HOUSE CONCURRENT RESOLUTION NO. 26

A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 17, MISSISSIPPI CONSTITUTION OF 1890, TO PROHIBIT FEE SIMPLE TITLE TO PRIVATE PROPERTY THAT HAS BEEN TAKEN FOR PUBLIC USE FROM EVER BEING TRANSFERRED OR CONVEYED TO A PRIVATE PERSON OR NONPUBLIC ENTITY EXCEPT SUCH PERSON OR PERSONS FROM WHICH THE PROPERTY WAS ORIGINALLY TAKEN, OR THE HEIRS OR ASSIGNS OF SUCH PERSON OR PERSONS; TO AUTHORIZE THE LEGISLATURE, BY GENERAL LAW, TO PRESCRIBE THE MANNER AND PROCEDURE FOR DISPOSING OF SUCH PROPERTY WHEN THE PERSON OR PERSONS FROM WHOM SUCH PROPERTY WAS TAKEN, OR THEIR HEIRS OR ASSIGNS, ARE NO LONGER LIVING OR CANNOT BE FOUND; AND FOR RELATED PURPOSES.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI, That the following amendment to the Mississippi Constitution of 1890 is proposed to the qualified electors of the state:

Amend Section 17, Mississippi Constitution of 1890, to read as follows:

"Section 17. Private property shall not be taken or damaged for public use, except on due compensation being first made to the owner or owners thereof, in a manner to be prescribed by law; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be a judicial question, and, as such, determined without regard to legislative assertion that the use is public.

Whenever private property is taken for public use, fee simple title to such property shall never be transferred or conveyed to a private person or nonpublic entity except such person or persons from which the property was originally taken, or the heirs or assigns of such person or persons. However, the Legislature, by general law, may prescribe the manner and procedure for disposing of such property when the person or persons from whom such
BE IT FURTHER RESOLVED, That this proposed amendment shall be submitted by the Secretary of State to the qualified electors at an election to be held on the first Tuesday after the first Monday of November 2003, as provided by Section 273 of the Constitution and by general law.

BE IT FURTHER RESOLVED, That the explanation of this proposed constitutional amendment for the ballot shall read as follows: "This proposed constitutional amendment prohibits property that has been taken for public use from being conveyed to a private person or nonpublic entity except the person or persons from which the property was originally taken, or their heirs or assigns. However, the Legislature may enact laws to prescribe how such property may be disposed of when the original owner or his heirs are no longer living or cannot be found."