

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: S3/12/97 S3/27/97 H4/1/97 H4/2/97 H4/4/97

A Bill

SENATE BILL 494

5 By: Senator Webb
6 By: Representative Broadway
7

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 18-15-202 TO CLARIFY A
10 COUNTY'S RIGHT TO EMINENT DOMAIN TO CONDEMN PROPERTY FOR
11 WATER FACILITIES OUTSIDE OF THE CONDEMNING COUNTY'S
12 BOUNDARIES; TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES."
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Subtitle

15 "TO CLARIFY A COUNTY'S RIGHT TO EMINENT
16 DOMAIN TO CONDEMN PROPERTY FOR WATER
17 FACILITIES OUTSIDE OF THE CONDEMNING
18 COUNTY'S BOUNDARIES."
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 18-15-202 is amended to read as follows:

24 "18-15-202. Counties - Power to condemn for water and sewer facilities.

25 (a)(1) In addition to the purposes for which counties are now
26 authorized to exercise the power of eminent domain, counties are authorized to
27 exercise that power for the purpose of acquiring property for water facilities
28 and sewer facilities.

29 (2) The counties shall exercise their power of eminent domain
30 only as a last resort, and they shall make use of existing easements and
31 rights-of-way to the extent practicable.

32 (b) Counties shall exercise the power of eminent domain for the
33 purposes set forth in subsection (a) of this section in accordance with the
34 same procedures and methods by which municipalities are authorized to acquire
35 property by exercising the power of eminent domain for municipal water works
36 purposes, as set forth in §§ 18-15-401 - 18-15-410.

1 (c) With regard to water transmission line projects which (1) will have
2 as their water source a lake or reservoir which is administered by the United
3 States Army Corps of Engineers, (2) will provide service to at least three
4 wholesale water purchasers, and (3) have been recognized by the Arkansas Soil
5 and Water Conservation Commission as being in compliance with the Arkansas
6 Water Plan, it shall be no objection to the exercise of condemnation power
7 hereunder that the real property to be condemned is located outside of the
8 boundaries of the county exercising its eminent domain powers hereunder.
9 Provided, however, any action to condemn real property pursuant to the
10 provisions of this section shall be brought in the county where the real
11 property is situated. This subsection (c) shall not apply to the acquisition
12 of property for sewer facilities."

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14 SECTION 2. Legislative Finding. It is hereby found and determined that
15 Saline, White, and Lonoke Counties, as well as other counties within the
16 state, are currently developing water transmission line projects which would
17 have as their water supply source certain lakes within the state which are
18 administered by the United States Army Corps of Engineers, including Lake
19 Ouachita and Greers Ferry Lake. Transmission facilities could be constructed
20 from intake facilities on the shores of said lakes which would transmit raw or
21 potable water across multiple counties for delivery and sale on a wholesale
22 basis to various of the states communities and water associations including
23 Chicot Road Water Improvement District, City of Haskell, Salem Water Users
24 Association, Sardis Water Association, Southwest Water Association, City of
25 Tull, City of Cabot, City of Beebe, City of Austin, City of Ward, Highway 319
26 Water Association, Bayou II Water Association, and Enola-Mt.Vernon Water
27 Association. The financing and development of these projects is provided by,
28 among other sources, the sale of bonds, the extension of loans from
29 governmental agencies, and the securing of governmental grants. Due to
30 fluctuations in interest rates and the requirements of various governmental
31 agencies, delays associated with pipeline easement acquisition cannot occur
32 without jeopardizing the viability of the water transmission line project and,
33 accordingly, placing at risk the reliable water sources which are urgently
34 needed by the communities to be benefited thereby.

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36 SECTION 3. All provisions of this act of general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 4. If any provisions of this act or the application thereof to
5 any person or circumstance is held invalid, the invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provisions or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 5. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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13 SECTION 6. Emergency. It is hereby found and determined by the
14 Eighty-First General Assembly of the State of Arkansas that existing law
15 hinders the development of infrastructure by severely limiting county
16 governments' abilities to own, operate, and acquire utility systems; that
17 broadening the county's power of eminent domain will benefit the construction
18 of infrastructure water and sewer facilities and aid the supply of utility
19 services to citizens of the various counties; and any delay in the effective
20 date of this act could cause harm to the citizens of the various counties in
21 Arkansas. Therefore, in order to for this act to have immediate effect, an
22 emergency is hereby declared to exist, and this act being necessary for the
23 immediate preservation of the public peace, health, and safety, shall become
24 effective on the date of its approval by the Governor. If the bill is neither
25 approved or vetoed by the Governor, it shall become effective on the
26 expiration of the period of time during which the Governor may veto the bill.
27 If the bill is vetoed by the Governor and the veto is overridden, it shall
28 become effective on the date the last house overrides the veto.

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/s/Webb et al

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