

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

SENATE BILL 533

4  
5 By: Senator Gwatney  
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## For An Act To Be Entitled

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9 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE  
10 TITLE 18, CHAPTER 15, SUBCHAPTER 10, REGARDING EMINENT  
11 DOMAIN BY LEVEE AND DRAINAGE DISTRICTS, TO REQUIRE  
12 APPROVAL BY THE COUNTY JUDGE BEFORE A COUNTY LEVEE OR  
13 DRAINAGE DISTRICT MAY EXERCISE ITS POWER OF EMINENT  
14 DOMAIN; AND FOR OTHER PURPOSES."

## Subtitle

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17 "TO REQUIRE APPROVAL BY THE COUNTY JUDGE  
18 BEFORE A COUNTY LEVEE OR DRAINAGE  
19 DISTRICT MAY EXERCISE ITS POWER OF  
20 EMINENT DOMAIN."  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code § 18-15-1002 is amended to read as follows:  
26 "18-15-1002. Power of eminent domain.

27 (a) ~~The~~ Within the restrictions as provided in subsection (e) of this  
28 section for county levee and drainage districts, the board of directors or  
29 commissioners of any levee or drainage district organized under the laws of  
30 the State of Arkansas are authorized and empowered to enter upon, take, and  
31 hold any lands or premises whatever, located either within or without the  
32 boundaries of the district, whether by purchase, grant, donation, devise, or  
33 otherwise, that may be necessary and proper for the location, relocation,  
34 construction, repair, or maintenance of any line of levees, drains, canals, or  
35 ditches, which may be authorized or necessary for any levee or drainage  
36 district to construct or make for the purpose of relieving any levee or land

1 adjacent thereto from injury, want of drainage, or for the construction of any  
2 drain, ditch, or canal authorized to be constructed.

3 (b) Any district having the authority to construct levees, ditches,  
4 drains, or canals is authorized and empowered to cut and remove trees, timber,  
5 and other material that may fall or otherwise encumber or endanger the levees,  
6 ditches, canals, drains, or any part thereof.

7 (c) All levee and drainage districts shall have power to acquire by  
8 compromise or by agreement with the owner, or if the owner is a minor, insane  
9 person, or if the lands belong to the estate of a deceased person, then with  
10 the curator, executor, or administrator, all property and right-of-way  
11 required by them.

12 (d) They may settle all claims for compensation or damages on account  
13 of right-of-way for the construction of levees, ditches, canals, or drains or  
14 material for the construction, maintenance, or repair of any levee, drain,  
15 canal, or ditch. The executor, administrator, or curator shall be responsible,  
16 on his bond, for the money or other things received in the settlement. In case  
17 of such settlement, the owner, curator, administrator, or executor shall have  
18 the power to convey to the levee or drainage district the right-of-way,  
19 material, or other property so required. This conveyance shall vest the levee  
20 or drainage district with the title to the right-of-way or property acquired  
21 pursuant to this section.

22 (e) Any county levee or drainage district may take land by the power of  
23  eminent domain or condemnation pursuant to this section, but only after  
24  obtaining the approval of the county judge of the county where the land is  
25  located. As used in this section and elsewhere in this subchapter, 'county  
26  levee and drainage district' means and refers to an improvement district for  
27  rivers, formed under Arkansas Code 14-118-101 through 14-118-114, a drainage  
28  improvement district, formed under Arkansas Code 14-121-101 through 14-121-  
29  1009, and a levee improvement district, formed under Arkansas Code 14-123-101  
30  through 14-123-507."

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32 SECTION 2. Arkansas Code § 18-15-1003(a), regarding the appointment of  
33 appraisers for lands being condemned by levee and drainage districts, is  
34 amended to read as follows:

35 "(a)(1) Circuit judges of all counties where it becomes necessary to  
36 condemn right-of-way for the purpose of constructing levees, ditches, drains,

1 or canals, upon the application of the president or secretary of any levee or  
 2 drainage district, or upon the receipt of an application of the president or  
 3 secretary of a county levee or drainage district containing the signed  
 4 approval for the condemnation of the land by the county judge for the county  
 5 where the land is situated, shall appoint three (3) disinterested resident  
 6 landholders of the county, to be known as appraisers, to assess damages for  
 7 the appropriation of land for levee and drainage purposes.

8 (2) The appraisers shall hold their offices for the term of one  
 9 (1) year and until their successors are duly appointed and qualified. In the  
 10 event of a vacancy in the office, or the removal by an appraiser from the  
 11 county for which he was appointed, then it shall be the duty of the circuit  
 12 judge, as soon as notified of the vacancy, to fill the unexpired term of the  
 13 office by appointment.

14 (3) The appointment shall be made in writing by the circuit judge  
 15 of the county in which it is necessary to construct a levee, ditch, canal, or  
 16 drain and shall be filed with the circuit court clerk by the judge, who shall  
 17 record the appointment in a book to be kept by him for that purpose."  
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19 SECTION 3. Arkansas Code § 18-15-1004(a), regarding the petition in  
 20 circuit court for the condemnation of land for levee and drainage districts,  
 21 is amended to read as follows:

22 "(a) Whenever any levee or drainage district deems it necessary to  
 23 take, use, or appropriate any right-of-way, land material, or other property  
 24 for levee, drain, ditch, or canal purposes pursuant to §§ 18-15-1001 - 18-15-  
 25 1010, or when the right-of-way, land material, or other property has already  
 26 been entered upon by it or has already been used, taken, or appropriated, then  
 27 the levee or drainage district, by its president, secretary, attorney, or  
 28 other authorized agent, may file a petition with the clerk of the circuit  
 29 court of the county in which the property is situated, describing as near as  
 30 may be practical the property taken or proposed to be taken and asking that  
 31 the appraisers make an award to the owners of land or property. Any county  
 32 levee or drainage district may file a petition as stated in this section, but  
 33 the petition shall include the signed approval of the county judge of the  
 34 county where the land is situated, approving of the condemnation petition."  
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36 SECTION 4. All provisions of this act of a 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 5. If any provision of this act or the application thereof to  
5 any person or circumstance is held invalid, such invalidity shall not affect  
6 other provisions or applications of the act which can be given effect without  
7 the invalid provision or application, and to this end the provisions of this  
8 act are declared to be severable.

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10 SECTION 6. All laws and parts of laws in conflict with this act are  
11 hereby repealed.