

## **BILL ANALYSIS**

C.S.H.J.R. 19  
By: Corte  
Land & Resource Management  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Fifth Amendment to the U.S. Constitution allows the use of eminent domain, the power of the state to appropriate private property for its own use without the owner's consent, for demonstrated public purposes and requires that just compensation be paid to the owner. The U.S. Supreme Court recently ruled in the case of *Kelo v. The City of New London* that it is permissible for the City of New London, Connecticut to condemn private residences to allow for a redevelopment plan in conjunction with the construction of a major pharmaceutical research facility. This ruling sets a precedent for allowing the use of eminent domain by governmental entities for economic purposes. CSHJR 19 would amend the Texas Constitution to protect the rights of private property owners by prohibiting the taking of private property if the primary purpose of the taking is for economic development or if it benefits a particular class of individuals.

### **RULEMAKING AUTHORITY**

It is the opinion of the committee that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

CSHJR 19 amends Article I of the Texas Constitution by adding Section 17A to specify that the state or a political subdivision of this state may not take private property through the use of the power of eminent domain if a primary purpose of the taking is for economic development or to benefit a particular class of identifiable individuals.

CSHJR 19 would require this proposed constitutional amendment to be submitted to the voters at an election to be held on November 8, 2005 and specifies ballot language.

### **EFFECTIVE DATE**

This proposed constitutional amendment shall be submitted to the voters at an election to be held November 8, 2005.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

There are three differences in the filed resolution and the committee substitute. They are:

- In the Substitute version, the state of Texas is included with political subdivisions in the prohibition against a taking for the primary purpose of economic development.
- In the Substitute version, language is changed from "a primary" to "the primary" reason for the taking.
- In addition to the prohibition against taking for economic development, language is added to the Substitute that property cannot be taken to benefit a particular class of identifiable individuals.