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Property rights at issue in Prop. 4

Ballot initiative would change laws regarding government's right to take private land

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Proposal 4 seeks to change state laws on eminent domain, which is the government's right to take private property for the sake of public improvement.

One of the primary changes, if the proposal is approved by voters Nov. 7, would be the addition of language to the Michigan constitution prohibiting state or local governments from taking personal property and selling it to another private party for the sake of economic development.

It also would create a minimum payoff to the owner of 125 percent of the value of the property, and would redefine how properties could be taken related to issues of disrepair, or "blight."

Governments most commonly condemn properties to make way for new roads, public utilities or schools. A recent Michigan Supreme Court case, *County of Wayne v. Hathcock*, overturned the controversial 1981 "Poletown" ruling that allowed the city of Detroit to destroy a neighborhood with more than 1,500 homes and businesses so General Motors could build a new auto plant.

A recent review of the proposal by an attorney from the Mackinac Center for Public Policy, a private think tank interested in helping shape public policy, said changes would be significant but reasonable.

"This constitutional language would make it harder for future Michigan courts to misinterpret and weaken those protections,"

attorney Patrick Wright said.

Some local government officials say the "Hathcock" protection is enough.

William Nelson, managing director for the Allegan County Road Commission, said he has been on the job for 14 years without completing a condemnation proceeding through the use of eminent domain laws.

"It seems unnecessary from our standpoint and could increase costs for improvements. But it's not really a high-usage item," he said.

Jerald Rosenfeld, president of JR Group, a consulting firm in Detroit that specializes in land acquisition for municipalities, said the new minimum pay requirements will be a burden for already strained government budgets and will lengthen the time it takes to gain standard public improvements.

"If someone wanted to make some changes there probably are good ways to do it, but this legislation seems wacky because of the cost issue alone. There's no other impact on protecting property owner rights," Rosenfeld said.

State Sen. Tony Stamas, R-Midland, sponsored legislation that got the proposal on the ballot. He said the issue of blight was one of the primary reasons he acted for change.

"Under the current law the residents have to prove there is no blight and with the changes it would charge that back to the government to prove blight," Stamas said.

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