

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 37

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WRIGHT (137).

Pre-filed December 21, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3033L.02I

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing sections 26, 27, and 28 of article I of the Constitution of Missouri, and adopting three new sections in lieu thereof relating to restricting the power of eminent domain.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2006, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Sections 26, 27, and 28, article I, Constitution of Missouri, are repealed and three new sections adopted in lieu thereof, to be known as sections 26, 27, and 28, to read as follows:

Section 26. That private property shall not be taken or damaged for public use without just compensation, **and no use shall be considered public in which any entity other than the state, a political subdivision, municipal corporation, public agency, public utility, or rural electric cooperative will use or own such property. If such public entity offers to sell or transfer property taken for public use within a period of twenty years after the taking, the property owner of record at the time of such taking shall have the first right to purchase the property at current fair market value.** Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be provided

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 by law; and until the same shall be paid to the owner, or into court for the owner, the property
10 shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land
11 taken for railroad purposes without consent of the owner thereof shall remain in such owner
12 subject to the use for which it is taken.

Section 27. That in such manner and under such limitations as may be provided by law,
2 the state, or any county or city may acquire by eminent domain such property, or rights in
3 property, in excess of that actually to be occupied by the public improvement or used in
4 connection therewith, as may be reasonably necessary to effectuate the purposes intended, and
5 may be vested with the fee simple title thereto, or the control of the use thereof, and may sell
6 such excess property with such restrictions as shall be appropriate to preserve the improvements
7 made; **provided, however, that no such property or rights in property shall be acquired**
8 **unless the state, a political subdivision, municipal corporation, public agency, public utility,**
9 **or rural electric cooperative will use or own such property. If such public entity offers to**
10 **sell or transfer property taken for public use within a period of twenty years after the**
11 **taking, the property owner of record at the time of such taking shall have the first right to**
12 **purchase the property at current fair market value.**

Section 28. That private property shall not be taken for private use with or without
2 compensation, unless by consent of the owner, except for private ways of necessity, and except
3 for drains and ditches across the lands of others for agricultural and sanitary purposes, in the
4 manner prescribed by law; and that when an attempt is made to take private property for a use
5 alleged to be public, the question whether the contemplated use be public shall be judicially
6 determined without regard to any legislative declaration that the use is public; **and that this**
7 **section shall be strictly construed in order to enforce the public policy of the state as**
8 **enunciated in this section and sections 26 and 27 of this article.**

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