

By: Representative Anderson (122nd)

To: Judiciary A

HOUSE BILL NO. 1503

1 AN ACT TO AMEND SECTIONS 77-3-11 AND 11-27-81, MISSISSIPPI
2 CODE OF 1972, TO AUTHORIZE ELECTRICAL UTILITIES TO EXERCISE THE
3 RIGHT TO IMMEDIATE POSSESSION FOR THE PURPOSE OF ACQUIRING
4 RIGHTS-OF-WAY FOR FACILITIES TO PROVIDE PUBLIC UTILITY SERVICE; TO
5 BRING FORWARD SECTION 11-27-85, MISSISSIPPI CODE OF 1972, FOR
6 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 77-3-11, Mississippi Code of 1972, is
9 amended as follows:

10 77-3-11. (1) No person shall construct, acquire, extend or
11 operate equipment for manufacture, mixing, generating,
12 transmitting or distributing natural or manufactured gas, or mixed
13 gas, or water, for any intrastate sale to or for the public for
14 compensation, or for the operation of a public utility operating a
15 business and equipment or facilities as contemplated by * * *
16 Section 77-3-3(d)(iii), without first having obtained from the
17 commission a certificate that the present or future public
18 convenience and necessity require or will require the operation of
19 such equipment or facility.



20 (2) No person shall construct, acquire, extend or operate
21 equipment for manufacture, generating, transmitting or
22 distributing electricity for any intrastate or interstate sale to
23 or for the public for compensation without first having obtained
24 from the commission a certificate that the present and future
25 public convenience and necessity require or will require the
26 operation of such equipment or facility. * * * A rate-regulated
27 public utility defined under Section 77-3-3(d)(i) is entitled to
28 exercise those rights arising under Sections 11-27-81 through
29 11-27-89 in connection with any facilities for the purpose of
30 providing public utility service. However, nothing herein
31 contained shall be construed to require a joint municipal electric
32 power agency organized in accordance with the provisions of
33 Section 77-5-201 et seq., Mississippi Code of 1972, to obtain any
34 permit, license, certificate or approval from the Mississippi
35 Public Service Commission.

36 (3) No person shall construct, acquire, extend or operate
37 equipment or facilities for collecting, transmitting, treating or
38 disposing of sewage, or otherwise operating an intrastate sewage
39 disposal service, to or for the public for compensation, without
40 first having obtained from the commission a certificate that the
41 present or future public convenience and necessity require or will
42 require the operation of such equipment or facilities.

43 (4) However, nothing herein shall be construed to require
44 any certificate of convenience and necessity from the commission



45 for the production and gathering of natural gas, the sale of
46 natural gas in or within the vicinity of the field where produced,
47 the distribution or sale of liquefied petroleum gas, the sale of
48 natural gas to the ultimate consumer for use as a motor vehicle
49 fuel, or for the facilities and equipment utilized in any such
50 operations.

51 (5) Upon complaints filed by not less than ten percent (10%)
52 of the total subscribers or three thousand five hundred (3,500)
53 subscribers of a public utility, whichever is less, then the
54 commission shall hold a hearing on the adequacy of service as
55 contemplated in Section 77-3-21.

56 (6) With respect to any facility or contract for a facility
57 serving a customer under Section 77-3-271, nothing in this section
58 shall supersede the provisions of Section 77-3-271.

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

61 11-27-81. The right of immediate possession pursuant to
62 Sections 11-27-81 through 11-27-89 * * * may be exercised only:

63 (a) By the * * * Mississippi Transportation Commission
64 for the acquisition of highway rights-of-way only;

65 (b) By any county or municipality for the purpose of
66 acquiring rights-of-way to connect existing roads and streets to
67 highways constructed or to be constructed by the * * * Mississippi
68 Transportation Commission;



69 (c) By any county or municipality for the purpose of
70 acquiring rights-of-way for widening existing roads and streets of
71 such county or municipality; provided, however, that said
72 rights-of-way shall not displace a property owner from his
73 dwelling or place of business;

74 (d) By the boards of supervisors of any county of this
75 state for the acquisition of highway or road rights-of-way in
76 connection with a state-aid project designated and approved in
77 accordance with Sections 65-9-1 through 65-9-31 * * *;

78 (e) By any county, municipality or county utility
79 authority created under the Mississippi Gulf Region Utility Act,
80 Section 49-17-701 et seq., for the purpose of acquiring
81 rights-of-way for water, sewer, drainage and other public utility
82 purposes; provided, however, that such acquisition shall not
83 displace a property owner from his dwelling or place of business.
84 A county utility authority should prioritize utilizing easements
85 within ten (10) feet of an existing right-of-way when economically
86 feasible. A county utility authority may not exercise the right
87 to immediate possession under this paragraph after July 1, 2013.
88 Provisions of this paragraph (e) shall not apply to House District
89 109;

90 (f) By any county authorized to exercise the power of
91 eminent domain under Section 19-7-41 for the purpose of acquiring
92 land for construction of a federal correctional facility or other
93 federal penal institution;



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

98 (h) By the boards of supervisors of any county of this
99 state for the purpose of constructing dams or low-water control
100 structures on lakes or bodies of water under the provisions of
101 Section 19-5-92;

102 (i) By the board of supervisors of any county of this
103 state for the purpose of acquiring land, property and/or
104 rights-of-way for any project the board of supervisors, by a duly
105 adopted resolution, determines to be related to a project as
106 defined in Section 57-75-5(f)(iv). The board of supervisors of a
107 county may not exercise the right to immediate possession under
108 this paragraph (i) after July 1, 2003;

109 (j) By a regional economic development alliance created
110 under Section 57-64-1 et seq., for the purpose of acquiring land,
111 property and/or rights-of-way within the project area and
112 necessary for any project such an alliance, by a duly adopted
113 resolution, determines to be related to a project as defined in
114 Section 57-75-5(f)(xxi). An alliance may not exercise the right
115 to immediate possession under this paragraph (j) after July 1,
116 2012;

117 (k) By the board of supervisors of any county of this
118 state for the purpose of acquiring or clearing title to real



property, property and/or rights-of-way within the project site and necessary for any project such board of supervisors, by a duly adopted resolution, determines to be related to a project as defined in Section 57-75-5(f)(xxii). A county may not exercise the right to immediate possession under this paragraph (k) after July 1, 2012; * * *

(l) By any public agency, as defined in Section 57-75-37(7)(a)(ii), for the purpose of acquiring land, property or interests therein, including, but not limited to, easements or rights-of-way for public highways and roads, and for public water utilities, public wastewater and wastewater treatment utilities, public drainage utilities and other public utility purposes in connection with a project defined in Section 57-75-5(f)(xxxiii); or

(m) A rate-regulated public utility defined under Section 77-3-3(d)(i) for the purpose of acquiring rights-of-way in connection with any facilities to provide public utility service.

SECTION 3. Section 11-27-85, Mississippi Code of 1972, is brought forward as follows:

11-27-85. (1) Upon the filing of the report of the appraiser, the clerk shall within three (3) days mail notice to the parties and the court that the report has been filed. The court shall review the report of the appraiser and shall, after not less than five (5) days' notice thereof to the defendants, enter an order granting to the plaintiff title to the property,



144 less and except all oil, gas and other minerals which may be
145 produced through a well bore, and the right to immediate entry
146 unless, for other cause shown or for uncertainty concerning the
147 immediate public need for such property pursuant to Section
148 11-27-83, the judge shall determine that such passing of title,
149 and right of entry should be denied. However, no person lawfully
150 occupying real property shall be required to move from a dwelling
151 or to move his business or farm operation without at least ninety
152 (90) days' written notice prior to the date by which such move is
153 required.

154 (2) Upon entry of said order, the plaintiff may deposit not
155 less than eighty-five percent (85%) of the amount of the
156 compensation and damages as determined by the appraiser with the
157 clerk of the court, and upon so doing, the plaintiff shall be
158 granted title to the property, less and except all oil, gas and
159 other minerals which may be produced through a well bore, and
160 shall have the right to immediate entry to said property. The
161 defendant, or defendants, shall be entitled to receive the amount
162 so paid to the clerk of the court, which shall be disbursed as
163 their interest may appear, pursuant to order of the court.

164 (3) Notwithstanding any provisions of subsections (1) and
165 (2) of this section to the contrary, title and immediate
166 possession to real property, including oil, gas and other mineral
167 interests, may be granted under this section to (a) any county
168 authorized to exercise the power of eminent domain under Section



169 19-7-41 for the purpose of acquiring land for construction of a
170 federal correctional facility or other federal penal institution,
171 (b) the Mississippi Major Economic Impact Authority for the
172 purpose of acquiring land, property and rights-of-way for a
173 project as defined in Section 57-75-5(f)(iv)1 and any facility
174 related to such project, (c) a regional economic development
175 alliance for the purpose of acquiring land, property and
176 rights-of-way for a project as defined in Section 57-75-5(f)(xxi)
177 and any facility related to the project, and (d) any county for
178 the purpose of acquiring or clearing title to real property,
179 property and rights-of-way for a project as defined in Section
180 57-75-5(f)(xxii).

181 **SECTION 4.** This act shall take effect and be in force from
182 and after July 1, 2025.

