

ENROLLED HOUSE JOINT RESOLUTION NUMBER 1010
ENACTED BY THE FIRST REGULAR SESSION OF THE
42ND LEGISLATURE OF THE STATE OF OKLAHOMA
NUMBERED BY THE SECRETARY OF STATE

LEGISLATIVE REFERENDUM NUMBER 278
STATE QUESTION NUMBER 624

RECEIVED: May 3, 1989

Resolution

ENROLLED HOUSE
JOINT
RESOLUTION NO. 1010

BY: ROACH, HUNTER, McCORKELL,
LARASON, GISH, EASLEY,
PILGRIM, POTTS, STEIDLEY,
MAXEY, BASTIN, BRYANT,
JOHNSON (Rob),
STOTTLEMYRE, WILLIAMSON,
ROSS, HENSHAW, SULLIVAN
and WORTHEN of the HOUSE

and

SNYDER, CULLISON, SMITH,
RUBOTTOM, BROWN and LONG
(Lewis) of the SENATE

A JOINT RESOLUTION DIRECTING THE SECRETARY OF STATE TO REFER TO THE PEOPLE FOR THEIR APPROVAL OR REJECTION A PROPOSED AMENDMENT TO SECTION 24 OF ARTICLE 2 OF THE CONSTITUTION OF THE STATE OF OKLAHOMA; DELETING THE PROVISION WHICH PROHIBITS GIVING CONSIDERATION TO BENEFITS FROM THE PROPOSED PUBLIC IMPROVEMENT IN DETERMINING JUST COMPENSATION FOR PRIVATE PROPERTY TAKEN OR DAMAGED FOR PUBLIC USE; DEFINING JUST COMPENSATION; LIMITING THE OFFSET OF ANY BENEFITS TO SEVERANCE DAMAGES; PROVIDING BALLOT TITLE; AND DIRECTING FILING.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 42ND OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 24 of Article 2 of the Constitution of the State of Oklahoma to read as follows:

Section 24. Private property shall not be taken or damaged for public use without just compensation. Just compensation shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. Such compensation, ~~irrespective of any benefit from any improvements proposed,~~ shall be ascertained by a board of commissioners of not less than three freeholders, in such manner as may be prescribed by law. Provided however, in no case shall the owner be required to make any payments should the benefits be judged to exceed damages. The commissioners shall not be appointed by any judge or court without reasonable notice having been served upon all parties in interest. The commissioners shall be selected from the regular jury list of names prepared and made as the Legislature shall provide. Any party aggrieved shall have the right of appeal, without bond, and trial by jury in a court of record. Until the compensation shall be paid to the owner, or into court for the owner, the property shall not be disturbed, or the proprietary rights of the owner divested. When possession is taken of property condemned for any public use, the owner shall be entitled to the immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of such compensation. The fee of land taken by common carriers for right of way, without the consent of the owner, shall remain in such owner

subject only to the use for which it is taken. In all cases of condemnation of private property for public or private use, the determination of the character of the use shall be a judicial question.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the State Constitution. It amends Section 24 of Article II. The section deals with the taking of private land for public use. The section requires that payment be made for such takings. It now requires that the amount of payment be set without taking into account any benefits to the land which might result from any public improvements. This measure would change the way the amount of the payment is set. The change defines just compensation. It would mean the value of the part of land taken and for injury to the part of land not taken. It would allow the consideration of benefits to the land from the public improvement in setting the amount of payment. The land owner would not be required to pay for benefits that were greater than the injury to the land not taken.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

- YES, FOR THE AMENDMENT
- NO, AGAINST THE AMENDMENT

SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 2nd day of May, 1989.

Jim R. Glover
Speaker PRO TEMPORE of the House of Representatives

Passed the Senate the 25th day of April, 1989.

Herb Reel
President Pro Tempore of the Senate

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 3rd

day of May, 1989,

at 4:11, o'clock P. M.

Hannah D. Atkins

By: _____