

By: Senator(s) Harden

To: Judiciary, Division A

SENATE BILL NO. 3008

1 AN ACT TO AMEND SECTIONS 11-27-5 AND 11-27-81, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT NO PUBLIC ENTITY MAY SPREAD UPON THE  
3 MINUTES OF THE ENTITY ANY POLICY WHICH PUTATIVELY ALLOWS THE  
4 GOVERNING AUTHORITY OF THE PUBLIC ENTITY TO PROCEED WITH EMINENT  
5 DOMAIN PROCEEDINGS OTHER THAN STATE LAW; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 11-27-5, Mississippi Code of 1972, is  
8 amended as follows:

9 11-27-5. (1) Any person or corporation having the right to  
10 condemn private property for public use shall file a complaint to  
11 condemn with the circuit clerk of the county in which the affected  
12 property, or some part thereof, is situated and shall make all the  
13 owners of the affected property involved, and any mortgagee,  
14 trustee or other person having any interest therein or lien  
15 thereon a defendant thereto. The complaint shall be considered a  
16 matter of public interest and shall be a preference case over  
17 other cases except other preference causes. The complaint shall  
18 describe in detail the property sought to be condemned, shall  
19 state with certainty the right to condemn, and shall identify the  
20 interest or claim of each defendant.

21 (2) No public entity may spread upon the minutes of the  
22 entity any policy which putatively allows the governing authority  
23 of the public entity to proceed with eminent domain proceedings  
24 other than state law.

25 **SECTION 2.** Section 11-27-81, Mississippi Code of 1972, is  
26 amended as follows:

27           11-27-81. (1) The right of immediate possession pursuant to  
28 Sections 11-27-81 through 11-27-89, Mississippi Code of 1972, may  
29 be exercised only:

30           (a) By the State Highway Commission for the acquisition  
31 of highway rights-of-way only;

32           (b) By any county or municipality for the purpose of  
33 acquiring rights-of-way to connect existing roads and streets to  
34 highways constructed or to be constructed by the State Highway  
35 Commission;

36           (c) By any county or municipality for the purpose of  
37 acquiring rights-of-way for widening existing roads and streets of  
38 such county or municipality; provided, however, that said  
39 rights-of-way shall not displace a property owner from his  
40 dwelling or place of business;

41           (d) By the boards of supervisors of any county of this  
42 state for the acquisition of highway or road rights-of-way in  
43 connection with a state-aid project designated and approved in  
44 accordance with Sections 65-9-1 through 65-9-31, Mississippi Code  
45 of 1972;

46           (e) By the Mississippi Wayport Authority for the  
47 purposes of acquiring land and easements for the Southeastern  
48 United States Wayport Project as authorized by Sections 61-4-1  
49 through 61-4-13, Mississippi Code of 1972;

50           (f) By any county or municipality for the purpose of  
51 acquiring rights-of-way for water, sewer, drainage and other  
52 public utility purposes; provided, however, that such acquisition  
53 shall not displace a property owner from his dwelling or place of  
54 business;

55           (g) By any county authorized to exercise the power of  
56 eminent domain under Section 19-7-41 for the purpose of acquiring  
57 land for construction of a federal correctional facility or other  
58 federal penal institution;

59           (h) By the Mississippi Major Economic Impact Authority  
60 for the purpose of acquiring land, property and rights-of-way for  
61 a project as defined in Section 57-75-5(f)(iv)1 or any facility  
62 related to the project as provided in Section 57-75-11(e)(ii);

63           (i) By the boards of supervisors of any county of this  
64 state for the purpose of constructing dams or low-water control  
65 structures on lakes or bodies of water under the provisions of  
66 Section 19-5-92; or

67           (j) By the board of supervisors of any county of this  
68 state for the purpose of acquiring land, property and/or  
69 rights-of-way for any project the board of supervisors, by a duly  
70 adopted resolution, determines to be related to a project as  
71 defined in Section 57-75-5(f)(iv). The board of supervisors of a  
72 county may not exercise the right to immediate possession under  
73 this item (j) after July 1, 2003.

74           (2) No public entity may spread upon the minutes of the  
75 entity any policy which putatively allows the governing authority  
76 of the public entity to proceed with eminent domain proceedings  
77 other than state law.

78           **SECTION 3.** This act shall take effect and be in force from  
79 and after July 1, 2004.