

By: Corte

H.J.R. No. 11

A JOINT RESOLUTION

1 proposing a constitutional amendment to limit the public taking of
2 private property.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 17, Article I, Texas Constitution, is
5 amended to read as follows:

6 Sec. 17. (a) No person's property shall be taken, damaged or
7 destroyed for or applied to public use without adequate and just
8 compensation being made, unless by the consent of such person, and
9 only if the taking, damage, or destruction is necessary for the
10 possession, occupation, and enjoyment of the property by the public
11 at large or by the State or a political subdivision of the State;
12 and, when taken, except for the use of the State, such compensation
13 shall be first made, or secured by a deposit of money; and no
14 irrevocable or uncontrollable grant of special privileges or
15 immunities[7] shall be made; but all privileges and franchises
16 granted by the Legislature, or created under its authority, shall
17 be subject to the control thereof.

18 (b) The State or a political subdivision of the State that
19 takes, damages, or destroys property must prove by clear and
20 convincing evidence that the contemplated use of the property is
21 public and necessary at the time an attempt is made to take, damage,
22 or destroy the property. Whether the contemplated use is in fact
23 public and necessary shall be a judicial question.

24 SECTION 2. This proposed constitutional amendment shall be

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1 submitted to the voters at an election to be held November 6, 2007.
2 The ballot shall be printed to permit voting for or against the
3 proposition: "The constitutional amendment to limit the power of
4 the state and political subdivisions to take property in certain
5 circumstances where the use is public and necessary, which shall be
6 a judicial question."