

SB 421 by Kolkhorst (Burns)

Testimony of the Texas Farm Bureau

**House Land and Resource Management
April 25, 2019**

Good afternoon Chairman Craddick and members of the committee. My name is Russell Boening and I serve as President of Texas Farm Bureau. I am here to testify in support of SB 421 on behalf of Texas Farm Bureau and myself.

We understand the need for eminent domain. We just want a fair process and the just compensation guaranteed by the constitution.

Negotiating a deal with a company that has eminent domain isn't a willing buyer, willing seller transaction. Every deal is negotiated with the knowledge that the landowner can't walk away. There is no such thing as a "voluntary" transaction when the company has the power to condemn your property.

And, the landowner has to weigh whether or not it's worth their time and money to hire the professionals that can help them get a fair deal. Because, if the landowner ends up in court, the constitution doesn't let them recoup those costs as part of their just compensation.

This is why the current law requires a company with eminent domain to make a bona fide offer to voluntarily acquire property from the landowner. The company only has the authority to condemn private property if it has made the bona fide offer required by statute.

But, the statute doesn't actually ensure the landowner gets a **good faith** bona fide offer. And, that's what SB 421 attempts to fix.

First, the law should require standard easement terms to protect landowners. Things like specifying that the easement is for a single pipeline, specifying the required depth so we know it's safe to run equipment over it, knowing how they will access the land, and ensuring the repair and maintenance of the surface.

Easement terms are held as leverage over the landowners under current law. If they take me to court, the easement is written exclusively by the company. I don't have a right to retain anything I negotiated with them before court.

Second, these private companies should meet with landowners before they begin the acquiring property. Landowners should have the opportunity to understand the project, what they are being offered, and their rights. Getting this information may actually decrease the need for attorneys.

Lastly, landowners need more information to understand whether or not they are being made a fair initial offer. Current law only has one requirement: that the initial offer be in writing.

At the beginning of session, we proposed penalties to deter lowball offers. But, to address the concerns of the condemnors about penalties based on Special Commissioner awards, we sacrificed penalties for receiving "evidence based" offers. While we aren't certain this will actually fix the problem, it is an improvement over current law. The bill now requires formal documentation substantiating the initial offer provides just compensation.

I want to stress to the committee that we have spent countless hours negotiating in good faith with stakeholders. I personally spent many hours in the Ramsey Room behind the Senate Chamber trying to reach a deal.

We've made many concessions trying to reach a compromise, and we are committed to keep working to get a bill that works for landowners and industry.

Many of our concessions have been to address the concern of adding time or costs to projects. The meetings requirement adds 10 days, only if they wait until after the initial offers to have the meeting. A market study shouldn't be much of an expense as compared to other costs. And, we should actually be saving the companies time with the standard easement terms because it will eliminate some of the back and forth that currently takes place.

But, from the perspective of our members, any additional time and cost that results from this bill is to ensure that the eminent domain power granted by the state to these private companies is used in a responsible manner. Our members feel that their rights are worth a little time and cost.

Thank you for your attention to this important issue. I'm happy to answer any questions at this time.