

ENGROSSED HOUSE
JOINT
RESOLUTION NO. 1034

By: Hefner of the House

and

Easley of the Senate

(Joint Resolution - proposed amendment to Section 24
of Article II - definition of just compensation -
ballot title -
filing)

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
2ND SESSION OF THE 47TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for
their approval or rejection, as and in the manner provided by law,
the following proposed amendment to Section 24 of Article II of the
Constitution of the State of Oklahoma to read as follows:

Section 24. A. Private property shall not be taken or damaged
for public use without just compensation. Just compensation shall
mean the value of the property taken, any lost business
profitability and in addition, any injury to any part of the
property not taken including lost business valuation. Any special
and direct benefits to the part of the property not taken may be
offset only against any injury to the property not taken. Such
compensation shall be ascertained by a board of commissioners of not
less than three freeholders, in such manner as may be prescribed by
law. Provided however, in no case shall the owner be required to
make any payments should the benefits be judged to exceed damages.
The commissioners shall not be appointed by any judge or court
without reasonable notice having been served upon all parties in

interest. The commissioners shall be selected from the regular jury list of names prepared and made as the Legislature shall provide. Any party aggrieved shall have the right of appeal, without bond, and trial by jury in a court of record. Until the compensation shall be paid to the owner, or into court for the owner, the property shall not be disturbed, or the proprietary rights of the owner divested. When possession is taken of property condemned for any public use, the owner shall be entitled to the immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of such compensation. The fee of land taken by common carriers for right of way, without the consent of the owner, shall remain in such owner subject only to the use for which it is taken. In all cases of condemnation of private property for public or private use, the determination of the character of the use shall be a judicial question.

B. A municipality or other entity of local government acquiring property for public use pursuant to subsection A of this section shall be able to hold title to the property for a period of not to exceed three (3) years unless the municipality or other entity of local government makes actual use of the property consistent with the purpose for which the property was acquired within such period of time. After the expiration of the three-year period, the municipality or other local governmental entity shall be required to transfer title to the property to a nongovernmental purchaser for fair market value. For purposes of this subsection "fair market value" shall mean not less than the total amount of payment made by the municipality or other local governmental entity pursuant to the requirements of this section and applicable law to the person or to the entity that held title to the property prior to the exercise of the power of eminent domain. If a nongovernmental entity does not

make an offer of purchase for property subject to the provisions of this subsection within one (1) year after the expiration of the three-year period, the municipality or local governmental entity shall conduct an auction of the property and transfer title to the highest bidder after the prospective purchaser makes complete payment for the property.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends Section 24 of Article 2 of the Constitution of the State of Oklahoma. This measure changes the meaning of just compensation. It requires an owner of property taken or damaged for public use to be paid for lost business profit. It allows an owner to be paid for lost business value. It allows an entity of local government to hold property acquired by condemnation for three years. If the property is not used for the purpose it was acquired in that time period, title to the property must be transferred. It must be transferred to a private entity at fair market value. Fair market value is defined. If no offer is made for the property, the property shall be auctioned.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

YES, FOR THE AMENDMENT

NO, AGAINST THE AMENDMENT

SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 16th day of March, 2000.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 2000.

President of the Senate