

Regular Session, 2003

ACT No. 1295

HOUSE BILL NO. 424 (Duplicate of Senate Bill No. 224)

BY REPRESENTATIVE PITRE AND SENATOR HAINKEL AND
COAUTHORED BY REPRESENTATIVE WALSWORTH

(On Recommendation of the Louisiana State Law Institute)

A JOINT RESOLUTION

Proposing to amend Article I, Section 4 of the Constitution of Louisiana, to authorize the legislature to place limitations on the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

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 amend Article I, Section 4 of the Constitution of Louisiana, to read as follows:

§4. Right to Property

Section 4.(A) 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.

(B) 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. Property shall not be taken or damaged 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. In every expropriation, a party has the right to trial by jury to determine compensation, and the owner shall be compensated to the full extent of his loss. No business enterprise or any of its assets shall be taken for the purpose of operating that enterprise or halting competition with a government enterprise. However, a municipality may expropriate a utility within its jurisdiction.

(C) Personal effects shall never be taken. But the following property may be forfeited and disposed of in a civil proceeding, as provided by law: contraband drugs; property derived in whole or in part from contraband drugs; property used in the distribution, transfer, sale, felony possession, manufacture, or transportation of contraband drugs; property furnished or intended to be furnished in exchange for contraband drugs; property used or intended to be used to facilitate any of the above conduct; or other property because the above-described property has been rendered unavailable.

(D) This Section shall not apply to appropriation of property necessary for levee and levee drainage purposes.

(E) Further, the legislature may place limitations on the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities.

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state at the gubernatorial primary election in 2003.

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

To authorize the legislature to limit the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities. (Amends Article I, Section 4)

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE