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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, Orcutt, Dunn, Anderson, McDonald, Armstrong, Campbell and Tom

Read first time 01/16/2006. Referred to Committee on Judiciary.

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 solely 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; otherwise, private  
12 property shall be taken only for a stated public use and no greater  
13 interest shall be taken than is necessary to accomplish the stated  
14 public use. Public use shall mean only the actual possession,  
15 occupation, or use of the property by the general public or by a  
16 governmental entity, or the use of land for the creation or functioning  
17 of public utilities or common carriers such as railroads, utilities, or  
18 toll roads. Public use shall not be equated with and shall not be  
19 construed to mean public purpose, public interest, or public benefit,

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

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

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