

By: Senator(s) Dearing

To: Judiciary, Division A

SENATE BILL NO. 2223

1 AN ACT TO AMEND SECTION 11-27-13, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT AN EMINENT DOMAIN TRIAL MAY BE WITHOUT A JURY IF  
3 ALL PARTIES THAT MAKE AN APPEARANCE IN THE ACTION CONSENT TO THE  
4 ACTION BEING TRIED BY THE COURT; TO PROVIDE THAT IF NO LANDOWNER  
5 OR INTERESTED PARTY MAKES AN APPEARANCE IN THE ACTION, TRIAL MAY  
6 BE WITHOUT A JURY UPON APPLICATION OF THE PETITIONER AND JUST  
7 COMPENSATION MAY BE AWARDED BY THE COURT UPON PRESENTATION OF  
8 EVIDENCE OF JUST COMPENSATION BY THE PETITIONER; TO AMEND SECTIONS  
9 11-27-3, 11-27-19, 11-27-23 AND 11-27-89, MISSISSIPPI CODE OF  
10 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** Section 11-27-13, Mississippi Code of 1972, is  
13 amended as follows:

14 11-27-13. Each different property, identified by separate  
15 ownership, shall constitute a separate civil action and shall  
16 require a separate trial, unless otherwise agreed by all parties  
17 with the approval of the court. Trial shall be to a jury of  
18 twelve (12) persons plus alternates who shall be examined and  
19 impaneled in accordance with the Mississippi Rules of Civil  
20 Procedure. Alternatively, trial may be to the court if all  
21 parties that make an appearance in the action consent to the  
22 action being tried by the court. If no landowner or interested  
23 party makes an appearance in the action, trial may be to the court  
24 upon application by the petitioner and just compensation may be  
25 awarded by the court upon presentation of evidence of just  
26 compensation by the petitioner.

27 **SECTION 2.** Section 11-27-3, Mississippi Code of 1972, is  
28 amended as follows:

29 11-27-3. A special court of eminent domain is hereby  
30 created, to consist of a judge, a jury, if a jury is necessary,  
31 and such other officers and personnel as hereinafter set out, and

32 it shall have and exercise the jurisdiction and powers hereinafter  
33 enumerated. The original powers and jurisdiction shall be and is  
34 hereby fixed in the county court in each county that has elected  
35 to come under the provisions of Section 9-9-1, Mississippi Code of  
36 1972, or that may hereafter come under the provisions of said  
37 Section 9-9-1, and in every other county of this state, the  
38 original powers and jurisdiction shall be and is hereby fixed in  
39 the circuit court of such county, which said powers and  
40 jurisdiction may be exercised in full either in termtime or  
41 vacation, or both.

42 **SECTION 3.** Section 11-27-19, Mississippi Code of 1972, is  
43 amended as follows:

44 11-27-19. Evidence may be introduced by either party, and  
45 the jury may, in the sound discretion of the judge, go to the  
46 premises, under the charge of the court as to conduct,  
47 conversation and actions as may be proper in the premises.  
48 Evidence of fair market value shall be established as of the date  
49 of the filing of the complaint. Any judgment finally entered in  
50 payment for property to be taken shall provide legal interest on  
51 the award of the jury from the date of the filing of the complaint  
52 until payment is actually made; provided, however, that interest  
53 need not be paid on any funds deposited by the plaintiff and  
54 withdrawn by the defendants prior to judgment. At the conclusion  
55 of the trial, the court shall instruct the jury in accordance with  
56 the Mississippi Rules of Civil Procedure, if a jury was impaneled.

57 **SECTION 4.** Section 11-27-23, Mississippi Code of 1972, is  
58 amended as follows:

59 11-27-23. In the trial of all cases provided for herein in  
60 which a jury is impaneled, nine (9) jurors may bring in a verdict  
61 as in other civil cases. The verdict of the jury shall be in the  
62 following form: "We, the jury, find that the defendant (naming  
63 him) will be damaged by the acquisition of his property for the  
64 public use, in the sum of \_\_\_\_\_ Dollars."

65           **SECTION 5.** Section 11-27-89, Mississippi Code of 1972, is  
66 amended as follows:

67           11-27-89. The appraiser shall receive as compensation for  
68 his services such sum, plus expenses, as the court allows, which  
69 shall be taxed as cost in the proceedings. The sum allowed shall  
70 be based upon the degree of difficulty and the time required to  
71 perform the appraisal, but may not exceed One Thousand Dollars  
72 (\$1,000.00) unless, in the opinion of the court, special  
73 circumstances warrant a greater sum. An order granting a sum  
74 greater than One Thousand Dollars (\$1,000.00) must describe in  
75 detail the special circumstances that warrant payment of a greater  
76 sum.

77           The making of a deposit by the plaintiff or the withdrawal of  
78 said deposit by the defendant or defendants shall not prejudice  
79 the right of any party to a trial \* \* \* in the special court of  
80 eminent domain to determine the fair market value of the property  
81 to be condemned and the damages, if any, to the remainder if less  
82 than the whole is taken, as provided in Sections 11-27-1 through  
83 11-27-49, Mississippi Code of 1972.

84           **SECTION 6.** This act shall take effect and be in force from  
85 and after July 1, 2004.