

By: Senator(s) Ross

To: Constitution

SENATE CONCURRENT RESOLUTION NO. 509

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 17,
2 MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE THAT PRIVATE PROPERTY
3 SHALL NEVER BE TAKEN SOLELY FOR PRIVATE ECONOMIC DEVELOPMENT
4 PURPOSES BUT SHALL REQUIRE A DIRECT PUBLIC USE; TO FURTHER DEFINE
5 DIRECT PUBLIC USE; AND FOR RELATED PURPOSES.

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

9 WHEREAS, the Legislature is concerned that future judicial
10 decisions may adopt a more expansive interpretation of the term
11 public use; and

12 WHEREAS, the Mississippi Legislature proposes to engraft in
13 the text of the Constitution the effect of those current judicial
14 decisions; NOW, THEREFORE,

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

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

21 Section 17. Private property shall not be taken or damaged
22 except for a direct public use which is the primary purpose of the
23 taking or damage, and compensation is first made to the owner or
24 owners thereof, in a manner to be prescribed by law. An increase
25 in tax revenue for a governmental entity shall not, in and of
26 itself, be a direct public use. Whenever an attempt is made to
27 take private property for a use alleged to be a direct public use,
28 the question whether the contemplated use is a direct public use

29 shall be a judicial question, and, as such, shall be determined
30 without regard to legislative assertion that the use is a direct
31 public use. For purposes of this section, without limiting or
32 enlarging what otherwise may or may not be a direct public use, a
33 direct public use shall include common carriers or facilities of
34 public utilities and other entities used in the generation,
35 transmission, storage or distribution of telephone,
36 telecommunications, gas, carbon dioxide, electricity, water,
37 sewer, natural gas, liquid hydrocarbons or other utility products.

38 BE IT FURTHER RESOLVED, That this proposed amendment shall be
39 submitted by the Secretary of State to the qualified electors at
40 an election to be held on the first Tuesday after the first Monday
41 of November 2007, as provided by Section 273 of the Constitution
42 and by general law.

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