

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable Robin Carnahan, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2008, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

Shall the Missouri Constitution be amended to restrict the use of eminent domain by:

- **Allowing only government entities to use eminent domain;**
- **Prohibiting its use for private purposes, with certain exceptions for utilities;**
- **Requiring that any taking of property be necessary for a public use and that landowners receive just compensation;**
- **Requiring that the intended public use be declared at the time of the taking and permitting the original owners to repurchase the property if it is not so used within five years or if the property is offered for sale within 20 years?**

The total cost or savings to state or local governmental entities cannot be known. Some state governmental entities estimate no related costs, however, certain state governmental entities may have unknown or indirect costs that may exceed \$100,000. Estimated costs to local governmental entities will vary, but could be significant.

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Signature of Affiant
(Person obtaining signatures)

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D._____

Notary Public (Seal)
My commission expires _____

Signature of Notary

(NOTE: Bold underscored language, thus, is new, words in brackets, [thus], would be deleted from the current Constitution.)

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Section 26 and 28 of Article I of the Constitution of Missouri are amended by modifying Section 26 and 28. The existing Section 26 and 28 are set forth hereinafter with the new matter underlined and deleted matter in brackets, [thus].

Article I - Bill of Rights

Section 26. ~~[That private property shall not be taken or damaged for public use without just compensation.]~~ That the power of eminent domain shall be vested in no other than the state, or political subdivisions of the state whose officials are directly responsible to elected officials, and that private property, or the right to the use, sale or enjoyment of private property, shall not be directly or indirectly taken or damaged unless such taking is necessary for a public use and just compensation is rendered. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be provided by law[;] . The value of the property may be determined by, but is not limited to, appraisal methods typical to the ordinary course of business and any evidence which would be considered by an appraiser in the ordinary course of business shall be relevant and admissible. ~~[and until the same]~~ Until a final legal determination of the legitimacy of the taking is established and until 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 therein divested. The fee of land taken for railroad purposes without consent of the owner thereof shall remain in such owner subject to the use for which it is taken.

Section 28. (1) That private property ~~[shall not be]~~ taken for private use or private ownership or other private rights shall not be considered a public use and no such takings shall occur with or without compensation, unless by consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in the manner prescribed by law; and that when an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be judicially determined without regard to any legislative declaration that the use is public.

(2) The use for property, or rights in property, shall be declared at the time that such property, or rights in property is taken by eminent domain. If that use is not earnestly or substantially pursued, the original owner, his heirs or assigns shall, after five years but prior to any substantial accomplishment of the declared purpose, be allowed to claim the property back at a price no greater than was paid at the time of taking.

(3) Subject to the conditions set forth in Section 26 of this article, property may be taken for transportation or utility facilities or transmission systems used by a railroad, regulated utility or rural electric cooperative, however the fee of property taken for such purposes without consent of the owner thereof shall remain in such owner, his heirs or assigns subject to the use for which it is taken.

(4) Except as provided for in subsection (1) and subsection (3) of this section and notwithstanding Section 27 of this article, property, a portion thereof, or rights in property taken by eminent domain can not be sold, transferred, leased or otherwise made available for use by a private entity within 20 years of such taking, unless the original owner, his heirs or assigns, have at the time of sale, been afforded the first opportunity to purchase such property back at a price no greater than was paid at the time of taking, however interests less than fee title may be conveyed to a privately owned business for the purpose of providing products or services incidental to the function of a publicly owned facility.

(5) The effective date of this amendment shall be November 5, 2008 and the provisions of Article I, sections 26 and 28 apply notwithstanding any application to the contrary of Article VI, Section 21 of this constitution.