

AMENDED IN ASSEMBLY MAY 31, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**Assembly Constitutional Amendment**

**No. 2**

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**Introduced by Assembly ~~Member Walters~~ Members *Walters and La Malfa***

**(Coauthors: Assembly Members *Adams, Anderson, DeVore, Duvall, Fuller, Huff, Jeffries, Maze, Nakanishi, Strickland, Tran, and Villines*)**

**(Coauthors: Senators *Aanestad, Ackerman, Battin, Cox, Harman, Hollingsworth, and Wyland*)**

December 4, 2006

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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 amended, 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 *created for the purpose of community redevelopment or community development* 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~~ *unless the real property will be transferred to a public utility or the real property is within a duly formed redevelopment project area in the County of San Bernardino, as specified. The measure would also make related legislative findings and declarations.*

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

1     *WHEREAS, The Legislature finds and declares all of the*  
2     *following:*

3     *(a) Current law recognizes that the closure of two or more*  
4     *military facilities within San Bernardino County has caused serious*  
5     *economic hardship in that county, including, but not limited to,*  
6     *the loss of jobs, increased unemployment, deterioration of*  
7     *properties, and land utilization, and undue disruption of people's*  
8     *lives and activities.*

9     *(b) This measure addresses these conditions by permitting a*  
10    *community redevelopment agency, community development*  
11    *commission, or joint powers agency that has the power of eminent*  
12    *domain to acquire by eminent domain and transfer to a private*  
13    *party or private entity certain real property that is located in*  
14    *proximity to military facilities and installations closed pursuant*  
15    *to the provisions of Public Law 100-526, the Defense Authorization*  
16    *Amendments and Base Closure and Realignment Act; now therefor,*  
17    *be it.*

18    *Resolved by the Assembly, the Senate concurring, That the*  
19    *Legislature of the State of California at its 2007–08 Regular*  
20    *Session commencing on the fourth day of December 2006,*  
21    *two-thirds of the membership of each house concurring, hereby*  
22    *proposes to the people of the State of California, that the*  
23    *Constitution of the State be amended as follows:*

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

25    SEC. 19. (a) Private property may be taken or damaged only  
26    for a stated public use and only when just compensation,  
27    ascertained by a jury unless waived, has first been paid to, or into  
28    court for, the owner. The Legislature may provide for possession  
29    by the condemnor following commencement of eminent domain  
30    proceedings upon deposit in court and prompt release to the owner

1 of money determined by the court to be the probable amount of  
2 just compensation.

3 (b) ~~Notwithstanding~~ *Except as described in subdivision (d) and*  
4 *notwithstanding* any other provision, a community redevelopment  
5 agency, a community development commission, or a joint powers  
6 agency *created for the purpose of community redevelopment or*  
7 *community development* that has the power of eminent domain  
8 shall not exercise the power of eminent domain to acquire any real  
9 property if ownership of the property will be transferred to a private  
10 party or private entity, other than a public utility as defined in  
11 Section 216 of the Public Utilities Code, as that section read on  
12 January 1, 2007.

13 (c) Subdivision (b) shall apply to both new and pending projects  
14 that involve the exercise of the power of eminent domain, except  
15 that it shall not apply if a resolution of necessity with respect to  
16 that project was adopted pursuant to the requirements of Section  
17 1240.040 of the Code of Civil Procedure, as that section read on  
18 January 1, 2007, prior to the effective date of the amendment  
19 adding this subdivision. For purposes of this subdivision, a project  
20 involves the exercise of the power of eminent domain when an  
21 attempt is made to acquire a property if it is stated or otherwise  
22 implied that the property may be taken by eminent domain.

23 (d) *Subdivision (b) shall not apply to real property that is within*  
24 *a duly formed redevelopment project area in the County of San*  
25 *Bernardino as of January 1, 2008, if the real property is in*  
26 *proximity to, as that term is defined by the Legislature, a military*  
27 *facility or installation closed pursuant to Public Law 100-526, the*  
28 *Defense Authorization Amendments and Base Closure and*  
29 *Realignment Act.*

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