

Farrar

HB No. 707

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

**PROPERTY/EXPROPRIATION. Constitutional amendment to prohibit the transfer or lease of expropriated property without first offering the property to the original owner.**

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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.

Proposed constitutional amendment provides that:

- (1) Except for lease and operations agreements for port or airport facilities, the state or political subdivision shall not sell or lease property which has been expropriated to any person without first offering the property to the original owner or his heir at pro rata compensation paid to the owner for the expropriation.
- (2) Within one year from the completion of the project for which the property was expropriated, the state or its political subdivision which expropriated the property shall identify all property which is not necessary for the stated public purpose of the project and declare it as surplus.
- (3) Within 2 years after completion of the project, the state or political subdivision shall offer for sale the surplus property to the original owner or his heirs at pro rata compensation paid to the owner and if not purchased within 3 years from completion of the project, the surplus property may be offered for sale to the general public by competitive bid.
- (4) After one year from the completion of the project for which the property was expropriated, the original landowner may petition the state or political subdivision which expropriated the property to have all or any portion of their property declared surplus, and if the state or political subdivision refuses or fails to identify all or any portion of the expropriated property as surplus, the original landowner may petition 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(G))

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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill.

1. Delete provisions amending Article I, §4(B), relative to the expropriation of property by the state or its political subdivisions and limiting the authority to expropriate.
2. Changes the requirement that property be offered to the original landowner or the successor in title at fair market value to the requirement that such property be offered to the original owner or his heir at pro rata compensation paid to the owner for the expropriated property.
3. Changes the time in which a landowner or the successor in title may petition the political subdivisions which expropriated the property to have all or any portion of the property declared surplus from within 1 year to after 1 year, from completion of the project for which the property was expropriated.