

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled **BILL**:

H.B. No. 794: Drainage districts; revise time in landowner's favor before property taken for improvements.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14 SECTION 1. Section 51-29-39, Mississippi Code of 1972, is
15 amended as follows:

16 51-29-39. In lieu of the method provided in Sections
17 51-29-29 through 51-29-35 for acquiring land and making
18 compensation for damages, the drainage commissioners may adopt the
19 following method for acquiring lands and making compensation for
20 damages, to wit:

21 The commissioners may, at any time after the organization of
22 the district, appraise the value of any land taken or to be taken
23 for the purposes of the proposed improvement, according to the
24 plans of the district on file, and the damages resulting to the
25 owners from such taking * * *. The board may specify, in case of
26 any property, the particular purpose for which and the extent to
27 which easement is desired, and the assessment of property in such
28 case shall represent only the damages resulting from the use so
29 specified. They may make a complete appraisal of all such
30 lands, taken or to be taken, at one time, or at any time make
31 appraisements as it becomes necessary or desirable. When the
32 commissioners * * * have made their appraisal of lands taken,
33 they shall certify to the same and file it with the clerk of the
34 chancery court of the county in which the land lies. The court,
35 or chancellor in vacation, shall enter an order designating the
36 date, time, and place for the hearing of objections to such

37 appraisement, either at a regular term of the court or in
38 vacation * * *. The clerk shall issue a summons directed to the
39 sheriff of the county or counties of the state in which any
40 landowner or other person interested may reside, commanding him to
41 summon such owner or owners or interested persons to * * * appear
42 at the time and place named. If the owner of any land sought to
43 be taken is an infant or person of unsound mind, the summons may
44 be served on his guardian; and the guardian in such cases is
45 authorized, subject to the approval of the chancellor in termtime
46 or vacation, to sell and convey such property and dedicate it thus
47 to the public use, or he may agree upon the damages and thereby
48 bind the ward. If there is no guardian in such case, the
49 chancellor in vacation may, on application of anyone in interest,
50 appoint a guardian ad litem to represent such infant or person of
51 unsound mind, whose acts and doings in the premises shall be valid
52 and binding on the ward. The chancellor may require a bond of
53 such guardian ad litem. The clerk of the court shall notify the
54 guardian ad litem of his appointment and the amount of bond
55 required, if any, by certified mail sent to the post office
56 address of the guardian. If the owner of such land is a
57 nonresident of the state or cannot be found, or if the owner is
58 unknown, and this shall apply to any person interested, upon
59 affidavit to that fact being made by the commissioners or by their
60 agent or attorney, service of the summons may be delivered to any
61 of his agents in charge of the land; or publication shall be made
62 in the manner provided by law for publication for nonresident and
63 unknown parties in chancery suits. If the land belongs to a
64 deceased person whose estate is being administered, the summons
65 may be served upon the executor or administrator, who shall, for
66 all purposes of this chapter, be authorized to act for the owner,
67 and * * * shall be responsible on his bond accordingly. Such
68 notice, when published, need only state that the hearing will be
69 for the purpose of confirming the report of the commissioners as
70 to the appraisement of land taken for the use of the district.
71 The notice shall contain the names of the owners or persons

72 interested in such land and their post office address, if known,
73 and if unknown, that fact shall be so stated, and * * *
74 shall * * * contain a list of the land, described by section
75 numbers, belonging to such nonresident owners * * * through which
76 the ditches of the district are to run, or which such lands are to
77 be taken for the uses of the district.

78 If any owner is not satisfied with the amount allowed by the
79 commissioners for lands taken by reason of the construction of
80 such proposed system according to the plans of the district, he
81 shall file with the clerk of the court written objections * * *,
82 in specific terms, prior to the time designated for the hearing.

83 If * * * no written objections are filed, a decree confirming
84 the appraisement shall be rendered, and upon payment of the amount
85 to the chancery clerk, the commissioners of the district may enter
86 upon and take possession of the * * * property and appropriate it
87 to the public use of the district and the title of the property
88 shall thereupon vest in the district. The clerk shall receipt
89 upon the decree for the money paid, and the decree with the
90 receipt thereon shall be recorded.

91 If written objections are filed prior to the time set for the
92 hearing, the court or chancellor in vacation shall proceed to hear
93 the objections filed, trying the cause or causes without the
94 intervention of a jury.

95 No judgment by default shall be entered against an owner or
96 person interested residing in this state unless it appears that he
97 has been duly served with summons at least thirty (30) days before
98 the return day, and no judgment by default shall be rendered
99 against any nonresident or unknown person or persons interested
100 unless proper publication has been made.

101 SECTION 2. Section 21-19-13, Mississippi Code of 1972, is
102 amended as follows:

103 21-19-13. (1) The governing authorities of municipalities
104 shall have the power to establish, alter and change the channels
105 of streams or other water courses, and to bridge the same,
106 whenever so to do will promote the health, comfort and convenience

107 of the inhabitants of such municipality. * * *

108 (2) The governing authorities of any municipality with a
109 population of ten thousand (10,000) or more according to the most
110 recent federal census shall also have the power and authority to
111 incur costs and pay necessary expenses in providing labor,
112 materials and supplies to clean or clear drainage ditches, creeks
113 or channels, whether on public or private property, and to incur
114 costs and pay necessary expenses in providing labor, materials and
115 supplies in order to prevent erosion where such erosion has been
116 caused or will be caused by such drainage ditches, creeks or
117 channels. This paragraph shall not impose any obligation or duty
118 upon the municipality and shall not create any additional rights
119 for the benefit of any owner of public or private property.

14 (3) No additional taxes shall be imposed for the works
15 authorized under subsections (1) and (2) of this section until the
16 governing authorities shall adopt a resolution declaring its
17 intention to levy the taxes and establishing the amount of the tax
18 levies and the date on which the taxes initially will be levied
19 and collected. This date shall be the first day of a month but
20 not earlier than the first day of the second month from the date
21 of adoption of the resolution. Notice of the proposed tax levies
22 shall be published once each week for at least three (3) weeks in
23 a newspaper having a general circulation in the municipality. The
24 first publication of the notice shall be made not less than
25 twenty-one (21) days before the date fixed in the resolution on
26 which the governing authorities propose to levy the taxes, and the
27 last publication of the notice shall be made not more than seven
28 (7) days before that date. If, within the time of giving notice,
29 fifteen percent (15%) or two thousand five hundred (2,500),
30 whichever is less, of the qualified electors of the municipality
31 file a written petition against the levy of the taxes, then the
32 taxes shall not be levied unless authorized by a majority of the
33 qualified electors of the municipality voting at an election to be
34 called and held for that purpose.

35 (4) This section shall stand repealed on July 1, 2001.

36 SECTION 3. Section 51-35-305, Mississippi Code of 1972, is
37 amended as follows:

38 51-35-305. (1) Flood and drainage control districts may now
39 or hereafter be organized in this state under the provisions of
40 this article, in the manner hereinafter provided, whenever any
41 part of such district lies wholly or partially in or adjacent to
42 any part of a municipality having a population of ten thousand
43 (10,000) or more inhabitants at the time of the filing of the
44 petition to create such district. For the purposes of determining
45 population of any municipality, the last completed census prior to
46 the filing of such petition shall be presumed to be the population
47 of such municipality at the time of the filing of such petition.
48 Each flood and drainage control district shall be an agency of the
49 state and a body politic and corporate, and may be composed of one
50 or more entire municipalities or a part or parts thereof, one or
51 more entire counties or a part or parts thereof, or any
52 combination of counties and municipalities or a part or parts
53 thereof.

54 (2) This section shall stand repealed on July 1, 2001.

55 SECTION 4. The Attorney General of the State of Mississippi
56 is hereby directed to submit this act, immediately upon approval
57 by the Governor, or upon approval by the Legislature subsequent to
58 a veto, to the Attorney General of the United States or to the
59 United States District Court for the District of Columbia in
60 accordance with the provisions of the Voting Rights Act of 1965,
61 as amended and extended.

62 SECTION 5. This act shall take effect and be in force from
63 and after the date it is effectuated under Section 5 of the Voting
64 Rights Act of 1965, as amended and extended.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 51-29-39, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE NUMBER OF DAYS THAT MUST ELAPSE AFTER SERVICE OF A
3 SUMMONS BEFORE A DEFAULT JUDGMENT MAY BE ENTERED, IN THOSE
4 SITUATIONS WHERE COMMISSIONERS OF A DRAINAGE DISTRICT APPRAISE THE
5 VALUE OF LAND TAKEN FOR DISTRICT IMPROVEMENTS AND PAY COMPENSATION
6 THEREFOR; TO AMEND SECTION 21-19-13, MISSISSIPPI CODE OF 1972, TO
7 GRANT ADDITIONAL MUNICIPALITIES THE AUTHORITY TO CLEAR DRAINAGE

8 DITCHES ON PUBLIC OR PRIVATE PROPERTY; TO IMPOSE RESTRICTIONS
9 UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 51-35-305,
10 MISSISSIPPI CODE OF 1972, TO GRANT ADDITIONAL MUNICIPALITIES THE
11 AUTHORITY TO ORGANIZE FLOOD AND DRAINAGE CONTROL DISTRICTS; AND
12 FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE:

CONFEREES FOR THE SENATE:

X
Jim Ellington

X
Bob M. Dearing

X
Billy Broomfield

X
Billy Hewes III

X
Les Barnett

X
Terry C. Burton