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## DIGEST

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Farrar

HB No. 707

**Abstract:** Establishes procedures for the expropriation of property by the state or its political subdivisions, limits the authority to expropriate, and provides for the declaration and return of surplus property.

Present constitution (Art. VI, §23) authorizes political subdivisions to acquire property for any public purpose by purchase, donation, expropriation, exchange, or otherwise, subject to restrictions provided by the constitution and by general law.

Present constitution (Art. VI, §21) provides, in part, that in order to induce and encourage the location or addition to industrial enterprises which would have an economic impact, the legislature may authorize political subdivisions to acquire property by purchase, donation, exchange, and expropriation and may sell, lease, lease-purchase, or demolish all or any part of the property acquired, subject to restrictions provided by the legislature.

Present constitution (Art. VI, §19) provides, in part, the authority to create special districts, boards, agencies, commissions, and authorities of every type and to define their rights, powers, and authorities as it deems proper, subject to restrictions provided by the constitution.

Present constitution (Art. I, §4(B)) prohibits the expropriation of property by the state or its political subdivisions except for public purposes and with just compensation paid to the owner or into court for his benefit. Prohibits the expropriation of property by any private entity authorized by law to expropriate, except for a public and necessary purpose and with just compensation paid to the owner; in such proceedings, whether the purpose is public and necessary shall be a judicial question.

Proposed constitutional amendment provides that expropriation shall be available to the state or its political subdivisions pursuant to the following requirements and limitations:

- (1) Establish in writing the need and nature of the public purpose for the property which shall be published in the official journal and submitted to the private landowner.
- (2) Limit "public purpose" to a general public right to a definite use of the property taken, the use of the property taken for utility or other common carrier, or the removal of a threat to public health or safety with the existing use of the property taken and provides that "public purposes" shall not include transfer of ownership to a private entity or individual.
- (3) Just and equitable compensation shall be paid to the private landowner or placed into the

court of competent jurisdiction for the landowner's benefit; a party has the right to trial by jury to determine compensation.

- (4) Except for lease and operations agreements for port facilities, the state or political subdivision shall not sell, lease-purchase, or lease property which has been expropriated to any person without first offering the property to the original landowner.
- (5) Within one year from the completion of the project, the state or its political subdivision shall identify all property which is not necessary and declare it as surplus.
- (6) The state or political subdivision shall offer all surplus property to the original landowner at fair market value within two years from completion of the project and if not purchased by the original owner, the surplus property may be offered for sale to the general public by competitive bid within three years from completion of the project.
- (7) Within one year from the completion of the project, the original landowner may petition the state or political subdivision to have all or any portion of their property declared surplus, and if the state or political subdivision refuses to identify all or any portion of the expropriated property as surplus, the original landowner may go to any court of competent jurisdiction to have the property declared surplus.

Provides for submission of the proposed amendment to the voters at the statewide election to be held September 30, 2006.

(Amends Const. Art. I, §4(B))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Changes prohibition of use of expropriated property by a private entity to a prohibition of transferring ownership to a private entity.
2. Deletes from consideration in determining public purpose whether the taking may prove beneficial or profitable to some portion of the public or for economic development.
3. Adds provision providing for the right to a jury trial to determine compensation.
4. Adds exemption from proposed law for lease and operations agreements for port facilities.

House Floor Amendments to the engrossed bill.

1. Provides that property shall not be taken or damaged except for a public and necessary purpose and for the payment of just compensation.
2. Provides that whether or not the purpose is public and necessary is a judicial question.
3. Provides that a party has a right to a trial by jury to determine compensation.
4. Requires the owner to be paid compensation to the full extent of his loss.