

Hall of the House of Representatives

87th General Assembly - Regular Session, 2009

Amendment Form

Subtitle of House Bill No. 2251

"TO GRANT THE POWER OF EMINENT DOMAIN TO MUNICIPAL GOVERNMENTS FOR
THE CONDEMNATION OF INDUSTRIAL MANUFACTURING PLANTS FOR THE
PURPOSE OF PROTECTING JOBS AND PROMOTING INDUSTRIAL AND ECONOMIC
DEVELOPMENT."

Amendment No. 1 to House Bill No. 2251.

Amend House Bill No. 2251 as originally introduced:

Add Representatives G. Smith and Reep as cosponsors of the bill

AND

Add Senator G. Jeffress as a cosponsor of the bill

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 18, Chapter 15, Subchapter 2 is amended to add an additional section to read as follows:

18-15-203. Power of eminent domain – Industrial plant or commercial enterprise.

(a) A county, a city of the first class, or a city of the second class may exercise the power of eminent domain to condemn the private property of an industrial plant or other commercial enterprise for the purpose of protecting the public interest in an industrial plant or other commercial enterprise that is located within the city or county if:

(1) The industrial plant or other commercial enterprise has employed at least fifty (50) full-time employees continuously for a period of five (5) years before the commencement of a condemnation proceeding under this section;

(2) The industrial plant or other commercial enterprise is in imminent danger of closing or substantially ceasing its business operations under circumstances that are likely to result in the termination of at least fifty (50) full-time employees; and



(3) The owner of the industrial plant or other commercial enterprise is insolvent under § 4-59-202.

(b)(1)(A) A petition for condemnation under subsection (a) of this section shall be filed in the circuit court of the county where the industrial plant or other commercial enterprise is located.

(B) If the industrial plant or other commercial enterprise is located in more than one county, the petition for condemnation shall be filed in the circuit court of the county where the largest portion of the real property sought to be condemned is located.

(2)(A) After the petition for condemnation has been filed in the proper circuit court, the condemnation proceeding shall conform to the procedure under §§18-15-303 – 18-15-307.

(B) However, before granting a final order to condemn under this section, the circuit court shall find that the elements under subsection (a) of this section have been proved by a preponderance of the evidence.

(c) A city or county that obtains an industrial plant or other commercial enterprise under this section shall use its best efforts to sell or lease the real or personal property that has been condemned to a person or entity that agrees to operate the industrial plant or other commercial enterprise in a manner that will sustain as many employment positions as is feasible.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that long-established plants are closing at an alarming rate due to the limited availability of financing; that rather than being sold as a going concern, those plants are being idled or dismantled causing significant job losses and leaving local government with abandoned industrial machinery and empty buildings that present a security risk and cause urban blight; and that this act is immediately necessary because many of those jobs can be saved and urban blight can be avoided by authorizing a county or city government to acquire those plants through the power of eminent domain for the purpose of sustaining those plants' continued operation. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

The Amendment was read _____
By: Representative Lowery
GLG/RCK - 03-19-2009 12:08
GLG163

Chief Clerk