

## CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 707 by Representative Farrar

Digest of Bill as Finally Passed by the House

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 for the following requirements and limitations in order to expropriate:

- (1) The state or its political subdivision must 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) Limits "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) Requires that 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 Senate

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

1. Deletes 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, after which the property can only be transferred by competitive bid open to the general public.
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.

Senate Floor Amendments to the reengrossed bill.

1. Adds exceptions for leases or operation agreements for highways, qualified transportation facilities, and airports to the exception for leases or operation agreements for port facilities.
2. Requires that the property which has been held for less than 30 years be offered to the original owner or his heir at the current appraised value or the pro rata compensation paid to the owner for the expropriated property, whichever is less, or if there is no heir, to the successor in title at the current appraised value.
3. Adds provision that if the expropriated property is held by the state or its political subdivision for more than 30 years, the property may be sold or transferred as otherwise provided by law.
4. Requires that the surplus property be offered to the original landowner or the successor in title at the fair market value within two years of the completion of the project, to requiring that such property be offered to the original owner or his heir at the current appraised value or the pro rata compensation paid to the owner for the expropriated property, whichever is less, or if there is no heir, to the successor in title at the current appraised value.

Digest of Bill as Proposed by Conference Committee

Same as finally passed the Senate, except that the valuation of the property to be sold back to the original owner or his heirs was changed from the current appraised value or pro rata the compensation paid to the owner, whichever is less, to the current fair market value.