

Required Documentation of Authority to Use the Right of Eminent Domain

December 13, 2011

SUMMARY:

This items requests approval of the documentation to be reported to the Texas Comptroller of Public Accounts as a result of Senate Bill 18 enacted by the 82nd Legislature.

BOARD GOAL:

VI. Growth, Change & Fiscal Responsibility... In pursuit of excellence, the district will:

- Review and adjust policies and procedures as appropriate to address the challenges of rapid growth and changing demographic characteristics while maintaining and enhancing our strong sense of community
- Demonstrate effective and efficient management of district resources
- Provide leadership and/or oversight to ensure District meets all fiscal, legal and regulatory requirements

PREVIOUS BOARD ACTION:

None

BACKGROUND INFORMATION:

Chapter 2206, Subchapter B, Government Code (as added by Senate Bill 18, 82nd Regular Session) requires the Comptroller of Public Account 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.

SIGNIFICANT ISSUES:

Senate Bill 18 required that all public and private entities authorized to exercise the power of eminent domain in Texas to submit a letter to the comptroller of Public Accounts detailing their legal authority to exercise this power. This letter must be sent by certified, return receipt mail not later than December 31, 2012. 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.

FISCAL IMPLICATIONS:

None

BENEFIT OF ACTION:

- **General Authority** - Texas Education Code, Section 11.155(a) – An independent school district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property for the purpose of securing sites on which to construct school buildings or for any other purpose necessary for the district.
- **Jointly with other governmental entities**
 - Texas Education Code, Section 45.161
 - The district also has authority to exercise the power of eminent domain if it creates an athletic stadium authority pursuant to chapter 45, subchapter F of the Texas Education Code.
 - For the purpose of carrying out any power conferred by this subchapter, an authority may acquire the fee simple title to land and other property and easements by condemnation in the manner provided by Chapter 21, Property Code.
 - Texas Local Government Code, Sections 273.001, .002 – The district may exercise the power of eminent domain jointly with a municipality for limited purposes.
 - A municipality may, in accordance with the chapter, acquire property separately or jointly with another municipality or other governmental entity by gift, dedication, or purchase, with or without 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 purposes by a municipality.

PROCEDURAL AND REPORTING IMPLICATIONS:

The letter detailing the authority of eminent domain must be sent to the Texas Comptroller of Public Accounts by certified, return receipt mail not later than December 31, 2012.

SUPERINTENDENT'S RECOMMENDATION:

Recommend approval of the form/letter to be submitted to the Texas Comptroller of Public Accounts as documentation of the District's authority to use the right of eminent domain.

STAFF PERSONS RESPONSIBLE:

Debbie Monschke, Executive Director of Administrative Services

ATTACHMENT:

Required Documentation of Eminent Domain Authority in Texas

APPROVAL:

Signature of Staff Member Proposing Recommendation: _____

Signature of Divisional Assistant Superintendent: _____

Signature of Superintendent: _____