

*****Pending*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 794

By Senator(s) Committee

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

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

10 51-29-39. In lieu of the method provided in Sections
11 51-29-29 through 51-29-35 for acquiring land and making
12 compensation for damages, the drainage commissioners may adopt the
13 following method for acquiring lands and making compensation for
14 damages, to wit:

15 The commissioners may, at any time after the organization of
16 the district, appraise the value of any land taken or to be taken
17 for the purposes of the proposed improvement, according to the
18 plans of the district on file, and the damages resulting to the
19 owners from such taking * * *. The board may specify, in case of
20 any property, the particular purpose for which and the extent to
21 which easement is desired, and the assessment of property in such
22 case shall represent only the damages resulting from the use so
23 specified. They may make a complete appraisal of all such
24 lands, taken or to be taken, at one time, or at any time make
25 appraisements as it becomes necessary or desirable. When the
26 commissioners * * * have made their appraisal of lands taken,
27 they shall certify to the same and file it with the clerk of the
28 chancery court of the county in which the land lies. The court,

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

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62 notice, when published, need only state that the hearing will be
63 for the purpose of confirming the report of the commissioners as
64 to the appraisalment of land taken for the use of the district.
65 The notice shall contain the names of the owners or persons
66 interested in such land and their post office address, if known,
67 and if unknown, that fact shall be so stated, and * * *
68 shall * * * contain a list of the land, described by section
69 numbers, belonging to such nonresident owners * * * through which
70 the ditches of the district are to run, or which such lands are to
71 be taken for the uses of the district.

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

77 If * * * no written objections are filed, a decree confirming
78 the appraisalment shall be rendered, and upon payment of the amount
79 to the chancery clerk, the commissioners of the district may enter
80 upon and take possession of the * * * property and appropriate it
81 to the public use of the district and the title of the property
82 shall thereupon vest in the district. The clerk shall receipt
83 upon the decree for the money paid, and the decree with the
84 receipt thereon shall be recorded.

85 If written objections are filed prior to the time set for the
86 hearing, the court or chancellor in vacation shall proceed to hear
87 the objections filed, trying the cause or causes without the
88 intervention of a jury.

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

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95 SECTION 2. This act shall take effect and be in force from
96 and after its passage.

**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; AND FOR RELATED PURPOSES.