

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/2006

SPONSOR Anderson LAST UPDATED _____ HJR 11

SHORT TITLE Limit Public Taking of Private Land, CA SJR _____

ANALYST McOlash

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	None		

(Parenthesis () Indicate Expenditure Decreases)

Relates to: SB 370, SM3, SJR1, HJR2, HB27, SB231, HJM52, HB746, HM6, and HJR7
 Duplicates SJR 4

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Transportation (DOT)
 Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of House Joint Resolution 11

House Joint Resolution 11 proposes an amendment to Article 2, Section 20 [Eminent domain] of the Constitution of New Mexico. The amendment limits the public uses in the following ways:

- By defining "public use" as "the possession, occupation or enjoyment of property, as authorized by law, by the public at large, public agencies, public utilities, pipeline common carriers and those seeking to put water to beneficial use and in cases where the property to be taken presents a threat to the personal health or safety of members of the public from structures or activities on or in the property."
- By providing that private property shall not be taken from one owner and transferred to another private owner because the public will benefit from a more profitable use of the property.

- By providing that “private property shall not be taken from one owner and transferred to another private owner or the grounds that the public benefits from a more profitable use of the property.”

SIGNIFICANT ISSUES

New Mexico has a history of the use of eminent domain for economic development purposes going back to the 19th century. Each railroad town in New Mexico – including Raton, Las Vegas, Albuquerque, Belen, Grants, Gallup, Encino, Vaughn, Socorro, Deming, Lordsburg, Mountainair, Alamogordo, Santa Rosa, Tucumcari, Fort Sumner, Artesia, Bernalillo, Clovis, and Portales – owes its existence to the outright gift of public lands to private railroads to spur economic development. Ironically, rail yard redevelopment efforts are at the heart of many of these communities, by using existing authority such as under the Metropolitan Redevelopment Act (MRA).

The legislature has previously granted the power of eminent domain to certain private entities other than common carriers public uses, including water and natural gas lines. Those powers may be called into question if this amendment becomes law. Such redevelopment efforts, as well as those under the MRA, could be classified as prohibited public purpose economic development activities.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SJR 4 is a companion to HJR 11.

SJR 1 also proposes to amend Article 2, Section 20 of the N.M. Constitution.

HJR 2 also proposes to amend Article 2, Section 20 of the N.M. Constitution.

SB 231/SB370/HB 27 would amend the Eminent Domain Code.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico municipalities will continue to pursue economic development activities as a traditional public purpose. The Urban Development, Community Development, and Metropolitan Redevelopment Acts will continue to define economic development for public use, as long as the municipality: 1) adopts a resolution determining that a condition of slum or blight exists in the defined area, 2) redevelopment of the area is in the public interest, and 3) the public is informed and involved in the decision.