

Regular Session, 2003

HOUSE BILL NO. 424

BY REPRESENTATIVE PITRE

(On Recommendation of the Louisiana State Law Institute)

PROPERTY/RIGHTS: (Constitutional Amendment) Authorizes the legislature to limit recovery for damages to property rights affected by coastal conservation activities

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A JOINT RESOLUTION

Proposing to amend Article I, Section 4 of the Constitution of Louisiana, to authorize the legislature to place limitations on the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to amend Article I, Section 4 of the Constitution of Louisiana, to read as follows:

§4. Right to Property

Section 4.(A) Every person has the right to acquire, own, control, use, enjoy, protect, and dispose of private property. This right

1 is subject to reasonable statutory restrictions and the reasonable
2 exercise of the police power.

3 (B) Property shall not be taken or damaged by the state or its
4 political subdivisions except for public purposes and with just
5 compensation paid to the owner or into court for his benefit. Property
6 shall not be taken or damaged by any private entity authorized by law
7 to expropriate, except for a public and necessary purpose and with just
8 compensation paid to the owner; in such proceedings, whether the
9 purpose is public and necessary shall be a judicial question. In every
10 expropriation, a party has the right to trial by jury to determine
11 compensation, and the owner shall be compensated to the full extent of
12 his loss. No business enterprise or any of its assets shall be taken for
13 the purpose of operating that enterprise or halting competition with a
14 government enterprise. However, a municipality may expropriate a
15 utility within its jurisdiction.

16 (C) Personal effects shall never be taken. But the following
17 property may be forfeited and disposed of in a civil proceeding, as
18 provided by law: contraband drugs; property derived in whole or in part
19 from contraband drugs; property used in the distribution, transfer, sale,
20 felony possession, manufacture, or transportation of contraband drugs;
21 property furnished or intended to be furnished in exchange for
22 contraband drugs; property used or intended to be used to facilitate any
23 of the above conduct; or other property because the above-described
24 property has been rendered unavailable.

25 (D) This Section shall not apply to appropriation of property
26 necessary for levee and levee drainage purposes.

1 (E) Further, the legislature may place limitations on the extent
 2 of recovery for the taking of, or loss or damage to, property rights
 3 affected by coastal wetlands conservation, management, preservation,
 4 enhancement, creation, or restoration activities.

5 Section 2. Be it further resolved that this proposed amendment shall be
 6 submitted to the electors of the state at the gubernatorial primary election in
 7 2003.

8 Section 3. Be it further resolved that on the official ballot to be used at
 9 the election there shall be printed a proposition, upon which the electors of the
 10 state shall be permitted to vote FOR or AGAINST, to amend the Constitution
 11 of Louisiana, which proposition shall read as follows:

12 To authorize the legislature to place limitations on the extent of
 13 recovery for the taking of, or loss or damage to, property rights
 14 affected by coastal wetlands conservation activities. (Amends
 15 Article I, Section 4)

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Pitre

HB No. 424

Abstract: Constitutional amendment to authorize the legislature to place limitations on the extent of recovery for damages to property rights affected by coastal restoration activities.

Present constitution (Art. 1, §4) prohibits the state from taking property except under certain conditions and with just compensation paid to the owner.

Proposed constitutional amendment authorizes the legislature to place limitations on the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities and otherwise retains present constitution.

Provides for submission of the proposed amendment to the voters at the gubernatorial primary election in 2003.

(Amends Const. Art. I, §4)