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State and Local Leaders Fight to Derail Texas Central Railway's High-Speed Land Grab

Key state lawmakers signal strong support for a Grimes County ordinance to prevent foreign-owned high-speed rail from compromising access to county roadways.

AUSTIN, TX -- On Tuesday, the Grimes County Commissioners Court voted unanimously to require high-speed rail developers to provide sufficient proof of their eminent domain authority and acquire a county permit before constructing a rail line over county roads. Similar draft ordinances are already circulating among half a dozen counties that stand to be impacted by Texas Central Railway's (TCR) proposed high-speed rail line connecting Dallas and Houston, and most are anticipated to pass in the weeks ahead.

"This ill-conceived high-speed rail proposal by a group of Japanese investors threatens to seize family farms, physically divide the state of Texas, and have a gravely detrimental impact on the citizens I represent," said State Representative Leighton Schubert (R-Caldwell). "At a minimum, the people of Grimes County deserve reasonable reassurances that their private property rights will be respected, and their access to county roads will be maintained."

In July, the Surface Transportation Board dealt a substantial blow to Texas Central's high-speed rail proposal, determining the federal government lacked the authority to grant eminent domain powers to TCR or otherwise regulate the proposed high-speed train. Since then, it's become increasingly unclear whether TCR has the actual legal authority to take land from private property owners along the train's proposed path or regulatory framework necessary to operate a high-speed train in Texas. So far, however, that murky legal authority hasn't stopped Texas Central from strong-arming rural landowners with threats to either give up their land voluntarily or risk losing it through a future condemnation lawsuit.

Both sides are expected to seek clarification from the state regarding eminent domain and the overall regulation of high-speed rail when the Texas Legislature reconvenes in January 2017.

"Texans are proud of their heritage and the Texas Legislature has a proud tradition of standing up for the rights of private landowners," said Senator Charles Schwertner (R-Georgetown). "Texas leaders like Governor Greg Abbott and Lt. Governor Dan Patrick have never wavered in their defense of rural landowners and have both fought to defend Texans' private property rights since their first days in office. I fully expect that they, and other Texas conservatives, will ultimately see this foreign land-grab for what it is."

Senator Brian Birdwell (R-Granbury) expressed similar doubts about Texas Central Railway's plan to operate a high-speed train between Dallas and Houston without any apparent regulation from state or federal authorities.

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"So far, all we have seen is a group pushing to seize property from Texas landowners under the guise of an eminent domain authority they don't have," said Senator Birdwell. "We're talking about building a virtually impassible barrier of berms and fencing across 240 miles of privately-owned Texas land—are we really suggesting that a project of that magnitude should move forward without any input or direction from the people's elected representatives?"

In addition to the brewing controversies over eminent domain and the general regulation of high speed rail, a number of questions remain unanswered regarding the specific details of Texas Central's proposal. While TCR has claimed that the project will cost just \$10 billion to complete, an independent analysis from the Texas Department of Transportation (TxDOT) puts that estimate at closer to \$18 billion.

Critics have also raised grave concerns about the overall financial viability of the project, noting that without some form of government subsidy, Texas Central will find it virtually impossible to meet their stated ridership estimates at prices competitive with existing modes of transportation.

"Frankly, the numbers just don't seem to add up," said State Representative Trent Ashby (R-Lufkin), who serves as a budget-writer on the powerful House Appropriations Committee. "To my knowledge, there isn't a high-speed train on the planet that's capable of operating without a government subsidy, and until I see evidence to the contrary, I have no reason to believe this one will be any different. At the end of the day, I don't believe the majority of Texans are willing to pay higher taxes in order to subsidize a private project meant to benefit Japanese investors."

The current conflict between foreign developers and rural landowners is reminiscent of a similar debate over the so-called Trans-Texas Corridor, a highly-controversial and similarly ambitious statewide transportation project that dominated Texas politics for much of the last decade. Following intense opposition from conservative interest groups, state lawmakers, and rural landowners the project was ultimately abandoned.

"So many of our constitutional freedoms flow from the inherent right to own private property," said Senator Lois Kolkhorst (R-Brenham). "Texans saw those rights threatened a few years ago with the Trans-Texas Corridor, and now we are seeing it again with the latest high-speed rail proposal. That's why I applaud any local efforts to push back against this project's abuse of eminent domain."

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