

By: Representative Compretta (By Request)

To: Judiciary A

HOUSE BILL NO. 1291

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, or that may
36 hereafter come under the provisions of * * * Section 9-9-1, and in
37 every other county of this state, the original powers and
38 jurisdiction shall be and is hereby fixed in the circuit court of
39 such county, which said powers and jurisdiction may be exercised
40 in full either in termtime or vacation, or both.

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

43 11-27-19. Evidence may be introduced by either party, and
44 the jury may, in the sound discretion of the judge, go to the
45 premises, under the charge of the court as to conduct,
46 conversation and actions as may be proper in the premises.
47 Evidence of fair market value shall be established as of the date
48 of the filing of the complaint. Any judgment finally entered in
49 payment for property to be taken shall provide legal interest on
50 the award of the jury from the date of the filing of the complaint
51 until payment is actually made; provided, however, that interest
52 need not be paid on any funds deposited by the plaintiff and
53 withdrawn by the defendants prior to judgment. At the conclusion
54 of the trial, and if a jury has been impaneled, the court shall
55 instruct the jury in accordance with the Mississippi Rules of
56 Civil Procedure.

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.

84 **SECTION 6.** This act shall take effect and be in force from
85 and after July 1, 2002.

