

By: Senator(s) Dearing

To: Judiciary

SENATE BILL NO. 2005

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, and if a jury has been impaneled, the court shall
56 instruct the jury in accordance with the Mississippi Rules of
57 Civil Procedure.

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

60 11-27-23. In the trial of all cases provided for herein in
61 which a jury is impaneled, nine (9) jurors may bring in a verdict
62 as in other civil cases. The verdict of the jury shall be in the
63 following form: "We, the jury, find that the defendant (naming



64 him) will be damaged by the acquisition of his property for the
65 public use, in the sum of _____ Dollars."

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

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

78 The making of a deposit by the plaintiff or the withdrawal of
79 said deposit by the defendant or defendants shall not prejudice
80 the right of any party to a trial * * * in the special court of
81 eminent domain to determine the fair market value of the property
82 to be condemned and the damages, if any, to the remainder if less
83 than the whole is taken, as provided in Sections 11-27-1 through
84 11-27-49, Mississippi Code of 1972.

85 **SECTION 6.** This act shall take effect and be in force from
86 and after July 1, 2003.

