

Regular Session, 2008

SENATE BILL NO. 295

BY SENATORS MURRAY AND DORSEY

EXPROPRIATION. Constitutional amendment to remove certain restrictions on the disposition of blighted property expropriated in the city of New Orleans, the city of Baton Rouge, or the parish of Jefferson. (2/3-CA13s1(A))

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A JOINT RESOLUTION

Proposing to add Article I, Section 4(H)(5) of the Constitution of Louisiana, relative to property; to provide relative to the right to property; to provide relative to the taking of property; to provide relative to the taking of property in the city of Baton Rouge, the city of New Orleans, and in Jefferson Parish for certain purposes; to specify an election for submission of the proposition to electors; and to provide a ballot proposition.

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 add Article I, Section 4(H)(5) of the Constitution of Louisiana, to read as follows:

§4. Right to Property

Section 4.(A)

\* \* \*

(H)(1)

\* \* \*

**(5) The provisions of this Paragraph shall not apply when property is**

1           **taken in the city of Baton Rouge, the city of New Orleans, or in Jefferson Parish**  
 2           **pursuant to Item (B)(2)(c) of this Section.**

3           Section 2. Be it further resolved that this proposed amendment shall be submitted  
 4           to the electors of the state of Louisiana at the statewide election to be held on November 4,  
 5           2008.

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

10                    To provide an exception to requirements of first refusal by the owner prior  
 11                    to sale and certain procedures for declaration of property as surplus property,  
 12                    when property in the city of Baton Rouge, the city of New Orleans, or in  
 13                    Jefferson Parish is taken for the public purpose of removal of a threat to  
 14                    public health or safety caused by the existing use or disuse of the property.

15                    (Adds Article I, Section 4(H)(5))

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Jerry G. Jones.

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#### DIGEST

Murray (SB 295)

Present constitution in Article I, Section 4, provides relative to the right to property.

Present constitution provides that every person has the right to acquire, own, control, use, enjoy, protect, and dispose of private property. This right is subject to reasonable statutory restrictions and the reasonable exercise of the police power.

Present constitution further provides that property shall not be taken or damaged 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.

Present constitution further provides that "public purpose" shall be limited to the following:

- (1) A general public right to a definite use of the property.
- (2) Continuous public ownership of property dedicated to one or more of the following objectives and uses:
  - (a) Public buildings in which publicly funded services are administered, rendered, or provided.
  - (b) Roads, bridges, waterways, access to public waters and lands, and other

public transportation, access, and navigational systems available to the general public.

- (c) Drainage, flood control, levees, coastal and navigational protection and reclamation for the benefit of the public generally.
- (d) Parks, convention centers, museums, historical buildings and recreational facilities generally open to the public.
- (e) Public utilities for the benefit of the public generally.
- (f) Public ports and public airports to facilitate the transport of goods or persons in domestic or international commerce.
- (g) The removal of a threat to public health or safety caused by the existing use or disuse of the property.

Present constitution further provides that:

- (1) Except for leases or operation agreements for port facilities, highways, qualified transportation facilities or airports, the state or its political subdivisions shall not sell or lease property which has been expropriated and held for not more than thirty years without first offering the property to the original owner or his heir, or, if there is no heir, to the successor in title to the owner at the time of expropriation at the current fair market value, after which the property can only be transferred by competitive bid open to the general public. After thirty years have passed from the date the property was expropriated, the state or political subdivision may sell or otherwise transfer the property as provided by law.
- (2) Within one year after 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 public purpose of the project and declare the property as surplus property.
- (3) All expropriated property identified as surplus property shall be offered for sale to the original owner or his heir, or, if there is no heir, to the successor in title to the owner at the time of expropriation at the current fair market value, within two years after completion of the project. If the original owner, heir, or other successor in title refuses or fails to purchase the surplus property within three years from completion of the project, then 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 property was expropriated, the original owner or his heir, or, if there is no heir, the successor in title to the owner at the time of expropriation may petition the state or its political subdivision which expropriated the property to have all or any portion of his property declared surplus. If the state or its political subdivision refuses or fails to identify all or any portion of the expropriated property as surplus, the original owner or the successor in title may petition any court of competent jurisdiction to have the property declared surplus.

Proposed constitutional amendment retains present provisions, but adds exception to the above four requirements.

Proposed constitutional amendment provides that in the city of Baton Rouge or the city of New Orleans or in Jefferson Parish, when property is taken for the public purpose of removal of a threat to public health or safety caused by the existing use or disuse of the property, these above four requirements shall not be applicable, including first refusal by the owner

prior to sale and procedures for declaration of the property as surplus property.

Specifies submission of the amendment to the voters at the statewide election to be held on November 4, 2008.

(Adds Art. I, §4(H)(5))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill.

1. Adds Jefferson Parish to the group that is exempt from the four constitutional requirements.