



Proposition No. 6 would reverse changes on expropriated property

Political Lagniappe

BY ROBERT MORGAN • RMORGAN@THETOWNTALK.COM • OCTOBER 22, 2008

This is the third and final column on the proposed amendments to the Louisiana Constitution that are on the Nov. 4 statewide ballot.

Proposition No. 6 would reverse some of the changes made in the constitution in 2006, according to the Public Affairs Research Council.

In its Guide to the Constitutional Amendments, PAR pointed out the 2006 amendment "... placed new legal restrictions on how expropriated property can be transferred back to private interests when it no longer is needed for a public purpose."

Expropriation is the legal process by which the state or one of its political subdivisions takes real property from a person against the owner's wishes.

The 2006 change established guidelines for giving the original owner or heirs a right of first refusal if the land is no longer needed for a public purpose within 30 years of its taking. It also provided that land not returned to the original owner or heirs could only be sold by public bid.

These restrictions would not apply if the land had been in public ownership for more than 30 years, except in some instances it must be sold by competitive public bid.

The proposed amendment would allow governments to divest themselves of excess property without offering it back to the original owner or heirs and negotiate its sale rather than offer it at public bid if the land was taken "to remove a threat to the public health or safety."

Additionally, it would not require the governmental entity to offer unused land back to the original owner when property was taken for a public project and not all of the land taken was needed.

PAR said, "Opponents counter that property rights are fundamental and should continue to require the government to give the original owner and others an opportunity to repurchase their land -- no matter why the property originally was taken."

Proposition No. 7

Proposition No. 7 would allow investment of public funds in the stock market when the money is a trust fund for payment of post-employment benefits other than retirement pension.

As explained by PAR, these non-pension benefits would be such things as health or life insurance for retirees.

Investment of state funds in equities or stocks is prohibited by the constitution with some specific exceptions, such as the Louisiana Education Quality Trust Fund.

However, the Governmental Accounting Standards Board issued a rule in 2004 establishing how non-pension benefits are to be reported for accounting purposes, PAR said.

Although the state funds retirees' health and life insurance benefits year-to-year, the accounting rule would declare these to be ongoing expenses.

Because the programs are not funded in a manner that assures the money will always be there, the possibility is they could wind up being reported as unfunded liabilities, debts that could negatively impact the state or local governmental subdivision when seeking to borrow money through the sale of bonds for construction projects.

PAR said, "Generally, opposition to investment of public funds in equities stems from unwillingness to take an additional risk. Active management of the investment portfolio would be allowed. This is often touted as a safeguard against the additional risk."