
DIGEST

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Murray

SB No. 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, the city of Monroe, the city of New Orleans, Jefferson Parish, or St. Tammany 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.

Summary of Amendments Adopted by House

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

1. Adds the city of Monroe and Jefferson Parish to the list of political subdivisions that are exempt from the constitutional requirements to offer the property back to the owner from whom the property was previously taken.