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HOUSE JOINT RESOLUTION NO. 723

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections
on February 2, 2007)(Patrons Prior to Substitute—Delegates Bell, Peace [HJR 579], Rapp [HJR 714], Joannou [HJR 722], and
Cline [HJR 772])*Proposing an amendment to Section 11 of Article I of the Constitution of Virginia, relating to due
process, takings of private property, and other rights.*RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to
each house agreeing, That the following amendment to the Constitution of Virginia be, and the same
hereby is, proposed and referred to the General Assembly at its first regular session held after the next
general election of members of the House of Delegates for its concurrence in conformity with the
provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 11 of Article I of the Constitution of Virginia as follows:

ARTICLE I

BILL OF RIGHTS

Section 11. Due process of law; obligation of contracts; taking of private property; prohibited
discrimination; jury trial in civil cases.That no person shall be deprived of his life, liberty, or property without due process of law; that the
General Assembly shall not pass any law impairing the obligation of contracts, nor any law whereby
private property shall be taken or damaged for public uses, without just compensation; ~~the term "public~~
~~uses" to be defined by the General Assembly;~~ and that the right to be free from any governmental
discrimination upon the basis of religious conviction, race, color, sex, or national origin shall not be
abridged, except that the mere separation of the sexes shall not be considered discrimination.That in controversies respecting property, and in suits between man and man, trial by jury is
preferable to any other, and ought to be held sacred. The General Assembly may limit the number of
jurors for civil cases in courts of record to not less than five.*That the right to private property is a fundamental right possessed by the people, and private
property may be taken only for public uses and only after payment of just compensation to the owner
from whom the property is taken.**Private property may not be taken unless:**1. The land is taken for the possession, occupation, and enjoyment by the public at large or by
public agencies;**2. The land taken is used for the creation or functioning of any public service corporation or public
service company, including but not limited to railroad companies, that have been granted or delegated
the power of eminent domain;**3. The land is taken for the construction, maintenance, or operation of public highways or other
public transportation facilities by the Commonwealth, a locality or political subdivision, or a private
entity; or**4. The land taken is blighted and the taking eliminates a direct threat to public health or safety
caused by the property in its current condition by (i) removing a public nuisance, (ii) removing a
structure that is beyond repair or unfit for human habitation or use, or (iii) acquiring abandoned
property.**No other uses shall be deemed public uses justifying the taking of private property, and increases in
the tax base, tax revenues, employment, or general economic health and welfare shall not constitute
public uses. Property shall not be taken for private commercial enterprise, for economic development,
or for any other private use, except with the consent of the owner from whom the property is taken.**Any taking of private property must be necessary to achieve the alleged public use. The public
interest must dominate the private gain, and any taking under the pretext of an alleged public use shall
be impermissible when the actual purpose is to bestow a private benefit. Any taking for the purpose of
conferring a private benefit on a particular class of identifiable individuals or private party is
impermissible. Whenever an attempt is made to take property for a use alleged to be public, the
question of whether the contemplated use is truly public shall be a judicial question and determined as
such without regard to any legislative assertion that the use is public.*