

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013

# A Bill

HOUSE BILL 1192

4  
5 By: Representative Hammer

## For An Act To Be Entitled

8 AN ACT TO LIMIT THE POWER OF EMINENT DOMAIN FOR  
9 PROPERTY OWNERS' IMPROVEMENT DISTRICTS; AND FOR OTHER  
10 PURPOSES.

## Subtitle

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13 TO LIMIT THE POWER OF EMINENT DOMAIN FOR  
14 PROPERTY OWNERS' IMPROVEMENT DISTRICTS.

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code § 14-93-110 is amended to read as follows:  
21 14-93-110. Purposes for which district organized.

22 Any district may be organized for any one (1) or more of the following  
23 purposes:

24 (1) To purchase, accept as a gift, or construct a waterworks  
25 system or betterments, improvements, and extensions to such waterworks  
26 system, either within or without the boundaries of the district if the  
27 property of the district will be benefited thereby and to operate and  
28 maintain any such waterworks system it may purchase, construct, or own;

29 (2) To purchase, accept as a gift, or construct, either within  
30 or without the boundaries of the district, if the property of the district  
31 will be benefited thereby, a sewage collection system or a sewage treatment  
32 plant, intercepting sewers, outfall sewers, force mains, pumping stations,  
33 ejector stations, and all other appurtenances necessary or useful and  
34 convenient for the collection or treatment, purification, and disposal of  
35 industrial or domestic sewage;

36 (3) To open, grade, drain, pave, curb, gutter, or otherwise



1 improve streets, roads, highways, and every other way, including viaducts and  
 2 underpasses for passage and use of vehicles, either within or without the  
 3 boundaries of the district, if the property of the district will be benefited  
 4 thereby. Such purpose shall include the acquisition of rights-of-way by  
 5 purchase ~~or the exercise of the power of eminent domain~~, and to maintain such  
 6 streets, roads, highways, and every other way for passage and use by  
 7 vehicles, lying within the boundaries of the district or beyond the  
 8 boundaries of the district, if the property of the district will be benefited  
 9 thereby;

10 (4) To build, purchase, or accept as a gift recreational  
 11 facilities such as, but not limited to, parks, lakes, golf courses,  
 12 playgrounds, clubhouses, stadiums, auditoriums, arts and crafts centers,  
 13 folklore centers, interpretative centers, camping areas, green belt areas,  
 14 and any other facilities to provide for the recreation and cultural needs of  
 15 the owners of the lands within the district;

16 (5) To lay and maintain sidewalks;

17 (6) To lay gas pipelines connecting with gas systems in nearby  
 18 or adjacent municipalities;

19 (7) To build telephone lines to connect with the telephone  
 20 system operating in nearby or adjacent municipalities; and

21 (8) To establish, equip, and maintain rural fire departments  
 22 including construction of fire department buildings, and purchase of fire  
 23 trucks, fire boats, and other fire fighting equipment.

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 25 SECTION 2. Arkansas Code § 14-93-113 is amended to read as follows:

26 14-93-113. Right and power of eminent domain.

27 ~~(a)(1) All districts organized under this chapter shall have the right~~  
 28 ~~of eminent domain in order that they may carry out the purposes of their~~  
 29 ~~creation.~~

30 ~~(2) This right shall be exercised in the same manner as in the~~  
 31 ~~case of railroad, telegraph, and telephone companies, but without the~~  
 32 ~~necessity of making a deposit of money before entering into possession of the~~  
 33 ~~property condemned.~~

34 ~~(b)(1) Any A district shall have the power of eminent domain for the~~  
 35 ~~purposes of:~~

36 ~~(A) Condemning purpose of condemning any water or sewer~~

1 utility that is found within the boundaries of the district ~~which is~~ and is  
 2 exempt from the definition of "public utility" ~~as found in~~ defined under §  
 3 23-1-101(9);

4 ~~(B) Securing any lands or rights of way needed in making~~  
 5 ~~improvements to water or sewer systems owned and operated by that district.~~

6 ~~(2)(A)(b)(1)(A)~~ The board of the district ~~shall have the power to~~  
 7 may enter upon any private property for the purposes stated in ~~subdivision~~  
 8 ~~(b)(1)~~ subsection (a) of this section.

9 (B) If the person is damaged and the board of the district  
 10 cannot agree on the sum to be paid for the damages, the person aggrieved may  
 11 file his or her other petition in the circuit court of the county setting  
 12 forth his or her other grievance and asking compensation ~~therefor~~ for the  
 13 grievance, making the board of the district a party defendant.

14 (C) The issues in the suit shall be made up as in other  
 15 cases at law, and the cause shall be tried by a jury, unless dispensed with  
 16 by the parties.

17 (D) The case shall be advanced on the docket so as to have  
 18 precedence over all other causes.

19 (E)(i) The judge of the circuit court may hold a special  
 20 term at any time for the trial of the cause, giving ten (10) days' notice to  
 21 the parties of the time of holding the special term.

22 (ii) This notice may be in writing and shall be  
 23 served on the parties as a writ of summons is directed to be served unless  
 24 the notice is waived by the parties, or one (1) of ~~them~~ the parties.

25 ~~(B)(2)(A)~~ In case an agreement cannot be arrived at  
 26 between the board of improvement and the owner of the property in relation to  
 27 the damages claimed, the judge of the court, in vacation, may fix an amount  
 28 to be deposited with some person, to be designated by the court, before the  
 29 entering upon and taking possession of the property to be used and taken as  
 30 provided in this section.

31 ~~(B) Upon the amount required being deposited and~~  
 32 ~~certificate thereof filed in the cause~~ When the required amount has been  
 33 deposited and the certificate filed in the cause, the work may proceed.

34 (c) This right shall be exercised in the same manner as in the case of  
 35 railroad, telegraph, and telephone companies, but without the necessity of  
 36 making a deposit of money before entering into possession of the property

1 condemned.

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