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SENATE JOINT RESOLUTION NO. 3
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Privileges and Elections
on January 31, 2012)

(Patrons Prior to Substitute—Senators Obenshain, McDougle [SJR 67] and Deeds [SJR 117])
*Proposing an amendment to Section 11 of Article I of the Constitution of Virginia, relating to taking or
damaging of private property.*

WHEREAS, a proposed amendment to the Constitution of Virginia, hereinafter set forth, was agreed
to by a majority of the members elected to each of the two houses of the General Assembly at the
regular session of 2011 and referred to this, the next regular session held after the 2011 general election
of members of the House of Delegates, as required by the Constitution of Virginia; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the following amendment to the
Constitution of Virginia be, and the same hereby is, proposed 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 *or damaging* 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 General Assembly shall pass no law whereby private property, the right to which is
fundamental, shall be damaged or taken except for public use. No private property shall be damaged or
taken for public use without just compensation to the owner thereof. No more private property may be
taken than necessary to achieve the stated public use. Just compensation shall be no less than the value
of the property taken, lost profits and lost access, and damages to the residue caused by the taking. The
terms "lost profits" and "lost access" are to be defined by the General Assembly. A public service
company, public service corporation, or railroad exercises the power of eminent domain for public use
when such exercise is for the authorized provision of utility, common carrier, or railroad services. In all
other cases, a taking or damaging of private property is not for public use if the primary use is for
private gain, private benefit, private enterprise, increasing jobs, increasing tax revenue, or economic
development, except for the elimination of a public nuisance existing on the property. The condemnor
bears the burden of proving that the use is public, without a presumption that it is.*

SENATE SUBSTITUTE

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