

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H2/13/13

A Bill

HOUSE BILL 1192

5 By: Representative Hammer
6

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.
11
12

Subtitle

13
14 TO LIMIT THE POWER OF EMINENT DOMAIN FOR
15 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.

24
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 other than a water or sewer utility owned by a municipality or other
2 type of improvement district, including without limitation a municipal
3 improvement district or consolidated utility district, that is found within
4 the boundaries of the district ~~which is~~ and is exempt from the definition of
5 "public utility" ~~as found in~~ defined under § 23-1-101(4); 23-1-101(9)

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

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

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

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

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

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

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

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

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

36 (c) This right shall be exercised in the same manner as in the case of

1 railroad, telegraph, and telephone companies, but without the necessity of
2 making a deposit of money before entering into possession of the property
3 condemned.

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5 *SECTION 3. DO NOT CODIFY. Legislative intent.*

6 *(a) The purpose of this act is to limit the power of eminent domain*
7 *only for property owners' improvement districts.*

8 *(b) This act does not apply to other types of improvement districts,*
9 *including without limitation municipal improvement districts or consolidated*
10 *utility districts.*

11 *(c) This act does not limit the power of eminent domain available*
12 *under applicable law to other types of improvement districts.*

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15 */s/Hammer*
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