

BILL ANALYSIS

Senate Research Center

C.S.S.J.R. 42
By: Duncan
State Affairs
4/28/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This constitutional amendment addresses *Kelo v. City of London*, 545 U.S. 469 (2005). In that decision, the Supreme Court held that the city's development plan to provide economic development served a public purpose and therefore constituted a public use under the takings clause of the Fifth Amendment of the U.S. Constitution. In dicta, the Supreme Court indicated that states could further restrict public use.

C.S.S.J.R. 42 amends current law proposing a constitutional amendment to prohibit the taking of property for certain purposes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 17, Article 1, Texas Constitution, as follows:

Sec. 17. Creates Subsection (a) from existing text. Makes no changes to this subsection.

(b) Provides that in this section, "public use" does not include the taking of property by the state or a political subdivision of the state for transfer to a private entity for the purpose of economic development or enhancement of tax revenues.

SECTION 2. Requires the proposed constitutional amendment to be submitted to the voters at an election to be held November 3, 2009. Sets forth the required language of the ballot.