

126th General Assembly  
Regular Session  
2005-2006

5 J. R. No. 6

Senators Coughlin, Hottinger, Mumper, Stivers and Wachtman

## JOINT RESOLUTION

Proposing to amend Sections 3, 4, 10, and 11 of 1  
Article XVIII of the Constitution of the State of 2  
Ohio to eliminate the constitutional grant of 3  
eminent domain power to municipal corporations and 4  
to provide that the power only can be used when 5  
authority has been granted by the General 6  
Assembly. 7

Be it resolved by the General Assembly of the State of Ohio, 8  
three-fifths of the members elected to each house concurring 9  
herein, that there shall be submitted to the electors of the 10  
state, in the manner prescribed by law at a special election to be 11  
held on February 7, 2006, a proposal to amend Sections 3, 4, 10, 12  
and 11 of Article XVIII of the Constitution of the State of Ohio 13  
to read as follows: 14

### ARTICLE XVIII

Section 3. Municipalities Except as otherwise provided in 15  
this section, municipalities shall have authority to exercise all 16  
powers of local self-government and to adopt and enforce within 17  
their limits such local police, sanitary and other similar 18  
regulations, as are not in conflict with general laws. 19

Municipalities do not have authority to take private property 20  
by an exercise of eminent domain under this article, but may 21  
exercise the power of eminent domain as conferred upon them by the 22  
General Assembly under Section 1 of Article II of this 23

Constitution.

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ARTICLE XVIII

Section 4. Any municipality may acquire, construct, own, 25  
lease and operate within or without its corporate limits, any 26  
public utility the products or service of which is or is to be 27  
supplied to the municipality or its inhabitants, and may contract 28  
with others for any such product or service. The acquisition of 29  
any such public utility may be by any manner other than 30  
condemnation or otherwise, and, unless the General Assembly has 31  
granted municipalities the authority to exercise the power of 32  
eminent domain for public utility purposes; a municipality may 33  
acquire thereby the use of, or full title to, the property and 34  
franchise of any company or person supplying to the municipality 35  
or its inhabitants the service or product of any such utility. 36

ARTICLE XVIII

Section 10. A municipality ~~appropriating or otherwise~~ 37  
acquiring property for public use may, in furtherance of such that 38  
public use ~~appropriate or~~ acquire in any manner other than 39  
condemnation, unless the General Assembly has granted 40  
municipalities the authority to exercise the power of eminent 41  
domain for the purpose of acquiring excess property, an excess 42  
over that actually to be occupied by the improvement, and may sell 43  
~~such that~~ excess with such restrictions as shall be appropriate to 44  
preserve the improvement made. Bonds may be issued to supply the 45  
funds in whole or in part to pay for the excess property so 46  
~~appropriated or otherwise~~ acquired, but ~~said~~ those bonds shall be 47  
a lien only against the property so acquired for the improvement 48  
and excess, and they shall not be a liability of the municipality 49  
nor be included in any limitation of the bonded indebtedness of 50  
~~such~~ the municipality prescribed by law. 51

ARTICLE XVIII

Section 11. ~~Any~~ If the General Assembly has granted 52  
municipalities the authority to exercise the power of eminent 53  
domain under Section 1 of Article II of this Constitution for the 54  
type of public improvement involved, any municipality 55  
appropriating private property for a public improvement may 56  
provide money therefor in part by assessments upon benefited 57  
property not in excess of the special benefits conferred upon ~~such~~ 58  
that property by the improvements improvement. Said Those 59  
assessments, however, upon all the abutting, adjacent, and other 60  
property in the district benefited, shall in no case be levied for 61  
more than fifty per centum cent of the cost of ~~such the~~ 62  
appropriation. 63

EFFECTIVE DATE AND REPEAL 64

If adopted by a majority of the electors voting on the 65  
amendment, the amendment takes effect on July 1, 2006, and 66  
existing Sections 3, 4, 10, and 11 of Article XVIII of the 67  
Constitution of the State of Ohio are repealed from that effective 68  
date. 69