

Senate Amendments to House Concurrent Resolution No. 10

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

1 Amend by striking all and inserting in lieu thereof the
2 following:

3 WHEREAS, under the current judicial decisions interpreting
4 Section 17 of the Mississippi Constitution of 1890, property may
5 be taken by eminent domain only for direct public uses; and

6 WHEREAS, the Legislature is concerned that future judicial
7 decisions may adopt a more expansive interpretation of the term
8 public use; and

9 WHEREAS, the Mississippi Legislature proposes to engraft in
10 the text of the Constitution the effect of those current judicial
11 decisions: NOW, THEREFORE,

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

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

18 Section 17. Private property shall not be taken or damaged
19 except for a direct public use which is the primary purpose of the
20 taking or damage, and compensation is first made to the owner or
21 owners thereof, in a manner to be prescribed by law. An increase
22 in tax revenue for a governmental entity shall not, in and of
23 itself, be a direct public use. Whenever an attempt is made to
24 take private property for a use alleged to be a direct public use,
25 the question whether the contemplated use is a direct public use
26 shall be a judicial question, and, as such, shall be determined
27 without regard to legislative assertion that the use is a direct
28 public use. For purposes of this section, without limiting or

29 enlarging what otherwise may or may not be a direct public use, a
30 direct public use shall include common carriers or facilities of
31 public utilities and other entities used in the generation,
32 transmission, storage or distribution of telephone,
33 telecommunications, gas, carbon dioxide, electricity, water,
34 sewer, natural gas, liquid hydrocarbons or other utility products.

35 BE IT FURTHER RESOLVED, That this proposed amendment shall be
36 submitted by the Secretary of State to the qualified electors at
37 an election to be held on the first Tuesday after the first Monday
38 of November 2006, as provided by Section 273 of the Constitution
39 and by general law.

40 BE IT FURTHER RESOLVED, That the explanation of this proposed
41 amendment for the ballot shall read as follows: "This proposed
42 constitutional amendment prohibits use of the power of eminent
43 domain to take private property solely for private economic
44 development purposes; direct public use is required.

45 **Further, amend by striking the title in its entirety and**
46 **inserting in lieu thereof the following:**

47 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 17,
48 MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE THAT PRIVATE PROPERTY
49 SHALL NEVER BE TAKEN SOLELY FOR PRIVATE ECONOMIC DEVELOPMENT
50 PURPOSES BUT SHALL REQUIRE A DIRECT PUBLIC USE; TO FURTHER DEFINE
51 DIRECT PUBLIC USE; AND FOR RELATED PURPOSES.

SS26\HC10A.2J

John O. Gilbert
Secretary of the Senate