



ROBERT DUNCAN
STATE SENATOR
DISTRICT 28

Eminent Domain Legislation to be Filed
Senator Robert Duncan
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"This session I plan to work very closely with Representative Rob Orr and Governor Perry with regard to major reforms in the law of eminent domain.

In 2005, the United States Supreme Court came out in a case and basically said that a governmental entity, or even a quasi-governmental entity, can employ the power of eminent domain for economic development purposes. What this means is basically, that a governmental entity or a quasi-governmental entity can use eminent domain to take property from one private property owner and transfer it to another for another use.

I don't think our founding fathers ever really had that in mind whenever they created the power of eminent domain. I believe that they intended for it to be a power that would only be granted in limited circumstances for the public use generally.

We will debate this issue and attempt to craft responsible legislation to deal with these concerns. House Bill 4 and a Senate companion, which we will file, cleans up the process that governments and other entities have to follow whenever they seek the use of eminent domain. It makes the process more fair and equitable for the property owners. In addition, we will propose, and file in the near future, a Constitutional amendment that will define the concept of public use that enables a governmental entity to use eminent domain. This particular process will provide, I think, better definition for the legislative process, and for entities that have eminent domain authority to put them on notice that only certain types of projects, projects that are indeed intended for public use generally would be eligible for eminent domain authority.

In the past, the Legislature has liberally granted eminent domain authority to many entities - so many entities that right now, we can't even identify all of the entities. We will also put into place a procedure where we can identify entities that have eminent domain authority, and then evaluate the appropriateness of that authority in the future. While we were not trying to unduly restrict eminent domain authority for projects that are indeed for the public use, I think there is a public outcry with regard to the inappropriate uses of eminent domain, that are simply used as tools of transferring property from one person to another, without a proper public use attached to it.

As we go through this process, we certainly will be interested in input from all interested parties. It will be a very difficult piece of legislation to pass, but I think it's something that the people of Texas are ready for."