

By: Taylor

H.B. No. 1496

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to governmental actions affecting private property rights  
3 in certain oil and gas wells.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 2007.002(4), Government Code, is amended  
6 to read as follows:

7 (4) "Private real property" means an interest in real  
8 property recognized by common law, including any interest in an oil  
9 or natural gas well or a groundwater or surface water right of any  
10 kind, that is not owned by the federal government, this state, or a  
11 political subdivision of this state.

12 SECTION 2. Sections 2007.003(a) and (b), Government Code,  
13 are amended to read as follows:

14 (a) This chapter applies only to the following governmental  
15 actions:

16 (1) the adoption or issuance of an ordinance, rule,  
17 regulatory requirement, resolution, policy, guideline, or similar  
18 measure;

19 (2) an action that imposes a physical invasion or  
20 requires a dedication or exaction of private real property;

21 (3) an action by a municipality that has effect in the  
22 extraterritorial jurisdiction of the municipality, excluding  
23 annexation, and that enacts or enforces an ordinance, rule,  
24 regulation, or plan that does not impose identical requirements or

1 restrictions in the entire extraterritorial jurisdiction of the  
2 municipality; ~~and~~

3 (4) enforcement of a governmental action listed in  
4 Subdivisions (1) through (3), whether the enforcement of the  
5 governmental action is accomplished through the use of permitting,  
6 citations, orders, judicial or quasi-judicial proceedings, or  
7 other similar means; and

8 (5) an action by a political subdivision that imposes  
9 or enforces a limitation that has the effect of preventing or  
10 prohibiting the development of an oil or gas well that has been  
11 permitted by the Texas Railroad Commission under Chapter 91,  
12 Natural Resources Code.

13 (b) This chapter does not apply to the following  
14 governmental actions:

15 (1) an action by a municipality except as provided by  
16 Subsection (a)(3) or (5);

17 (2) a lawful forfeiture or seizure of contraband as  
18 defined by Article 59.01, Code of Criminal Procedure;

19 (3) a lawful seizure of property as evidence of a crime  
20 or violation of law;

21 (4) an action, including an action of a political  
22 subdivision, that is reasonably taken to fulfill an obligation  
23 mandated by federal law or an action of a political subdivision that  
24 is reasonably taken to fulfill an obligation mandated by state law;

25 (5) the discontinuance or modification of a program or  
26 regulation that provides a unilateral expectation that does not  
27 rise to the level of a recognized interest in private real property;

1           (6) an action taken to prohibit or restrict a  
2 condition or use of private real property if the governmental  
3 entity proves that the condition or use constitutes a public or  
4 private nuisance as defined by background principles of nuisance  
5 and property law of this state;

6           (7) an action taken out of a reasonable good faith  
7 belief that the action is necessary to prevent a grave and immediate  
8 threat to life or property;

9           (8) a formal exercise of the power of eminent domain;

10          (9) an action taken under a state mandate to prevent  
11 waste of oil and gas, protect correlative rights of owners of  
12 interests in oil or gas, or prevent pollution related to oil and gas  
13 activities;

14          (10) a rule or proclamation adopted for the purpose of  
15 regulating water safety, hunting, fishing, or control of  
16 nonindigenous or exotic aquatic resources;

17          (11) an action taken by a political subdivision:

18               (A) to regulate construction in an area  
19 designated under law as a floodplain;

20               (B) to regulate on-site sewage facilities;

21               (C) under the political subdivision's  
22 [~~subdivisions's~~] statutory authority to prevent waste or protect  
23 rights of owners of interest in groundwater; or

24               (D) to prevent subsidence;

25          (12) the appraisal of property for purposes of ad  
26 valorem taxation;

27          (13) an action that:

1 (A) is taken in response to a real and  
2 substantial threat to public health and safety;

3 (B) is designed to significantly advance the  
4 health and safety purpose; and

5 (C) does not impose a greater burden than is  
6 necessary to achieve the health and safety purpose; ~~or~~

7 (14) an action or rulemaking undertaken by the Public  
8 Utility Commission of Texas to order or require the location or  
9 placement of telecommunications equipment owned by another party on  
10 the premises of a certificated local exchange company; or

11 (15) an action described by Subsection (a)(5) that  
12 imposes or enforces a reasonable standard established by the  
13 political subdivision for oil or gas wells relating to:

14 (A) visual aesthetics;

15 (B) noise abatement; or

16 (C) hours of operation.

17 SECTION 3. This Act takes effect September 1, 2013.