 49.222. EMINENT DOMAIN

(a) A district or water supply corporation may acquire by condemnation any land, easements, or other property inside or outside the district boundaries, or the boundaries of the certificated service area for a water supply corporation, necessary for water, sanitary sewer, storm drainage, or flood drainage or control purposes or for any other of its projects or purposes, and may elect to condemn either the fee simple title or a lesser property interest.

(b) The right of eminent domain shall be exercised in the manner provided in Chapter 21, Property Code, except that a district or a water supply corporation shall not be required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and shall not be required to deposit more than the amount of any award in any suit.

(c) The power of eminent domain may not be used for the condemnation of land for the purpose of acquiring rights to underground water or of water or water rights.

WATER CODE
TITLE 4. GENERAL LAW DISTRICTS
CHAPTER 49. PROVISIONS APPLICABLE TO ALL DISTRICTS
SUBCHAPTER H. POWERS AND DUTIES

§ 49.224. POWER TO CONDEMN CEMETERIES

(a) The use of land for the construction of district dams and creation of lakes and reservoirs for the purpose of conservation and development of the natural resources of this state is hereby declared to be superior to all other uses, and for these purposes only a district has the power of eminent domain to acquire land, improvements, and other property owned and held for cemeteries or burial places necessary for the construction of a dam or that lies inside the area to be covered by the lake or reservoir or within 300 feet of the high water line of the lake or reservoir.

(b) Except as otherwise provided by this subchapter, the procedure in condemnation proceedings is governed by Chapter 21, Property Code.

(c) Notice shall be served on the title owner of the land on which the cemetery is situated as provided in Chapter 21, Property Code. General notice to persons having relatives interred in the cemetery shall be given by publication for two consecutive weeks in a newspaper circulated in the county in which the cemetery is situated.

(d) The measure of damages in these eminent domain proceedings shall be assessed as in other condemnation cases. An additional amount of damages shall be assessed to cover the cost of removing and reintering the bodies interred in the cemetery or burial place and the cost of removing and resetting the monuments or markers erected at the graves.

(e) The additional assessment shall be deposited in the registry of the county court and disbursed only for the purpose of removing and reintering the bodies in other cemeteries in Texas agreed on between the district and the relatives of the deceased persons.

(f) If in any case the district and the relatives of a deceased person cannot agree within 30 days on a cemetery for reinterment, or no relatives appear within that time, then the county judge shall designate the cemetery for reinterment.

(g) Instead of depositing the additional assessment in the registry of the court, the district may execute a bond sufficient to cover costs of removing and reintering the bodies. The bond shall be payable to and approved by the county judge and conditioned that the bodies will be removed and reinterred as provided by this section.

WATER CODE
TITLE 4. GENERAL LAW DISTRICTS
CHAPTER 57. LEVEE IMPROVEMENT DISTRICTS
SUBCHAPTER H. TAX PROVISIONS

§ 57.269. HEARING; JUDGMENT

(a) An owner of land or other property affected by the report of the commissioners of appraisal or by the engineer's report may file an objection to any or all parts of the report of the commissioners of appraisal at or before the hearing on the report.

(b) A person on whose land no damages have been assessed and who believes that his land will be damaged by prosecution of the engineer's report may file with the secretary of the board a claim for damages.

(c) The commissioners of appraisal, at the time and place named in the notice, shall hear and decide all objections and claims for damages and may make changes and modifications in the report.

(d) The commissioners of appraisal may adjourn the hearing from day to day.

(e) After modifying the report to conform to the changes decided on at the hearing, the commissioners of appraisal shall make a decree confirming the report as modified.

(f) If necessary the commissioners shall condemn and adjudge damages for land inside or outside the district that is needed for right-of-way or other purposes.

(g) The commissioners shall adjudge and apportion costs incurred on the hearing in an equitable manner.

(h) The findings of the commissioners of appraisal as to benefits is final and conclusive.

(i) The secretary shall record the findings of benefits in the minutes of the board and shall file certified copies of the findings with the county clerk of each county in which any portion of the land inside the district is located. The filing is notice to all persons of the contents of the decree.

TEXAS CIVIL STATUTES
TITLE 116. ROADS, BRIDGES, AND FERRIES

Art. 6812b. Counties of 198,000 to 400,000 Population

Rules, Regulations, Plans and System

Sec. 1. In all counties in this State having a population of more than one hundred and ninety-eight

thousand (198,000) inhabitants, and less than four hundred thousand (400,000) inhabitants according to the last preceding Federal Census, and wherein is situated an incorporated city having a population in excess of two hundred and fifty thousand (250,000) inhabitants according to the last preceding Federal Census, the Commissioners Court of such counties shall have full power and authority, and it shall be its duty to adopt, at a meeting of said court of which the county judge and at least three (3) of the county commissioners of said counties shall be present and cause to be recorded in the minutes of said court, and put into effect such rules, regulations, plans and system for the maintenance, laying out, opening, widening, draining, grading, constructing, building and repairing of the public roads of said counties, other than the State highways located therein, as the available funds of the counties will permit so as to facilitate travel between the communities thereof, subject to and in harmony with the duties of the county engineer as herein specified. Where such rules, regulations, plans and system have already been adopted by the Commissioners Court of such counties and are of record, it shall not be necessary to repeat the same in the absence of public necessity therefor, but same may be amended and supplemented from time to time as the public needs may require.

County Engineer

Sec. 2. The Commissioners Court of each such county shall appoint a county engineer, but the selection shall be controlled by considerations of skill and ability for the task; such engineer may be selected at any regular meeting of the Commissioners Court, or at any special meeting called for that purpose, and such engineer shall hold his office for a period of two (2) years, his term of office expiring concurrently with the terms of other county officers, but may be removed at the pleasure of the Commissioners Court. Such engineer shall receive a salary to be fixed by the Commissioners Court not to exceed Ten Thousand Dollars (\$ 10,000) per year, to be paid out of the second-class road and bridge fund; such engineer before entering upon the discharge of his duties, shall take the oath of office prescribed by law, and shall execute a bond in the sum of Fifteen Thousand Dollars (\$ 15,000), with a good and sufficient surety or sureties thereon, payable to the county judge of said county and his successors in office in trust, for the use and benefit of the road and bridge fund of said county, to be approved by the court, conditioned that such engineer will faithfully and efficiently discharge and perform all of the duties required of him by law and by the orders of said Commissioners Court and shall faithfully and honestly and in due time, account for all the money, property and materials placed in his custody.

Classification and Record of Roads

Sec. 3. The county engineer shall, under the direction of the Commissioners Court, and as soon as practicable, classify all public roads in such county, and such classification when completed, and when approved by the court, shall become a part of the permanent records, of roads and bridges, of said counties. He shall prepare a suitable map on which shall be delineated in appropriate colors the various roads which shall be designated as first, second and third class roads; said map shall show to which class each road belongs and the nature of its construction. He shall make a complete indexed record of each county road in the county, together with all bridges; said records shall show when each county road was dedicated to the use of the public, a complete description as to location, measured length, width of right of way, character of construction and terminals of same.

Each road shall be indexed in said record by the same number and name as it is delineated on said map. As new roads are opened and improved, and the existing roads are widened or improved so as to change their class, such facts shall be added to the record of such roads in the "Records of Roads." Such information shall be made available to the public; provided, however, that any omission in respect to the above requirement shall not invalidate any contract for the construction or repair of any road or highway in said county, and where such classification, records and indexes have heretofore been prepared there shall be no necessity to repeat the same in the absence of public necessity therefor, but same may be amended, added to or taken from as the facts and public need may demand.

Inventory and Appraisal of Equipment; Disposal and Purchase

Sec. 4. The county engineer shall at the end of every three (3) months, acting in conjunction with the county purchasing agent of said county, make a complete inventory and appraisal of all tools, machinery, equipment, materials, trucks, cars, and other property owned by the second-class road and

bridge fund, and transmit the same in written form to the Commissioners Court and the county auditor, which written report shall be kept as a "Permanent Inventory Record" by the county auditor, and when any of said tools, machinery, trucks, cars and other property and equipment become unusable, the Commissioners Court shall enter an order upon the minutes of the court, stating such facts and the reason for disposing of such equipment and shall have authority to dispose of same as it deems best. When in its opinion it is necessary to purchase other machinery, supplies, tools and other equipment and materials, the Commissioners Court shall enter an order on the minutes showing the necessity therefor. All equipment purchased or acquired as herein specified, shall be shown on the "Permanent Inventory Record."

Employees

Sec. 5. The Commissioners Court shall employ all help necessary for the discharge of their public service. Such employees shall receive such compensation as may be fixed by the court, but in all such cases an order shall be passed and entered on the minutes of the court, showing in each case the public necessity for such employment and the amount of compensation to be paid each employee and the fund out of which it is to be paid.

Daily Time Sheet

Sec. 6. The engineer shall keep, or cause to be kept, in duplicate a daily time sheet which shall show the amount of time and the character of work performed and the place where the same is performed by each person working for the county on road maintenance or construction, and such other records in connection therewith as the Commissioners Court and the county auditor may require, one (1) copy of which shall be furnished the county auditor, and one (1) copy shall be retained in the office of the engineer.

Master Plan

Sec. 7. The county engineer shall, when funds are available and when authorized by the Commissioners Court to do so, make a careful and thorough survey of all roads at that time opened and constructed with a view of determining what new roads and connections of roads should be opened and constructed, as well as what roads should be widened and improved. In making such survey, he shall take into consideration the convenience of the traveling public, and especially the convenience of the citizenship of the county, so that each community or part of the county shall have easy and practical connection with the other and with the State highway system of roads in said county, thereby furnishing to the citizenship of the county a convenient means of ingress and egress into and out of every city and town, as well as every other community in the county. The roads indicated in such surveys to be opened and constructed, as well as existing roads that are designated to be widened and improved, shall be located and designated with a view of giving the entire county an efficient road system. The Commissioners Court shall, in selecting roads or new roads, as well as the improvement of existing roads, look to the density of the population, the amount of traffic that will normally flow over such roads. Such survey, when completed by the engineer, and when adopted by the Commissioners Court at a regular meeting thereof, shall be known as the "Master Plan." When such "Master Plan" has been completed, and adopted by the court as herein stipulated, the same shall be made in permanent record form and kept by the county engineer, and after such adoption, all new construction, widening and permanent improvement shall be done in accordance with such "Master Plan" with a view of ultimately completing the same, both as to location and character of construction. The construction and completion of said "Master Plan" shall proceed as the available funds of the county will permit, and each unit of such construction shall be made in accordance with such "Master Plan." The order in which the roads or projects in the construction of said "Master Plan" are constructed shall be determined by the county engineer, with the approval of the Commissioners Court and in determining the priority of roads or projects, the engineer and court shall take into consideration the necessity and convenience of the public and shall give priority to those roads or projects that will result in the greatest service to the greatest number of the citizenship of the county, looking at all times to the entire county as a unit and wholly disregarding precinct lines.

Adoption and Alteration of Master Plan

Sec. 8. The Commissioners Court shall, when said "Master Plan" is submitted to them for adoption, or if after adoption an amendment or change thereto shall be deemed advisable, set a date at a regular meeting of the Commissioners Court called for that purpose, and give public notice thereof at least two (2) weeks in advance of such meeting and the purpose thereof, inviting the citizenship of the county to be present and protest any part of said "Master Plan" and also to make such suggestions as they deem pertinent in connection with same, or any change therein, but the decision of the Commissioners Court shall become and be final and conclusive as to said "Master Plan", and no succeeding Commissioners Court shall have the power or authority to alter and/or change or amend any of the provisions thereof except by unanimous vote of the Commissioners Court. Provided, that where such "Master Plan" has once been adopted, there shall be no necessity to repeat the same in absence of public necessity therefor, but same may be amended and altered when public necessity therefor is shown, and after notice is given as hereinabove provided.

Subdivisions and Additions

Sec. 9. Many subdivisions and additions, for residential, industrial and commercial purposes, lying and being outside the corporate limits of any city, town or village, have in recent years been platted and such plats and dedications approved by Commissioners Courts and filed for record in such counties. And many more such subdivisions will hereafter be prepared and submitted to Commissioners Courts of said counties. The platting and dedicating of such additions and the consequent sale of lots in such subdivisions have caused the rapid development of such subdivisions and consequent increase of traffic in, on and along the dedicated streets in said additions and subdivisions, and it shall be the duty of the county engineer and the Commissioners Court to cause the "Master Plan" to be conformed to such needs and demands of such subdivision by constructing adequate highways leading from such subdivisions to the county seat, provided that from and after the passage of this Act the Commissioners Court, before approving the plat or plan of any subdivision lying outside the corporate limits of any city, town or village, as required by Article 6626 of the Revised Civil Statutes of the State of Texas, 1925, as amended, shall require such subdivider to enter into a written contract and agreement with the county that such subdivider or dedicator will grade, and gravel, all streets and provide all necessary drainage structures within such tract of land so subdivided. Such street improvements and drainage structures shall be in accordance with standard plans and specifications prepared by the county engineer. Such contract shall be for the benefit of any person or persons, firm or corporation who may thereafter acquire by purchase or otherwise any lot or lots in said addition or subdivision, and the faithful performance of said contract as to the initial improvements of said streets shall be deemed a part of the consideration paid for said lot and be read into the contract of sale of same, and such contract shall be enforceable at the instance, and suit if necessary, of the owner or owners of any of said lot or lots in a given subdivision suing singly or as a group or class. After such initial street improvements have been completed in accordance with such plans, said streets then become and remain a part of the county road system and shall be maintained by the county unless and until included within the corporate limits of some city, town or village capable of maintaining its own streets.

Payment of Employees

Sec. 10. It shall be the duty of the county auditor to compute the pay for all employees under the court's supervision from time sheets furnished him by the engineer, and no check or warrant shall be issued in favor of any such employee without the approval of such auditor. It shall be the duty of said auditor to see that no employee is paid for time not actually served by such employees and to this end he shall have authority, and it is hereby made his duty, at such time or times as he deems advisable, to check any or all of such employees while they are actually engaged in work. Nothing in this Act, however, shall be construed as repealing or being in conflict with the provisions of Article 2372g-1, Vernon's Revised Statutes of 1925.

Special Counsel

Sec. 11. The Commissioners Court shall have the authority to employ special counsel, learned in the law, to advise the court or the Commissioners thereof in all matters wherein the services of counsel may be

required, and also to conduct the litigation of the county in which the interests of the county may be involved, which employment may be made for such time and on such terms as the Commissioners Court may deem proper and expedient.

Surveys, Plans and Specifications; Gradings; Drainage; Culverts and Bridges

Sec. 12. Before actual construction shall have begun on any road or highway so to be improved, the county engineer, under the direction of the Commissioners Court, shall make careful and accurate surveys of the roads and highways to be improved, and shall file with the records of the courts plans and specifications and estimates as to the cost thereof. Provided, that the provisions of this Section shall not apply to work done by county convicts. As far as practicable, all such roads shall be thoroughly graded and drained, and all roadbeds, bridges, culverts and drain pipes shall be of durable material, the bridges to be of steel or cement and the drain pipes of vitrified clay or of material equally durable and lasting. All culverts and bridges on first and second-class roads shall not be less than twenty-four (24) feet in length and of sufficient strength to support all forms of motor traffic, and the weight of all farm and road engines.

Acquisition of Land; Condemnation

Sec. 13. Whenever in the judgment of the Commissioners Court it shall be or become necessary to lay out and construct any road or highway in or through the county or any part thereof, whether said road extends through any city, town, village, hamlet, community or otherwise or whenever it shall be or become necessary in the judgment of the Commissioners Court to occupy any land, in town or county, for the purpose of constructing, building, opening, widening, straightening, draining, grading, improving, repairing or maintaining any public road or highway of said counties or any part thereof, said court, through the agents and employees of the county may enter upon, occupy and take such land, paying therefor, if the owner thereof and said court can agree on the price thereof, as to the value of the land so taken and the amount of damage, if any there be to the remainder, but if such owner and the Commissioners Court cannot agree with respect to such value or damage or both, then said county may proceed to condemn such land for any of the purposes hereinabove mentioned in the same manner as now or may hereafter be prescribed by law for condemnation by railroad corporations and may condemn land for right of way under such proceeding with a right to invoke the Statutes, in so far as the same may be applicable for the exercise of the right of eminent domain by railroad corporations except that, in no case, shall the county be required to give bond or to deposit more than the amount assessed by the Commissioners in condemnation; provided, however, that nothing contained in this Section shall be held to repeal the provisions of the General Law now in force or that may hereafter be passed relating to the opening or construction of public roads by a jury of view, but this Section shall be held to be cumulative thereof, and the Commissioners Court of said county may, at the option of said court, in such cases proceed under the provisions of such General Law or under the provisions of this Act according as same may be best adapted, in the judgment of said Commissioners Court, to expedite the relief sought to be obtained.

Drainage of Railroad Rights of Way

Sec. 14. Whenever it shall be made to appear to the satisfaction of said Court that it is necessary for the better drainage of any public road or roads within said county that the ditches along the right of way of any railroad in the county should be emptied and drained, said court may, by an order entered upon its minutes at a regular or special term of the court, require any such railway whose ditches or borrow pits are so constructed or so out of repair as to impede the easy and rapid flow of water accumulating on, along or near its right of way to the nearest gully, ravine, creek, water course or outlet, and it shall be the duty of said railway in reference to which said order is made and entered within sixty (60) days after a certified copy of said order shall have been delivered to any general officer of such railway company or to any of its agents in said county to supply proper and sufficient drainage in the premises and within sixty (60) days thereafter to commence the work so ordered to be done and to continue such work with reasonable dispatch until its completion. In the event such railway company, its officers and agents shall fail to commence work within sixty (60) days from the date of service of a certified copy of such order, or having begun shall fail to finish the same within a reasonable time, the Commissioners Court may have such work performed, keeping an accurate account of the money expended upon said work, and said money so expended being reasonable in amount, may be recovered from the railway company along

whose right of way said work was done at the suit of the county for the benefit of its road and bridge fund in any court of competent jurisdiction.

Payment of Road Taxes; Overseers

Sec. 15. In such county the payment of road taxes by labor is abolished and all provisions of laws concerning overseers shall be of no further force or effect.

County Commissioners; Duties and Compensation

Sec. 16. Each member of the Commissioners Court shall be and he is hereby required to devote all of his time (unless prevented by illness) to the duties of his office, and shall be in attendance at all sessions of the court. In addition thereto he shall personally inspect the conditions of the roads and bridges of the county, and shall see to it that employees under the control of the Commissioners Court perform their full duties. Each member shall receive an annual salary as provided by the General Statutes of the State of Texas relating to the salaries of county commissioners in counties having a population which conforms to the population of the counties affected by this Act. Said salaries to be paid out of the road and bridge fund of the county.

Amount of Road and Bridge Tax

Sec. 17. It shall be unlawful for said Commissioners Court to levy any road and bridge tax in excess of the maximum rate prescribed by law, and any member of said court who shall vote for such excessive levy, knowing it to be excessive, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$ 500).

Convict Labor

Sec. 18. Said court may require all county convicts of said county, who may be physically able and not otherwise employed, to work on the public roads of said county under such rules and regulations as the court may prescribe, and each convict so worked shall receive a credit of Three Dollars (\$ 3) per day, one half of which shall be as nearly as practicable, applied to the fine, and one half to the court costs, provided that this shall not be so construed as to relieve a convict from the payment of all costs for which he would be liable under the General Laws of this State; said court may, as a reward for good behavior and faithful service, grant a reasonable commutation which shall in no case exceed one-tenth (1/10) of the whole time. Said court may provide all such houses, tents, clothing, bedding, food, medicine, medical attention, supplies and guards as it may deem necessary or proper for the safe and humane treatment and for the safe-keeping of such county convicts. Said court may also provide and enforce and such guards may, under the direction of said court and in accordance with its rules and regulations, administer such reasonable and humane punishment as may be necessary to require such convicts to perform good work. Said court may provide a reward, not exceeding Ten Dollars (\$ 10) in any instance, to be paid out of the road and bridge fund for the capture and delivery of an escaped convict, but no such reward shall be paid to any guard or persons in charge of or assisting such convict at the time of his escape.

Bond Issues; Resolution; Election

Sec. 19. Whenever the Commissioners Court shall deem it necessary or expedient to build, construct, improve, repair or maintain first or second-class roads of a permanent nature with the proceeds of the sale of bonds issued for road and bridge purposes under the terms of this Act, said court, shall at any regular meeting pass and record in its minutes a resolution setting forth that it is the sense of said court that public roads and bridges of a permanent nature should be built, constructed, improved, repaired or maintained and that the county should issue its bonds to raise money for that purpose in an amount to be named in such resolution, and said resolution shall be submitted to the vote of the property-owning, qualified voters of the county under the law and the Constitution at any regular or special election which the court may order for that purpose, and if at such election a majority of the votes cast shall be for such resolution, then the same shall be deemed to be adopted; otherwise it shall be deemed to be rejected. Such election shall be governed in all respects by the laws governing elections in this State, save that the time for holding such elections, the manner and kind of notice shall be fixed by the Commissioners Court,

and the returns shall be made and canvassed in the same manner and the result declared by proclamation of the county judge, which proclamation shall be posted in at least three (3) public places in the county, or at the option of the court published one time in a daily newspaper of general circulation in the county.

Qualifications of Voters; Ballots

Sec. 20. No person shall be permitted to vote at any election provided for in the next preceding Section of this Act unless he is a property owner, taxpayer, who has duly rendered his property for taxation, and a qualified voter of the county under the law and Constitution of Texas. Those desiring to vote for the resolution shall have written or printed on their ballot the words "FOR the Resolution to issue bonds to " and those desiring to vote against the resolution shall have written or printed on their ballots the following: "AGAINST the Resolution to issue bonds to " (here insert such purpose of the proposed bond issue as set forth in said resolution). Such ballots shall be written or printed on plain white paper with black ink and shall contain no distinguishing mark or device except as above provided, and if printed, shall be in type of uniform size and face.

Preparation and Execution of Bonds; Terms of Bonds; Registration and Enrollment; Sale or Negotiation; Tax Levy

Sec. 21. If, at the election hereinabove provided for, a majority of the property-owning qualified voters, under the Constitution and Laws of the State, shall vote in favor of the resolution hereinbefore provided for and the Commissioners Court shall have canvassed the vote and declared the result, and proclamation therefor has been made by the county judge or publication made in lieu thereof, declaring said result, then it shall be the duty of said court to prepare and execute the bonds of the county in such sums as may be deemed advisable by the court, not exceeding the amount authorized at the election, said bonds to bear interest at not exceeding five per cent (5%) per annum, payable annually or semi-annually as the courts shall direct, which bonds shall be redeemable or payable not more than forty (40) years from date thereof, and at such intermediate periods, serially or otherwise as the court may direct, the time of maturity to be expressed on the face of the bonds and such bonds shall be registered or enrolled as in case of other county bonds, and the same shall not be sold or negotiated at less than their par value; provided, however, that the tax levy for the payment of interest and principal on any issue of bonds under the terms of this Act shall not exceed in any one case the sum of Fifteen Cents (15 cent(s)) on the One Hundred Dollars (\$ 100) property valuation, and the amount of bonds so to be issued shall be limited accordingly; provided further, that nothing in this language or in the terms of this Act shall be held to impair the right of the county to issue bonds under the provisions of Article 3 of Section 52 of the State Constitution and the Statutes enacted pursuant thereof.

Levy of Tax; Use of Tax and Bond Proceeds

Sec. 22. At or prior to the issuance of said bonds, it shall be the duty of said Commissioners Court to levy an annual ad valorem tax on all property within the county liable to taxation, sufficient to provide for the interest on such bonds and to create a sinking fund for the payment of the principal thereof at the maturity of same. Such tax and the levy thereof may vary or lessen accordingly as assessed taxable values may increase or diminish from year to year. The fund arising from such tax and the levy thereof shall not be used for any other purpose than that for which it was created, and the proceeds of the sale of such bonds shall be confined strictly for the purpose of which they were issued and for all necessary and incidental expense incurred in the issuance and sale thereof. It shall be unlawful for said court to transfer any money or fund from the road and bridge fund to any other purpose, except as outlined in Section 15 of this Act, than the laying out, opening, widening, draining, constructing, building, repairing and maintaining the public roads of said counties and the incidental and necessary expense growing out of the issuance of said bonds and the sale thereof.

Account and Disbursement of Bond Proceeds

Sec. 23. It shall be the duty of the county treasurer to keep a separate account of all moneys received from the sale of bonds of said county issued for road and bridge purposes, and said treasurer shall pay out none of it except on written order or warrant of said court, specifying the contract against which it is

drawn or for the purpose for which it is expended.

Contracts; Alternative Methods; Record of Cost

Sec. 24. Except as otherwise provided in this Act, no contract requiring the expenditure of money derived from the sale of bonds authorized by this Act shall be made until said county engineer shall have made and filed with the Commissioners Court maps, profiles, plans, specifications, and estimates of the work to be done under such contract and not until said court shall have considered the same and ordered it of record. Provided, however, that in the event said court shall have advertised for and rejected bids, it may in its discretion proceed to do the work mentioned in said advertisement. In the expenditure of road funds other than moneys derived from the sale of bonds, the Commissioners Court may authorize the building, construction and repair of roads by contract, day labor or convict labor as said court may deem to be for the best interest of the county. In every instance where the court chooses to do so under the terms of this Act to build, improve, repair or maintain roads by having the work done by the county, then the county must keep a careful and accurate record of the cost of the work, provided the work referred to in this Section shall be done under the direction of the county engineer in harmony with the other provisions of this Act.

Purchase of Equipment and Material

Sec. 25. [Repealed by Acts 1985, 69th Leg., ch. 641, Sec. 11, eff. Sept. 1, 1985.]

Advertisements and Bids; Bond of Successful Bidder; Withholding Percentage of Estimates

Sec. 26. [Repealed by Acts 1985, 69th Leg., ch. 641, Sec. 11, eff. Sept. 1, 1985.]

Transfers to Road and Bridge Fund

Sec. 27. The Commissioners Court is authorized and empowered, whenever and in such manner as it may determine, to transfer to and make a part of the road and bridge fund of said county any money now in the county, to pay interest and create a sinking fund for any bonds of said county heretofore issued and which have now been retired and cancelled. Such money so transferred to the road and bridge fund may be expended by the Commissioners Court at their discretion in constructing or repairing any of the first-class or cross roads of the county, such expenditures to be made in compliance with the provisions and requirements of this Act.

Record of Vote on Expenditures

Sec. 28. The records of the Commissioners Court shall show in detail every vote for expenditure of any of the funds mentioned in this Act.

Shade Trees; Signboards or Signposts

Sec. 29. The Commissioners Court may, where funds are available for that purpose, plant shade trees along the side of the public roads; the Commissioners Court may protect all shade trees along the side of said thoroughfares and erect, place and keep a substantial signboard or signpost at every point where a public road forks or is intersected by another public road and such signboard or signpost shall contain a legible inscription directing the way and giving the distance of the next important place on such highway. Any person who shall willfully remove, injure, deface or mutilate or injure the growth of any shade tree along the side of a public road or any signboard or signpost thereon or thereabouts shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than Twenty-five Dollars (\$ 25) nor more than One Hundred Dollars (\$ 100).

Financial Interest of Members of Commissioners Court; Violations of Act

Sec. 30. It shall be unlawful for any member of the Commissioners Court or for any county officer to be or become financially interested, directly or indirectly, in any contract with said county for road work or for the purchase or sale of any material or supplies of any character or in any transaction whatsoever in connection with any of the roads of said county, excepting only his own salary, fees or per diem. If any

such county commissioner or such county officer shall willfully violate any of the foregoing provisions of this Section, he shall be punished by a fine of not less than Five Hundred Dollars (\$ 500) nor more than One Thousand Dollars (\$ 1,000) or by imprisonment in the county jail of said county for not more than one (1) year or by both such fine and imprisonment and in addition thereto shall be forthwith removed from office as provided for by General law. If any member of said Commissioners Court or any such officer shall willfully violate any of the other provisions of this Act, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$ 500) or by imprisonment in the county jail of said county for not more than six (6) months or by both such fine and imprisonment.

Fines and Moneys Collected Applied to Road and Bridge Fund

Sec. 31. All fines for any and all violations of any of the provisions of this Act and any and all moneys which may be collected by or on behalf of said county on, under, or by virtue of any contract which may be executed under the provisions of this Act shall be applied to the road and bridge fund of said county.

Definitions

Sec. 32. The terms "Road" and "Highway" as used in this Act shall be held to include bridges, viaducts, causeways, culverts, roadbeds, ditches, drains and every part of a road or highway as such terms are commonly understood whether herein specified or not.

Judicial Notice of Law

Sec. 33. This Act is and shall be held and construed to be a public act of which the court shall take cognizance without proof thereof, and in any court proceedings wherein the provisions of this Act are drawn in question, the necessity for pleadings or proving same is hereby dispensed with.

Law Cumulative; Conflict or Inconsistency

Sec. 34. The provisions of this Act are and shall be held and construed to be cumulative of all General Laws of this State on the subject treated of and embraced in this Act when not in conflict or inconsistent herewith, but in case of such conflict or inconsistency in whole or in part, this Act shall control said county.

Partial Invalidity

Sec. 35. If any section, subdivision, paragraph, sentence, clause or word of this Act shall be held to be unconstitutional, the remaining portions of same shall, nevertheless, be valid and it is declared that such remaining portions would have been included in this Act though the unconstitutional portion had been omitted.