

Assembly Constitutional Amendment

No. 2

Introduced by Assembly Member Walters

December 4, 2006

Assembly Constitutional Amendment No. 2—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 19 of Article I thereof, relating to eminent domain.

LEGISLATIVE COUNSEL'S DIGEST

ACA 2, as introduced, Walters. Eminent domain.

The California Constitution authorizes private property to be taken or damaged for public use only when just compensation has been paid to, or into court for, the owner of the property.

This measure would instead permit private property to be taken or damaged only for a stated public use and only when just compensation has been paid to, or into court for, the owner of the property. The measure would also prohibit, with respect to both new and pending eminent domain projects that involve the exercise of the power of eminent domain, a community redevelopment agency, community development commission, or joint powers agency that has the power of eminent domain from exercising that power to acquire any real property if ownership of the property will be transferred to a private party or private entity, except as specified.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2007–08 Regular

1 Session commencing on the fourth day of December 2006,
2 two-thirds of the membership of each house concurring, hereby
3 proposes to the people of the State of California, that the
4 Constitution of the State be amended as follows:

5 That Section 19 of Article I thereof is amended to read:

6 SEC. 19. (a) Private property may be taken or damaged *only*
7 for a *stated* public use *and* only when just compensation,
8 ascertained by a jury unless waived, has first been paid to, or into
9 court for, the owner. The Legislature may provide for possession
10 by the condemnor following commencement of eminent domain
11 proceedings upon deposit in court and prompt release to the owner
12 of money determined by the court to be the probable amount of
13 just compensation.

14 (b) *Notwithstanding any other provision, a community*
15 *redevelopment agency, community development commission, or*
16 *joint powers agency that has the power of eminent domain shall*
17 *not exercise the power of eminent domain to acquire any real*
18 *property if ownership of the property will be transferred to a*
19 *private party or private entity, other than a public utility as defined*
20 *in Section 216 of the Public Utilities Code, as that section read*
21 *on January 1, 2007.*

22 (c) *Subdivision (b) shall apply to both new and pending projects*
23 *that involve the exercise of the power of eminent domain, except*
24 *that it shall not apply if a resolution of necessity with respect to*
25 *that project was adopted pursuant to the requirements of Section*
26 *1240.040 of the Code of Civil Procedure, as that section read on*
27 *January 1, 2007, prior to the effective date of the amendment*
28 *adding this subdivision. For purposes of this subdivision, a project*
29 *involves the exercise of the power of eminent domain when an*
30 *attempt is made to acquire a property if it is stated or otherwise*
31 *implied that the property may be taken by eminent domain.*