H-3828.2 _____

HOUSE JOINT RESOLUTION 4217
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State of Washington   **59th Legislature**   **2006 Regular Session**

By Representatives Nixon, Rodne, Newhouse, Serben, Sump, Buri, Crouse, Haler, Woods, Priest, Condotta, Shabro, Kristiansen, Strow, Ericksen, Walsh, Skinner, Roach, Buck, Holmquist, Ahern, McCune, Bailey, Kretz, Talcott and Orcutt

Read first time . Referred to .

1   BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
2 STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:
3   THAT, At the next general election to be held in this state the
4 secretary of state shall submit to the qualified voters of the state
5 for their approval and ratification, or rejection, an amendment to
6 Article I, section 16 of the Constitution of the state of Washington to
7 read as follows:

8   Article I, section 16. Private property shall not be taken for
9 private use, except <u>solely</u> for private ways of necessity, and for
10 drains, flumes, or ditches on or across the lands of others for
11 agricultural, domestic, or sanitary purposes<u>; otherwise, private</u>
12 <u>property shall be taken only for a stated public use and no greater</u>
13 <u>interest shall be taken than is necessary to accomplish the stated</u>
14 <u>public use. Public use shall mean only the actual possession,</u>
15 <u>occupation, or use of the property by the general public or by a</u>
16 <u>governmental entity, or the use of land for the creation or functioning</u>
17 <u>of public utilities or common carriers such as railroads, utilities, or</u>
18 <u>toll roads. Public use shall not be equated with and shall not be</u>
19 <u>construed to mean public purpose, public interest, or public benefit,</u>

such as promoting economic development, creating jobs, improving the tax base, or enhancing tax revenues by building, expanding, or upgrading private retail, commercial, industrial, or residential establishments. All grants and exercise of the power of eminent domain shall be strictly construed and incidental private uses are prohibited. No private property shall be taken or damaged for public or private use without just compensation having been first made, or paid into court for the owner, and no right-of-way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money, or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in courts of record, in the manner prescribed by law. Whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such, without regard to any legislative assertion that the use is public: *Provided,* That the taking of private property by the state for land reclamation and settlement purposes is hereby declared to be for public use. The previous owner of any property that has been taken for public use, by petition to the court and upon proof, has the right to void the condemnation order, the right to bring an action for the title of the property against any present owner or owners of the property, and the first right to reacquire any part or all of the property if the property has been put to use inconsistent with the stated use, has not been substantially put to use at all within ten years from the date the property was taken, or was put to use consistent with the stated use but has ceased to be substantially used for the stated use for a period of ten years, by paying back an amount of the compensation received in the eminent domain proceeding with interest at the market rate, with said amount to be fairly ascertained and determined by the court.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

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