

By: Senator(s) Harden

To: Judiciary, Division A

SENATE BILL NO. 2167

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 UNDER STATE LAW; AND FOR RELATED  
6 PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

79 **SECTION 3.** This act shall take effect and be in force from  
80 and after July 1, 2005.