

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/17/17 H3/22/17
A Bill

HOUSE BILL 1444

By: Representative Ballinger

For An Act To Be Entitled

AN ACT TO REVISE CERTAIN EMINENT DOMAIN LAWS THAT
ARISE OUT OF PROPERTY RIGHTS SECURED UNDER THE
ARKANSAS CONSTITUTION, ARTICLE 2, § 22; AND FOR OTHER
PURPOSES.

Subtitle

TO REVISE CERTAIN EMINENT DOMAIN LAWS
THAT ARISE OUT OF PROPERTY RIGHTS SECURED
UNDER THE ARKANSAS CONSTITUTION, ARTICLE
2, § 22.

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

SECTION 1. Arkansas Code § 4-35-210(16), concerning the powers of a water authority, is amended to read as follows:

(16) To exercise the power of eminent domain in ~~accordance with the procedures prescribed by § 18-15-301 et seq.~~ the manner provided in § 18-15-104;

SECTION 2. Arkansas Code § 6-3-113(c), concerning the eminent domain power of the Arkansas Educational Television Commission, is amended to read as follows:

(c) The commission shall exercise the power of eminent domain in the manner provided ~~for~~ in § ~~27-67-311 et seq.~~ § 18-15-104.

SECTION 3. Arkansas Code § 6-3-113(d), concerning the eminent domain power of the Arkansas Educational Television Commission, is repealed.



~~(d)(1) Actions by the commission to condemn real property shall be brought in the county in which the land is situated.~~

~~(2) If the land is located in more than one (1) county, the action may be brought in any county in which the land is situated.~~

SECTION 4. Arkansas Code § 6-13-103(b), concerning the eminent domain power of a school district, is amended to read as follows:

(b) If the owners of property desired to be acquired by the board of directors of any school district ~~shall~~ do not agree on the price, the board of directors of the school district may exercise the right of eminent domain, ~~after the same procedure as is provided by law for municipal corporations and counties, and no advance deposit of money shall be required unless the school district desires immediate possession of the property to be condemned, before a hearing can be held fixing the value thereof; and after the verdict of the jury finding the damage to the owner of the property in such proceedings, the school district shall have the right to take the property at the value found or abandon the proceedings to condemn it for one (1) year~~ and the procedure to be followed shall be exercised in the manner provided in § 18-15-104.

SECTION 5. Arkansas Code § 6-61-521(12), concerning the powers and duties of local boards, is amended to read as follows:

(12) To exercise the right of eminent domain to condemn property necessary for the use of the community college. The procedure to be followed in the exercise of the right of eminent domain by a local board shall be ~~that prescribed for the boards of trustees of certain state colleges by § 6-62-201~~ in the manner provided in § 18-15-104;

SECTION 6. Arkansas Code § 6-62-201(d)(1), concerning the eminent domain power of certain colleges and universities, is amended to read as follows:

(d)(1) ~~The procedure to be followed except as otherwise provided in this section, for the purposes of this section is that prescribed in §§ 18-15-301—18-15-307, inclusive, for the exercise of eminent domain by municipal corporations and counties~~ A state college or university having the right and power of eminent domain under subdivision (a)(1) of this section shall exercise the power of eminent domain in the manner provided in § 18-15-

104.

SECTION 7. Arkansas Code § 6-62-705(a)(5), concerning the power and duties of the Arkansas Development Finance Authority and the Arkansas Higher Education Coordinating Board, is amended to read as follows:

(5) Have and exercise the right of eminent domain ~~for the purpose of acquiring lands~~ to acquire land, the fee title ~~thereto~~ to land or any easement, right-of-way, or other interest or estate ~~therein~~ in the land, for projects or ~~portions thereof of parts of projects~~, by the procedure ~~now in the manner provided for condemnation by railroads by §§ 18-15-1201-18-15-1207~~ in § 18-15-104;

SECTION 8. Arkansas Code § 6-65-203(d)(1), concerning the eminent domain power of Arkansas State University, is amended to read as follows:

(d)(1) ~~Upon~~ On adoption of the resolution, the board ~~is authorized to~~ may request the prosecuting attorney of the district in which the lands are situated to assist in instituting ~~proper proceedings~~ a proceeding for the condemnation of the lands in the manner provided in § 18-15-104.

SECTION 9. Arkansas Code § 6-65-403(d)(1), concerning the eminent domain power of Southern Arkansas University, is amended to read as follows:

(d)(1) ~~Upon~~ On adoption of the resolution, the board ~~is authorized to~~ may request the prosecuting attorney of the district in which the lands are situated to assist in instituting ~~proper proceedings~~ a proceeding for the condemnation of the lands in the manner provided in § 18-15-104.

SECTION 10. Arkansas Code § 6-66-112(d)(1), concerning the eminent domain power of Henderson State University, is amended to read as follows:

(d)(1) ~~Upon~~ On adoption of the resolution, the board ~~is authorized to~~ may request the prosecuting attorney of the district in which the lands are situated to assist in instituting ~~proper proceedings~~ a proceeding for the condemnation of ~~such~~ the lands in the manner provided in § 18-15-104.

SECTION 11. Arkansas Code § 8-6-715(b)(1), concerning the eminent domain power of a regional solid waste management district, is amended to read as follows:

(b)(1) The proceedings ~~may be~~ shall be exercised in the manner now provided for taking private property ~~for rights-of-way for railroads as set forth in §§ 18-15-1202—18-15-1207~~ under § 18-15-104.

SECTION 12. Arkansas Code § 14-16-112(a)(2)(B), concerning the power of a county to condemn property for flood control, is amended to read as follows:

(B) In the event it becomes necessary for counties to exercise the right of eminent domain, condemnation proceedings shall be ~~instituted and conducted~~ exercised in the ~~same~~ manner as provided in ~~§§ 18-15-304—18-15-307~~ § 18-15-104.

SECTION 13. Arkansas Code § 14-54-106(b)(1), concerning the power of cities and towns on the state line, is amended to read as follows:

(b)(1) The procedure to be followed by the city to acquire property shall be ~~that prescribed in~~ exercised under Arkansas Constitution, Article 2, §§ 22, and 23, and Article 12, § 9, and in ~~§§ 14-54-601, 14-91-104, 14-262-102, 14-301-104, 14-333-101, 18-15-101 et seq., 23-11-209, and 23-12-303~~ the manner provided in § 18-15-104 for the exercise of the right of eminent domain by municipal corporations and counties.

SECTION 14. Arkansas Code § 14-88-202 is amended to read as follows:
14-88-202. Purposes for which created.

The council of any city of the first or second class or any incorporated town may assess all real property within the city or town, or within any district thereof, ~~for the purpose of opening, grading, or otherwise improving~~ to open, grade, or improve streets and alleys, including viaducts and underpasses either within the boundaries of an improvement district, or beyond the boundaries and beyond the limits of the city or town, if the property in the district will ~~be benefited thereby~~ benefit from an assessment, including the acquisition of rights-of-way by purchase or the exercise of the power of eminent domain ~~as in the manner~~ provided in ~~§ 14-91-104~~ § 18-15-104 and the payment of damages for the taking or injuring of property resulting from the making of any such improvement, if the work or construction is done or paid for by the federal government or any of its agencies or by the State of Arkansas or any other public body, or to pay for

any local improvement of a public nature, including sewer systems, ~~theretofore made~~, by which the property within the district has benefited; for the purpose of paying the principal of and interest on any bonds at any time authorized and issued by any district under and in the manner and for the purposes specified in this section; for the purpose of buying to buy existing sewer systems, or the construction of sewers, or constructing facilities for the off-street parking of vehicles, including without limitation constructing, reconstructing, widening, extending, and maintaining and operating off-street parking facilities, or constructing sidewalks, sidewalk overhead covers, benches, recreational areas, and other facilities pertaining to the construction, maintenance, and utilization ~~thereof~~ of those facilities; ~~for the purpose of the making of~~ to make any other local improvement of a public nature in the manner set forth stated in this subchapter; and ~~for the purpose of maintaining, repairing, and operating~~ to maintain, repair, and operate any improvements.

SECTION 15. Arkansas Code § 14-91-104(b)(4), concerning eminent domain proceedings involving a municipal board of improvement, is amended to read as follows:

~~(4)(A) The judge of the circuit court may hold a special term at any time for the trial of any such cause, giving ten (10) days' notice to the parties of the time of holding that special term, which may be in writing~~ condemnation proceeding shall be exercised in the manner provided in § 18-15-104.

~~(B) The notice shall be served on the parties as a writ of summons is directed to be served unless it is waived by the parties or one of them.~~

SECTION 16. Arkansas Code § 14-91-309 is amended to read as follows:

14-91-309. Eminent domain proceedings.

~~(a)(1)(A) The circuit judge of any county in which~~ If it becomes necessary or desirable for a municipal levee or flood control improvement district to condemn rights-of-way, lands, or structures, ~~shall, upon the written application of the district, appoint three (3) resident landowners of the municipality in which the district is located, to be known as appraisers, to assess damages for the appropriation of land for the project~~ the municipal

levee or flood control improvement district may bring an eminent domain proceeding in the manner provided in § 18-15-104.

~~(B)(i) The appraisers shall hold their offices for a term of one (1) year and until their successors are appointed and qualified.~~

~~(ii) Vacancies occurring in the board of appraisers shall be filled by the circuit judge.~~

~~(C) The appointment of appraisers shall be made, in writing, by the circuit judge and filed with the circuit clerk and spread by him upon the records of the circuit court.~~

~~(2) The appraisers shall take an oath before the circuit clerk that they will make a just and true award of the compensation of any landowner by reason of rights-of-way, lands, or structures taken for the project by condemnation. The oaths shall be reduced to writing, signed by the assessors and spread by the clerk upon the records of the circuit court.~~

~~(3) If any appraiser is interested in any property to be condemned, he shall not act as to the property.~~

~~(4) The board of improvement of the district may consult with and use the services of the board of appraisers in seeking to acquire needed lands and rights-of-way by consent and deed.~~

~~(5) Reasonable compensation to be fixed by the circuit court shall be allowed the appraisers for their services, and the compensation shall be paid by the district.~~

~~(b)(1)(A) Whenever any such district deems it necessary to take or use any rights-of-way, land, or structures for the project, or when the project has already been entered upon by the district, then the district may file a petition with the clerk of the circuit court of the county in which the property is situated. The petition shall describe, as near as may be practical, the property taken, or proposed to be taken, and ask that the property described in the petition be condemned and that the appraisers make an award to the owners of the land or property.~~

~~(B)(i)(a) The owners of each tract of land or right-of-way described in the petition shall be made defendants in the petition.~~

~~(b) The term owners shall include unknown owners where it is alleged in the petition that the names of the owners are unknown or uncertain.~~

~~(ii) Persons or corporations holding any lien or~~

~~lease upon, or claiming any interest in, the land may also be made defendants.~~

~~(iii) It shall be no objection that several tracts of land or rights of way belonging to different owners are included in the same petition.~~

~~(C)(i) When the petition is filed, the circuit clerk shall notify the appraisers of the filing, whose duty it shall then be to assemble, at some convenient time, and ascertain the fair market value of the property appropriated or intended to be appropriated and the damages, if any, to the remainder of each tract.~~

~~(ii)(a) The appraisers shall reduce their findings to writing, giving the amount of award as to each tract, and shall sign it and file the findings with the circuit court.~~

~~(b)(1) The clerk shall immediately issue a summons directed to the sheriff of the county, together with a copy of the award attached thereto, commanding him to serve the owners as in ordinary suits at common law.~~

~~(A) If the owners are nonresidents of the state, or if it is alleged in the petition that the owners of any tract or persons having an interest in any tract are unknown or uncertain, it shall be the duty of the clerk to publish a warning order in some newspaper published in the municipality in which the district is located once a week for two (2) consecutive weeks.~~

~~(B)(i) The warning order may be in the following form:~~

~~"To (name of supposed owners) and all other persons, having any claim and interest in and to the following described land situated in County, Arkansas, namely: (here describe the land set forth in the petition over which the levee or flood control project passes); you are hereby warned to appear in the Circuit Court within twenty (20) days, and file exceptions to the award which has been filed in my office by the levee and flood control appraisers of district for the appropriation of the hereinbefore described land, for the construction, or intended construction of a levee and flood control project over and across the same."~~

~~(ii) The warning order shall~~

~~be dated and signed by the clerk.~~

~~(2)(A) If no exception is filed by the owners within twenty (20) days after service of summons, or within twenty (20) days after the date of the first publication of the warning order, or by the district within twenty (20) days after the award is filed, then it shall be the duty of the circuit clerk to call the court's attention to the award and to the failure to file exceptions thereto after notice having been given as provided in this section. Upon such information the court shall proceed to enter a judgment in favor of the owners of such lands against the district for the amount awarded by the appraisers and for condemnation upon payment of the amount adjudged to the owners or into the registry of the court for their benefit.~~

~~(B)(i)(a) In case exceptions are filed by either party within the time prescribed in this section, it shall be the duty of the clerk to docket the cause.~~

~~(b) The petition originally filed by the district and the award of the appraisers shall constitute all necessary pleadings in the proceedings.~~

~~(ii) In case a trial is demanded or requested by either party, the question shall be tried as other common law cases are tried.~~

~~(3)(A)(i) Where the determination of questions in controversy in the proceedings is likely to retard the progress of the construction, then upon the filing of the award by the appraisers, the circuit court, or the judge thereof, in vacation, upon request of the district, shall designate an amount of money to be deposited by the district, subject to the order of the court, and for the purposes of making just compensation when the amount thereof shall have been assessed.~~

~~(ii) The judge shall designate the place of the deposit.~~

~~(B) In designating the amount of money to be deposited, the court or judge shall accept the award of the appraisers as prima facie correct.~~

~~(C) Whenever the deposits shall have been made in compliance with the order of the court or judge, it shall be lawful for that district to enter upon the lands in controversy and proceed with their work of construction prior to the final judgment and payment of damages and~~

~~compensation.~~

~~(4)(A) Upon the petition of the district, any landowner, lienholder, or lessee, the circuit court may order the payment of the final judgment to the parties interested therein in accordance with their several interests.~~

~~(B) If there is a conflict in interest among those entitled to the judgment or if the owners are unknown or uncertain, the district may be permitted to pay the final judgment into the registry of the court to await its further orders.~~

~~(5) Upon the payment of any judgment, either to the owners or into the registry of the court, a final judgment of condemnation shall be entered.~~

SECTION 17. Arkansas Code § 14-92-219(3)(B), concerning the powers of a suburban improvement district, is amended to read as follows:

(B) ~~Such purpose~~ A project under subdivision (3)(A) of this section shall include the acquisition of rights-of-way by purchase or the exercise of the power of eminent domain in the manner provided in § 18-15-104, and to maintain ~~such~~ the streets, roads, highways, and every other way for passage and use by vehicles, lying within the boundaries of the district or beyond the boundaries of the district, if the property of the district will benefit;

SECTION 18. Arkansas Code § 14-93-110(3), concerning the powers of a property owner's improvement district, is amended to read as follows:

(3)(A) To open, grade, drain, pave, curb, gutter, or otherwise improve streets, roads, highways, and every other way, including viaducts and underpasses for passage and use of vehicles, either ~~within or without~~ inside or outside the boundaries of the district, if the property of the district will ~~be benefited thereby~~ benefit.

(B) ~~Such purpose~~ A project under subdivision (3)(A) of this section shall include the acquisition of rights-of-way by purchase or the exercise of the power of eminent domain in the manner provided in § 18-15-104, and to maintain ~~such~~ the streets, roads, highways, and every other way for passage and use by vehicles, lying within the boundaries of the district or beyond the boundaries of the district, if the property of the

district will ~~be benefited thereby~~ benefit;

SECTION 19. Arkansas Code § 14-94-112(b), concerning the powers of a municipal property owner's improvement district, is amended to read as follows:

(b) This right shall be exercised in the ~~same manner as in the case of railroad, telegraph, and telephone companies provided in § 18-15-104,~~ but without the necessity of making a deposit of money before entering into possession of the property condemned.

SECTION 20. Arkansas Code § 14-116-402(a)(10)(A), concerning the powers of a water district, is amended to read as follows:

(10)(A) Have and exercise the right of eminent domain ~~for the purpose of acquiring~~ to acquire rights-of-way and other properties necessary in the construction or operation of its property and business in the manner now provided ~~by the condemnation laws of this state~~ for acquiring private property for public use under § 18-15-104.

SECTION 21. Arkansas Code § 14-116-604 is amended to read as follows:
14-116-604. Acquiescence in damage assessment – Condemnation.

(a) If such an owner subject to assessment under this subchapter has been given notice by certified mail posted at least thirty (30) days ~~prior to~~ before the date of the hearing provided for in § 14-116-603, he or she shall be construed to have accepted the assessment of damages in his or her favor made by the assessor or to have acquiesced in the failure to assess damages in his or her favor unless he or she gives to the court clerk, not later than the date of the hearing provided for in § 14-116-603, notice in writing that he or she demands a reassessment of his or her damages.

(b)(1) In this event If an owner gives notice of demand of reassessment under subsection (a) of this section, the board of adjustment shall institute an action to condemn the land that will be taken or damaged in carrying out the works of improvement included in the improvement plan.

(2) An action under subdivision (b)(1) of this section shall be exercised in the manner provided in § 18-15-104.

SECTION 22. Arkansas Code § 14-117-305(b), concerning the powers of a

watershed improvement district, is amended to read as follows:

(b) Condemnation proceedings instituted under this section shall be ~~conducted~~ exercised in the manner ~~as is now provided by §§ 18-15-1001—18-15-1010~~ in § 18-15-104.

SECTION 23. Arkansas Code § 14-117-406 is amended to read as follows:

14-117-406. Acquiescence in assessment of damages – Demand for assessment – Condemnation.

(a) ~~Any~~ A property owner may accept the assessment of damages in his or her favor made by the board, or acquiesce in ~~their~~ the board's failure to assess damages in his or her favor, and shall be construed to have done so unless he or she gives to the board, within thirty (30) days after the assessment is filed, notice in writing that he or she demands an assessment of his or her damages by a jury.

(b)(1) ~~In that event~~ If a property owner gives notice of demand of reassessment under subsection (a) of this section, the board shall institute an action to condemn the lands that must be taken or damaged in the making of the improvement, ~~which action shall be in accordance with the proceedings provided in § 14-117-305~~.

(2) An action under subdivision (b)(1) of this section shall be exercised in the manner provided in § 18-15-104.

SECTION 24. Arkansas Code § 14-118-114(2), concerning the powers of an improvement district for rivers, is amended to read as follows:

(2) The right of eminent domain as provided by law for other levee or drainage districts exercised in the manner provided for in § 18-15-104.

SECTION 25. Arkansas Code § 14-120-103(b)(2), concerning the responsibilities of a drainage and levee improvement district, is amended to read as follows:

(2)(A) And in order that the rights, easements, and servitudes necessary may be acquired, the board of directors of the district is given authority and power to condemn lands or interest therein for the purposes set out in subdivision (b)(1) of this ~~subsection~~ section and to exercise the right of eminent domain.

~~(B) Condemnation proceedings therefor shall be instituted and conducted by such districts~~ a district in the manner ~~as now provided~~ condemnation for levee purposes by such districts in § 18-15-104.

SECTION 26. Arkansas Code § 14-120-217(c), concerning condemnation actions by a levee district or drainage district or levee and drainage district, is amended to read as follows:

~~(c) Condemnation proceedings therefor shall be instituted and conducted in the manner as is now provided in §§ 18-15-1001—18-15-1010. Further damages shall be paid for any easement or flowage right or increased use or servitude on any lands by reason of increasing the amount or depth of water on the lands regardless of whether the lands are protected or unprotected by levees, and these damages shall be in addition to damages set out in §§ 18-15-1001—18-15-1010~~ A condemnation proceeding under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 27. Arkansas Code § 14-120-217(d), concerning condemnation actions by levee district or drainage district or levee and drainage district, is repealed.

~~(d) Any action for taking or damaging property as provided in this section or in §§ 18-15-1001—18-15-1010 shall be commenced within five (5) years from the time the cause of action accrues.~~

SECTION 28. Arkansas Code § 14-120-306(b), concerning the powers of board of directors of a levee district or drainage district or levee and drainage district, is amended to read as follows:

~~(b)(1) In order that~~ For the rights, easements, and servitudes conferred ~~may to~~ be acquired, the board of directors of the district ~~is given authority and power to~~ may:

~~(A) condemn~~ Condemn lands or interests ~~therein in the district~~ for such purposes; and ~~the authority and power to~~

~~(B) exercise~~ Exercise rights of eminent domain.

~~(2) Condemnation proceedings therefor shall be instituted and conducted in the manner as is now provided in §§ 18-15-1001—18-15-1010 and provided further damages shall be paid for any easement or flowage right or increased use or servitude on any lands by reason of increasing the amount or~~

~~depth of water on those lands regardless of whether the lands are protected or unprotected by levees, and those damages shall be in addition to damages set out in §§ 18-15-1001—18-15-1010. Any action for taking of property or damaging property as provided in this subchapter or in §§ 18-15-1001—18-15-1010 shall be commenced within five (5) years from the time the cause of action accrues~~ A condemnation proceeding under subdivision (b)(1) of this section shall be exercised in the manner provided in § 18-15-104.

SECTION 29. Arkansas Code § 14-121-406(b), concerning condemnation of land by the commissioners of a drainage improvement district, is amended to read as follows:

~~(b)(1) In that event~~ If a property owner gives notice of demand of an assessment of damages by a jury under subsection (a) of this section, the commissioners shall institute in the circuit court of the proper county an action to condemn the lands that must be taken or damaged in the making of the improvement.

~~(2) This action shall be in accordance with the proceedings for condemnation of rights-of-way by railroad, telegraph, and telephone companies, with the same right of paying into court a sum to be fixed by the circuit court or judge, and proceeding with the work before assessment by the jury~~ An action under subdivision (b)(1) of this section shall be exercised in the manner provided in § 18-15-104.

SECTION 30. Arkansas Code § 14-121-406(c), concerning condemnation of land by the commissioners of a drainage improvement district, is repealed.

~~(c) If there is more than one (1) claimant to the lands, all claimants may be made parties defendant in the suit, and the fund paid into court, leaving the claimants to contest in that action their respective rights to the fund.~~

SECTION 31. Arkansas Code § 14-121-804(b), concerning access to land for drainage ditch improvement projects, is amended to read as follows:

(b) If ~~any~~ an intervening landowner ~~should refuse~~ refuses permission to cross his or her lands with ~~such a~~ a ditch, the landowner seeking to construct the ditch may, by proceedings in the circuit court to be ~~conducted in the same manner as condemnation proceedings instituted by railroad,~~

~~telegraph, and telephone companies~~ exercised in the manner provided in § 18-15-104, condemn a right-of-way for the ditch.

SECTION 32. Arkansas Code § 14-121-808(c), concerning construction of ditches beyond drainage improvement district limits, is amended to read as follows:

(c) ~~The proceedings for the right of way shall be the same that are now provided by law for the condemnation of the rights of way for railroads, telegraphs, and telephones~~ A proceeding under subsection (b) of this section shall be exercised in the manner provided in § 18-15-104.

SECTION 33. Arkansas Code § 14-121-1107(b)(2), concerning the powers of the board of directors of merged drainage improvement districts, is amended to read as follows:

(2) ~~Condemnation proceedings therefor shall be instituted and conducted in the manner as is now provided in §§ 18-15-1001—18-15-1010 and provided~~ A condemnation proceeding shall be exercised in the manner provided in § 18-15-104 and further damages shall be paid for any easement or flowage right or increased use or servitude on any lands by reason of increasing the amount or depth of water on those lands ~~regardless of whether~~ or not the lands are protected or unprotected by levees, and those damages shall be in addition to damages set out in §§ 18-15-1001 and 18-15-1002. ~~Any action for taking of property or damaging property as provided in this subchapter or in §§ 18-15-1001—18-15-1010 shall be commenced within five (5) years from the time the cause of action accrues.~~

SECTION 34. Arkansas Code § 14-122-111 is amended to read as follows:
14-122-111. Eminent domain.

(a) The right and power of eminent domain is conferred upon a district to enter ~~upon~~ on, take, and condemn private property for the construction of improvements described in the plan of improvement, and the right and power of eminent domain conferred shall be exercised by the district in ~~accordance with the procedures in §§ 18-15-301—18-15-307, as amended~~ the manner provided in § 18-15-104.

(b) ~~The right and power conferred shall include without limitation the right and power to enter upon lands and proceed with the work of construction~~

~~prior to the assessment and payment of damages and compensation upon posting a deposit by the district in accordance with the procedure described in §§ 18-15-301—18-15-303, as amended.~~

~~(e)(b)~~ The rights and powers granted in this section shall apply outside the boundaries of the municipality if the board of commissioners determines in writing that the exercise of the powers is necessary to accomplish the plan of improvement.

~~(d)(c)~~ The rights and powers granted in this section shall not apply outside the boundaries of the county in which the municipality is located nor shall the rights and powers apply within the boundaries of another municipality within the county.

SECTION 35. Arkansas Code § 14-125-704 is amended to read as follows:

14-125-704. Acquiescence in damage assessment – Demand for assessment – Condemnation.

(a) ~~Any~~ An owner of land may accept the assessment of damages ~~in his favor~~ made by the assessors or acquiesce in ~~their~~ the assessor's failure to assess damages ~~in his favor~~.

(b)(1) He or she shall be construed to have done so unless he or she gives to the board, not later than the date of the hearing provided for in § 14-125-703, notice in writing that he or she demands an assessment of his or her damages by a jury.

(2)(A) ~~In this event~~ If a property owner gives notice of demand of an assessment of damages by a jury under subdivision (b)(1) of this section, the board shall institute an action to condemn the land that will be taken or damaged in carrying out the works of improvement included in the approved improvement plan, ~~which action shall be in accordance with the proceedings provided in § 14-125-303(a)(3).~~

(B) An action under subdivision (b)(2)(A) of this section shall be exercised in the manner provided in § 18-15-104.

SECTION 36. Arkansas Code § 14-137-112(c), concerning the authority of a public facilities board to acquire and transfer facilities, is amended to read as follows:

(c) Public facilities boards ~~which~~ that operate water works facilities ~~may~~ shall exercise the power of eminent domain in ~~accordance with the~~

~~procedures prescribed by § 18-15-201 et seq~~ the manner provided for in § 18-15-104.

SECTION 37. Arkansas Code § 14-139-104 is amended to read as follows:
14-139-104. Right of eminent domain.

~~For the purpose of acquiring~~ To acquire any exhibition grounds and buildings to be used in connection with the exhibition of livestock under ~~the provisions of this chapter, or for the purpose of acquiring~~ to acquire any property necessary thereof, the municipality shall have the right of eminent domain as ~~is provided for~~ in §§ 18-15-301 – 18-15-303 and any acts amendatory or supplemental to it shall exercise the power of eminent domain in the manner provided in § 18-15-104.

SECTION 38. Arkansas Code § 14-140-207 is amended to read as follows:
14-140-207. Acquisition of property and property rights.

For the purposes of this subchapter, the market authority ~~is authorized to~~ may acquire private or public, real or personal property and property rights necessary for market facilities or other purposes by purchase, eminent domain exercised in the manner provided in § 18-15-104, gift, lease, or otherwise.

SECTION 39. Arkansas Code § 14-143-120 is amended to read as follows:
14-143-120. Acquisition of property.

(a) ~~Whenever~~ If it ~~shall be~~ is deemed necessary by an authority, in connection with the exercise of its powers conferred in this chapter, to take or acquire any lands, structures, buildings, or other rights, either in fee or as easements, for the purposes ~~set forth~~ stated in this chapter, the authority may purchase them directly or through its agents from the owners thereof, or failing to agree with the owners, the authority may exercise the power of eminent domain, and these purposes are declared to be public uses for which private property may be taken or damaged.

(b) Should an authority elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the authority, and ~~it may proceed~~ shall be exercised in the manner provided by ~~the general laws of the State of Arkansas for the procedure by any county, municipality, or authority organized under the laws of this state, or by~~

~~railroad corporations, as the authority may, in its discretion, elect in § 18-15-104.~~

SECTION 40. Arkansas Code § 14-144-205(a), concerning the power of a research park authority, is amended to read as follows:

(a)(1) A research park authority shall have the right to acquire any property necessary to carry out the purposes of this chapter by exercising the power of eminent domain.

(2) The exercise of eminent domain under subdivision (a)(1) of this section shall be in the manner provided in § 18-15-104.

SECTION 41. Arkansas Code § 14-163-206(a)(2), concerning the authority of a city industrial commission, is amended to read as follows:

(2) The acquisition by gift, purchase, negotiation, or condemnation under the power of eminent domain exercised in the manner provided in § 18-15-104, the construction, reconstruction, extension, equipment, owning, leasing, with or without options to purchase and with or without options to extend or renew, and the selling, the contracting concerning, or otherwise dealing in, with, or disposing of, any lands, buildings, machinery, or other personal property and facilities of any ~~and every~~ nature whatever necessary ~~or desirable~~ in connection with the establishing, developing, and improving of harbors, ports, and river-rail and barge terminals, and the improving of ~~such portions~~ the parts of waterways as ~~may be necessary or desirable~~ in connection with them, which waterways are not within the exclusive jurisdiction of the federal government;

SECTION 42. Arkansas Code § 14-163-206(a)(4), concerning the authority of a city industrial commission, is amended to read as follows:

(4) The acquisition by gift, purchase, negotiation, or condemnation under the power of eminent domain exercised in the manner provided in § 18-15-104, the construction, reconstruction, extension, equipment, owning, leasing, with or without options to purchase and with or without options to extend or renew, and the selling, the contracting concerning, or otherwise dealing in, with, or disposing of, any lands, buildings, machinery, or other personal property and facilities of any ~~and every~~ nature whatever necessary ~~or desirable~~ in connection with the securing

and developing of factories, industries, river transportation, industrial sites, and facilities for them within and adjacent to any city;

SECTION 43. Arkansas Code § 14-168-304(7)(B), concerning the powers of a local government, is amended to read as follows:

(B) ~~The rules and procedures set forth in §§ 18-15-301—18-15-307 shall govern all condemnation proceedings~~ A condemnation proceeding authorized in this subchapter shall be exercised in the manner provided in § 18-15-104;

SECTION 44. Arkansas Code § 14-169-215(4), concerning the power of a housing authority, is amended to read as follows:

(4) To acquire real property by the exercise of the power of eminent domain ~~any real property~~ in the manner provided in § 18-15-104;

SECTION 45. Arkansas Code § 14-169-605(a), concerning the rights of a housing authority, is amended to read as follows:

(a) In undertaking development projects, a housing authority shall have all the rights, powers, privileges, and immunities that a housing authority has under the Housing Authorities Act, §§ 14-169-201 – 14-169-205, 14-169-207 – 14-169-225, 14-169-227, 14-169-229 – 14-169-240, ~~and 14-169-804~~ § 14-169-804, and any other ~~provision of~~ law relating to slum clearance and housing projects for persons of low income, including, without limiting the generality of the foregoing, the power to make and execute contracts, to issue bonds and other obligations and give security therefor, to acquire real property by eminent domain in the manner provided in § 18-15-104 or purchase, and to do ~~any and~~ all things necessary to carry out projects, in the same manner as though all the provisions of law applicable to slum clearance and housing projects were applicable to redevelopment projects undertaken under this subchapter.

SECTION 46. Arkansas Code § 14-169-802(a)(2), concerning the power of eminent domain for housing authorities, is amended to read as follows:

(2) An urban renewal agency may exercise the power of eminent domain in the manner ~~prescribed by law for condemnation by railroad corporations in this state as prescribed by §§ 18-15-1202—18-15-1207 and~~

~~acts amendatory thereof or supplementary thereto; the urban renewal agency may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain provided in § 18-15-104.~~

SECTION 47. Arkansas Code § 14-184-116(b), concerning the power of eminent domain for central business improvement districts, is amended to read as follows:

(b) The right and power of eminent domain conferred by this section shall be exercised by the district ~~in accordance with the procedures in §§ 18-15-301—18-15-307~~ in the manner provided in § 18-15-104.

SECTION 48. Arkansas Code § 14-184-117(2), concerning the power of eminent domain for municipal governing bodies, is amended to read as follows:

(2)(A) To condemn and take easements necessarily incident to the plan of improvement adopted for the district.

(B) ~~Except as otherwise provided in this subchapter, the rules and procedures set forth in §§ 18-15-301—18-15-307 shall govern all condemnation proceedings~~ An action under subdivision (2)(A) of this section shall be exercised in the manner provided in § 18-15-104;

SECTION 49. Arkansas Code § 14-185-111(b), concerning the power of a port authority, is amended to read as follows:

(b) If an authority determines to exercise the right of eminent domain, it ~~may~~ shall be exercised in the manner provided for taking private property ~~for railroads as provided by §§ 18-15-1202—18-15-1207, in the manner provided by §§ 18-15-301—18-15-307, or in the manner provided by any other statutes enacted for the exercise of the power of eminent domain by the State of Arkansas, or by any of its officers, departments, agencies, or political subdivisions~~ under § 18-15-104.

SECTION 50. Arkansas Code § 14-201-110(a)(2), concerning the general powers of a municipal commission, is amended to read as follows:

(2)(A) Without limiting the generality of the foregoing, the commission ~~is empowered to~~ may acquire, construct, and equip ~~any and~~ all facilities, consisting of real property, personal property, or mixed property

of any ~~and every~~ kind, which in the judgment of the commission are necessary ~~or useful~~ as a part of or in connection with the municipal waterworks and distribution system or electric light plant and system, or both, including, without limitation, facilities for the generation of electric power and related transmission facilities, which may be located ~~within or without~~ inside or outside the corporate boundaries of the city.

(B) In furtherance of its authority to construct facilities for the distribution or transmission of electric energy and to provide its customers reliable utility service, the commission is granted the right of eminent domain outside the corporate limits of the municipality creating the commission, but ~~subject to the provisions of~~ under § 14-201-102(b) and only within the contiguous service territory as heretofore or hereafter granted to the municipality by the Arkansas Public Service Commission and in ~~accordance with the procedures of §§ 18-15-301—18-15-308 and as those sections may be amended~~ the manner provided in § 18-15-104.

SECTION 51. Arkansas Code § 14-205-112(b), concerning the power of eminent domain of a municipal corporation, is amended to read as follows:

(b) The right and power of eminent domain, as conferred in this section, shall be exercised in the ~~same manner as is provided in §§ 18-15-301—18-15-307 and any act amendatory or supplemental thereto~~ § 18-15-104.

SECTION 52. Arkansas Code § 14-207-106(a), concerning the exercise of the power of eminent domain of a municipality, is amended to read as follows:

(a) At the conclusion of the six-month notification period, ~~in the event that~~ if an agreement is not reached pursuant to § 14-207-104(a) or (b), or the municipality and the electric public utility disagree on the valuations described in § 14-207-104, but no later than three (3) years from certification of annexation or three (3) years from termination of any franchise agreement authorized by this subchapter, the municipality ~~may~~, after paying, or, if applicable, commencing payment of, any amounts not in dispute and depositing into the registry of the court the amount in dispute, or such lesser amounts as the court, after hearing, determines to be just, may exercise the right and power of eminent domain under the procedures of ~~§ 18-15-301 et seq.~~ § 18-15-104, and may take possession of the properties and facilities and commence service to the customers as of the date it makes the

deposit; ~~provided, however, that~~ if any compensation or damages for the properties, facilities, and customers taken shall be determined ~~in accordance with~~ under § 14-207-104.

SECTION 53. Arkansas Code § 14-218-133(b), concerning the power of eminent domain of a consolidated district, is amended to read as follows:

(b) ~~Suits~~ A suit brought by the board for condemnation of lands or rights-of-way ~~shall be deemed cases~~ is of public interest and shall be ~~advanced both by the circuit courts and Supreme Court~~ exercised in the manner provided in § 18-15-104.

SECTION 54. Arkansas Code § 14-218-133(c) and (d), concerning the power of eminent domain of a consolidated district, are repealed.

~~(c) Upon the filing of a condemnation suit in the circuit court, the court or judge in vacation may designate an amount of money to be deposited by the district subject to the order of the court and for the purpose of making compensation when the amount thereof shall have been assessed at the trial of the cause, and the court or judge in vacation shall designate the place of the deposit.~~

~~(d) Whenever the deposits shall have been made in compliance with order of the court or judge, it shall be lawful for the district to enter upon the land and proceed with their work prior to the assessment and payment of damages for the use and right to be determined in the suit.~~

SECTION 55. Arkansas Code § 14-232-113(b), concerning the power of eminent domain of a county or municipality, is amended to read as follows:

(b) Such proceedings ~~may~~ shall be exercised in the manner ~~now~~ provided for taking private property ~~for rights-of-way for railroads as set forth by §§ 18-15-1202—18-15-1207, or in the manner provided by §§ 18-15-301—18-15-307, or pursuant to any other applicable statutory provisions enacted for the exercise of the power of eminent domain by the various counties or municipalities in the State of Arkansas~~ under § 18-15-104.

SECTION 56. Arkansas Code § 14-233-107(15)(A), concerning the specific powers of a sanitation authority, is amended to read as follows:

(15)(A) To have and exercise the power of eminent domain ~~for the~~

~~purpose of acquiring~~ to acquire rights-of-way, easements, other properties necessary in the construction or operation of its projects, property, or business under subdivision (14) of this section and exercised ~~through the procedures under §§ 14-235-201—14-235-205 and 14-235-210~~ in the manner provided in § 18-15-104;

SECTION 57. Arkansas Code § 14-234-111(e), concerning a municipality providing service to an adjacent area, is amended to read as follows:

(e) ~~For the purpose of carrying~~ To carry out the provisions of this section, a municipality shall have the right of eminent domain as ~~is~~ provided in §§ 18-15-301 – 18-15-307 and exercised in the manner provided for in § 18-15-104.

SECTION 58. Arkansas Code § 14-234-516 is amended to read as follows:

14-234-516. Eminent domain.

~~For the purpose of acquiring~~ To acquire any waterworks system under the provisions of this subchapter, or ~~for the purpose of acquiring~~ to acquire any properties necessary therefor, each of the municipalities joining together under the provisions of this subchapter shall have the right of eminent domain, as is provided in §§ 18-15-301 – 18-15-303 to be exercised in the manner provided in § 18-15-104.

SECTION 59. Arkansas Code § 14-235-210(a)(3), concerning action regarding the power of eminent domain for municipal sewage systems, is amended to read as follows:

(3) ~~Proceedings for such appropriation of property shall be under and pursuant to the provisions of §§ 18-15-301—18-15-303 and any acts supplemental to it. However, a municipality shall be under no obligation to accept and pay for any property condemned or purchased except from the funds provided pursuant to this subchapter~~ An action under this subsection shall be exercised in the manner provided in § 18-15-104.

SECTION 60. Arkansas Code § 14-235-210(a)(4), concerning action regarding the power of eminent domain for municipal sewage systems, is repealed.

~~(4)(A) In any proceedings to condemn, such orders may be made as may~~

~~be just to the municipality and to the owners of the property to be condemned.~~

~~(B) An undertaking or other security may be required securing the owners against any loss or damage to be sustained by reason of the failure of the municipality to accept and pay for the property. However, the undertaking or security shall impose no liability upon the municipality except such as may be paid from the funds provided under the authority of this subchapter.~~

SECTION 61. Arkansas Code § 14-238-112(c), concerning the rights of rural waterworks facilities boards to acquire property, is amended to read as follows:

(c) ~~Boards may~~ A board shall exercise the power of eminent domain in accordance with the procedures prescribed by § 18-15-201 et seq. the manner provided in § 18-15-104.

SECTION 62. Arkansas Code § 14-250-111(9), concerning the powers of a wastewater district, is amended to read as follows:

(9) To have and exercise the right of eminent domain ~~for the purpose of acquiring~~ to acquire rights-of-way and other properties necessary in the construction or operation of its property and business in the manner now provided by the condemnation laws of this state ~~for acquiring private property for public use~~ in § 18-15-104;

SECTION 63. Arkansas Code § 14-269-103(d)(2), concerning the general authority of a municipality, is amended to read as follows:

(2) The proceedings ~~may~~ shall be exercised in the manner provided for taking private property ~~for rights-of-way for railroads as set forth in §§ 18-15-1202—18-15-1207, or in the manner provided by §§ 18-15-301—18-15-307, or pursuant to any other applicable statutory provisions for the exercise of the power of eminent domain by the various municipalities in the State of Arkansas~~ as set forth in § 18-15-104.

SECTION 64. Arkansas Code § 14-304-109 is amended to read as follows:

14-304-109. Acquisition of property and property rights.

For the purpose of this chapter, the parking authority ~~is authorized to~~

may acquire private or public, real or personal property and property rights, above, at, or below the surface of the earth necessary for off-street automobile parking facilities by purchase, eminent domain in the manner provided in § 18-15-104, gift, lease, or otherwise.

SECTION 65. Arkansas Code § 14-317-112 is amended to read as follows:
14-317-112. Eminent domain.

(a) ~~All districts~~ A district organized under this chapter shall have the right of eminent domain in order that ~~they~~ the district may carry out the purpose of ~~their~~ its creation.

(b) ~~This right~~ The exercise of eminent domain shall be exercised in the ~~same~~ manner ~~as in the case of railroads, telegraph, and telephone companies provided in § 18-15-104, but without the necessity of making a deposit of money before entering into possession of the property condemned.~~

SECTION 66. Arkansas Code § 14-318-111 is amended to read as follows:
14-318-111. Eminent domain.

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

(b) ~~This right~~ The exercise of eminent domain shall be exercised in the ~~same~~ manner ~~as in the case of railroads, telegraph, and telephone companies provided in § 18-15-104, but shall be without the necessity of making a deposit of money before entering into possession of the property condemned.~~

SECTION 67. Arkansas Code § 14-320-120(b), concerning the right of the board of commissioners to acquire real property, is amended to read as follows:

(b) If condemnation proceedings become necessary, ~~such proceedings~~ the proceedings shall be ~~instituted and~~ conducted in the ~~same~~ manner ~~as now~~ provided ~~by § 14-91-104~~ in § 18-15-104.

SECTION 68. Arkansas Code § 14-358-102(b), concerning the right of a county to acquire property, is amended to read as follows:

(b) The power of eminent domain granted to counties by this section

shall be exercised in the ~~same manner and procedure as is prescribed for the exercise of this power by railroads~~ provided in § 18-15-104.

SECTION 69. Arkansas Code § 14-360-102(b), concerning the right of a city to acquire property, is amended to read as follows:

(b) The procedure for the exercise of the right of eminent domain shall be ~~that prescribed by law for the exercise of this power by railroads~~ exercised in the manner provided in § 18-15-104.

SECTION 70. Arkansas Code § 14-362-120 is amended to read as follows:

14-362-120. Acquisition of property.

~~Whenever~~ If it ~~shall be~~ is deemed necessary by an authority, in connection with the exercise of its powers conferred in this chapter, to take or acquire any lands, structures, buildings, or other rights, either in fee or as easements, for the purposes ~~set forth~~ stated in this chapter, the authority may purchase them directly or through its agents from the owners thereof, or failing to agree with the owners, the authority ~~may~~ shall exercise the power of eminent domain in the manner provided ~~for condemnation proceedings under §§ 14-358-101, 14-358-102, and 14-360-102~~ in § 18-15-104, and these purposes are declared to be public uses for which private property may be taken or damaged.

SECTION 71. Arkansas Code § 15-11-206(b)(5), concerning the functions, powers, and duties of the State Parks, Recreation, and Travel Commission, is amended to read as follows:

(5) Acquire such land within the state as it may deem necessary ~~or proper~~ to the extension, development, or improvement of the state park system and, ~~when~~ if necessary to properly carry out its functions, to acquire any real property by the exercise of its right of eminent domain, this right being vested in the commission, in the manner provided in § 18-15-104;

SECTION 72. Arkansas Code § 15-20-1314(15), concerning the additional powers of the Arkansas Natural Resources Commission, is amended to read as follows:

(15) Have and exercise the right of eminent domain ~~for the purpose of acquiring~~ to acquire the fee title, an easement, a right-of-way,

or any other interest or estate in lands for projects or ~~portions~~ parts of projects ~~by the procedure now in the manner~~ provided ~~condemnation by municipal corporations, § 18-15-401 et seq.,~~ in § 18-15-104;

SECTION 73. Arkansas Code § 15-22-1212(a)(8), concerning the powers of a county conservation board, is amended to read as follows:

(8) Have and exercise the power of eminent domain ~~for the purpose of acquiring~~ to acquire lands, rights-of-way, and other properties necessary in the construction or operation of any water facilities in the manner ~~now provided by the condemnation laws of this state for acquiring private property for public use~~ in § 18-15-104;

SECTION 74. Arkansas Code § 15-31-106(a)(8), concerning the functions, powers, and duties of the Arkansas Forestry Commission, is amended to read as follows:

(8) Purchase, lease, rent, or sell and receive bequests or donations of any real, corporeal, or personal property, and, ~~when~~ if necessary to properly carry out its functions, to acquire any real property by the exercise of its right of eminent domain, ~~such~~ this right being vested in the Arkansas Forestry Commission, in the manner provided in § 18-15-104;

SECTION 75. Arkansas Code § 15-72-606 is amended to read as follows:

15-72-606. Petition for eminent domain – Subsequent proceedings.

~~(a)~~ Any natural gas public utility having first obtained a certificate from the Oil and Gas Commission as provided in § 15-72-605 desiring to exercise the right of eminent domain for the purpose of acquiring property for the underground storage of natural gas shall do so in the manner provided in ~~this section~~ § 18-15-104.

~~(b)~~ ~~The natural gas public utility shall present to the circuit court of the county wherein the land is situated, or to the judge thereof, a petition setting forth the purpose for which the property is sought to be acquired, a description of the property sought to be appropriated, and the names of the owners thereof as shown by the records of the county.~~

~~(c)~~ ~~The petitioner shall file the certificate of the commission as a part of its petition and no order by the court granting the petition shall be entered without the certificate being filed therewith.~~

~~(d) The court or the judge thereof shall examine the petition and determine whether the property is necessary to its lawful purposes, and if found in the affirmative, the finding shall be entered of record and subsequent proceedings shall follow the procedure by law for the exercise of the right of eminent domain for rights of way for railroads as provided by § 18-15-1201 et seq.~~

SECTION 76. Arkansas Code § 18-15-102 is amended to read as follows:

18-15-102. Actions against ~~corporations~~ entities appropriating private property for public use that do not initiate a condemnation proceeding before the appropriation.

(a) ~~Whenever any corporation~~ If an entity, as defined in § 18-15-106, authorized by law to appropriate private property for ~~its~~ public use shall have entered upon and appropriated any real or personal property and fails to initiate a condemnation proceeding before the appropriation, the owner of the property ~~shall have~~ has the right to bring an action against the ~~corporation~~ entity for just compensation for the appropriation at any time before an action ~~at law or in equity for the recovery of the property so taken, or compensation therefor,~~ would be barred by the statute of limitations.

(b) The measure of ~~recovery~~ just compensation in the action shall be the same as ~~that governing proceedings by corporations for the condemnation of property if the entity exercised its authority to condemn the property~~ under § 18-15-104.

~~(c)(1) Proceedings instituted under this section, other than those brought against the state, its agencies, and other instrumentalities of the state, shall be governed by the rules of pleading and practice prescribed for the government of proceedings in the Arkansas Rules of Civil Procedure and brought in a circuit court authorized to hear condemnation proceedings under § 18-15-104.~~

~~(2) Proceedings against the state, its agencies, and other instrumentalities of the state shall be brought under § 19-10-201 et seq.~~

(d) The ~~defendant shall have~~ entity has the right to bring in all parties having or claiming an interest in the property in controversy.

(e) The circuit court shall make a proper order, which shall include:

(1)(A) A fixed time at which the property owner shall surrender

an interest in or possession of the property to the entity; or

(B) The date on which the interest in or possession of the property was taken by the entity;

~~(2) of the distribution of the~~ A distribution of the just compensation recovered in the action among the parties as may be entitled thereto; and shall include in the judgment in the proceedings an; and

(3) An order condemning the property for the public use to which it may have been appropriated.

(f)(1) If the property owner subject to the appropriation prevails at trial, the property owner shall be entitled to a judgment for all reasonable costs, expenses, and attorney's fees incurred in bringing the action, including without limitation the cost of appraisals and fees for experts.

(2)(A) An owner of property who prevails at trial under this section is also entitled to interest at the rate of two percentage-points greater than the prime rate as reported by the Federal Reserve System, as of the date of the taking, on the amount finally awarded as just compensation.

(B) Interest shall be calculated from the date of the taking until the date of payment to the property owner.

(g) This section is cumulative to other statutory provisions and is not intended to limit any recovery available to a property owner under any other provision of Arkansas law.

SECTION 77. Arkansas Code § 18-15-103(b), concerning a bill of rights for property owners, is amended to read as follows:

(b) An owner of property subject to a proceeding to condemn private property under the right of eminent domain shall have the following bill of rights:

(1) A property owner is entitled to receive just compensation when private property is taken for a public use;

(2) Private property may only be taken for public use;

(3) Private property may only be taken by a governmental entity or a private entity authorized by law to exercise the power of eminent domain;

(4) A property owner has the right to receive reasonable notification of an entity's interest in taking the property owner's private property;

(5)(A) A property owner shall receive from ~~the government or private entity~~ an assessment of the just compensation the entity estimates ~~for the~~ an entity authorized by law to exercise the power of eminent domain a written explanation setting forth the basis of the estimated just compensation owed for the taking of the property owner's private property before or contemporaneously with a good faith offer of just compensation.

(B) However, when a property owner cannot be located or is unresponsive to attempts at communication and must be served by warning order, a filing of the ~~assessment~~ written explanation required under subdivision (b)(5)(A) of this section with the complaint for condemnation shall be sufficient compliance with subdivision (b)(5)(A) of this section;

(6) ~~An entity shall make a good faith offer to buy the property owner's private property before initiating a condemnation proceeding~~ At least thirty (30) days before the initiation of a condemnation proceeding, a property owner has the right to receive from the entity authorized by law to exercise eminent domain a written good faith offer to buy the property owner's private property;

(7) A property owner has the right to hire an appraiser or other independent professional to determine the value of the private property or to assist the property owner in a condemnation proceeding;

(8) A property owner has the right to hire an attorney to represent the property owner in a condemnation proceeding and negotiate on behalf of the property owner with the entity authorized by law to exercise the power of eminent domain; and

(9) In a proceeding to condemn private property under the right of eminent domain, the circuit court shall impanel a jury of twelve (12) persons as in civil cases to determine the just compensation the government or private entity owes the property owner.

~~(10) Any party has the right to appeal a decision entered by the circuit court under subdivision (b)(9) of this section; and~~

~~(11)(A) Except as provided in subdivision (b)(11)(B) of this section, in a condemnation brought under the laws of this state, a property owner shall be entitled to an award of the property owner's costs, expenses, and reasonable attorney's fees incurred in preparing and conducting the final hearing and adjudication, including without limitation the cost of appraisals and fees for experts if the compensation ultimately awarded exceeds the~~

~~condemning entity's initial assessment of the just compensation owed by twenty percent (20%) or more.~~

~~(B) An award of costs, expenses, and attorney's fees in a condemnation action brought by a county or municipality is governed by the laws that authorize the condemnation action.~~

SECTION 78. Arkansas Code Title 18, Chapter 15, Subchapter 1, is amended to add additional sections to read as follows:

18-15-104. Procedure for condemnation – Eminent domain.

(a) An entity having the right of eminent domain to condemn private property under Arkansas state law shall use as appropriate the procedure described in either subsection (b) or subsection (c) of this section.

(b) An entity exercising its right of eminent domain to condemn private property shall:

(1)(A) File a complaint for condemnation of private property in the circuit court of the county in which the private property is located.

(B)(i) If the private property is located in more than one (1) county, the complaint may be filed in the circuit court of any county in which the whole or part of the private property is located.

(ii) A proceeding under subdivision (b)(1)(B)(i) of this section shall apply to the private property as a whole, regardless of whether the remaining portion of the private property is located within another county.

(C) The complaint for condemnation shall include:

(i) A statement that the private property listed in the complaint is taken for a public use;

(ii) A statement of the intended public use for which the private property is taken;

(iii) A statement of the authority under which the private property is taken;

(iv) The ownership information of the private property that is taken;

(v) A legal description that sufficiently identifies the private property that is being taken;

(vi)(a) A statement as to whether or not the private property is being taken in fee.

(b) If the property is not being taken in fee, the complaint must specifically describe the rights being acquired in the private property; and

(vii) An estimate of the just compensation owed for the taking of the private property;

(2)(A) Deposit with the circuit clerk the amount of money estimated by the entity to be just compensation for the private property to be condemned.

(B) Upon deposit with the circuit clerk of the amount of money estimated to be just compensation:

(i) Title to the lands in fee simple absolute, or a conditional fee if the mineral rights are sought to be preserved to the property owner or a lesser estate, or interest in a lesser estate specified in the complaint shall vest in the entity entitled to the property; and

(ii) The entity shall have an immediate right of possession.

(C) Within five (5) business days after title vests under subdivision (b)(2)(B)(i) of this section, the circuit court shall enter an order with the circuit clerk that evidences the right of the entity to title to the property; and

(3)(A) Provide service to the property owner in the manner provided for by the Arkansas Rules of Civil Procedure.

(B) Neither this subsection nor the Arkansas Rules of Civil Procedure limits the right of an entity to immediately receive vested title upon the deposit of the estimated amount of just compensation or an order evidencing the entity's right to title under subdivision (b)(2) of this section.

(c)(1)(A) An entity exercising its right of eminent domain to condemn private property that does not choose to gain immediate possession of and title to the lands sought may proceed under the procedure set forth in subsection (b) of this section.

(B) However no deposit of the estimate of just compensation shall be required under subdivision (b)(2)(A) of this section.

(2) If an entity does not deposit an estimate of just compensation under subdivision (b)(2) of this section, the entity shall not have right to immediate possession and the title shall not vest in the entity

unless and until the circuit court enters judgment against the entity and in favor of the party entitled to be compensated for the lands sought.

(3) If any entity initiates a proceeding under subdivision (c)(1)(A) of this section and then abandons the taking before a circuit court enters a judgment in favor of the property owner, the court shall award the property owner reasonable costs, expenses, and attorney's fees incurred up to the point of abandonment, including without limitation the cost of appraisals and fees for experts, without regard to the twenty percent (20%) threshold under subdivision (d)(7)(A) of this section.

(d) For a condemnation action brought under subsection (b) or subsection (c) of this section, the circuit court shall:

(1) Have jurisdiction over all real property designated in the complaint;

(2) Impanel a jury of twelve (12) persons to determine the amount of just compensation the entity shall pay;

(3)(A) Fix the time at which the property owner shall be required to surrender an interest in or possession of the property to the entity; or

(B) Establish the date at which the interest in or possession of the property was taken by the entity;

(4) Appoint a guardian ad litem, who shall in all cases represent the interests for all purposes of minors or persons of unsound mind, if a legal representative or guardian does not appear in court on behalf of a minor or person of unsound mind; and

(5)(A)(i) Award an amount to include interest at the rate of two (2) percentage points greater than the prime rate as reported by the Federal Reserve System, as of the date of the taking, on any excess just compensation awarded to a property owner over the estimated just compensation deposited with the circuit clerk upon the filing of the complaint, if any.

(ii) Interest shall be calculated from the date of the surrender of possession by the property owner to the date of payment.

(B) No estimated just compensation deposited with the circuit clerk shall be charged with commission or poundage;

(6) Upon the application of a party in interest and upon due notice to all parties, the court shall order that the estimated just compensation deposited with the circuit clerk or any part of the estimated

just compensation be paid immediately to the person entitled to the estimated just compensation subject to refund pending a final determination of just compensation; and

(7)(A)(i) If the just compensation finally awarded exceeds the estimate of just compensation deposited with the circuit clerk by twenty percent (20%) or more, the court shall enter judgment against the entity and in favor of the property owner for the amount of the deficiency and shall award the property owner its reasonable costs, expenses, and attorney's fees, including without limitation the cost of appraisals and fees for experts.

(ii) Subdivision (d)(7)(A)(i) of this section does not apply to matters in which the final award of just compensation is less than three thousand dollars (\$3,000).

(B) If the final award of just compensation is less than the estimate of just compensation deposited with the circuit clerk, the court shall enter judgment in favor of the entity and against the property owner for the amount of the excess.

18-15-105. Property owner's right to challenge the exercise of eminent domain.

(a) A property owner desiring to challenge an entity's exercising of eminent domain shall do so by filing an action or otherwise raising the challenge in a circuit court properly authorized to hear condemnation proceedings as set forth in § 18-15-104.

(b) A challenge to the exercise of eminent domain by an entity who has instituted an action under § 18-15-104 shall be raised within thirty (30) days after service of process has been obtained as governed by the Arkansas Rules of Civil Procedure.

(c) A challenge to the exercise of eminent domain by an entity that has not initiated a condemnation proceeding under § 18-15-104 may be brought at any time before an action would be barred by the statute of limitations.

(d) Failure of a property owner to challenge the exercise of eminent domain as set forth in subsection (b) or (c) of this section shall constitute a waiver of the right to challenge the validity of the exercise of eminent domain.

(e) This section does not apply to the exercise of eminent domain by a public utility that has been certificated to construct, own, operate, or

maintain an electrical facility by the Arkansas Public Service Commission.

18-15-106. Definition.

As used in this chapter, "entity" means:

- (1) The State of Arkansas;
- (2) A department, agency, board, or commission of the state, or a political subdivision of the state, including without limitation a city, county, school district, and institution of higher education; and
- (3) Any other organization, corporation, or otherwise, whether public or private, that has been authorized to use the power of eminent domain in Arkansas.

SECTION 79. Arkansas Code § 18-15-201(c), concerning proceedings to condemn private property for parks, boulevards, and public buildings, and improvement districts, is amended to read as follows:

(c) The proceedings for the condemnation shall be in accordance with ~~§§ 18-15-301—18-15-307~~ § 18-15-104.

SECTION 80. Arkansas Code § 18-15-202(b), concerning the power to condemn private property for water and sewer facilities, is amended to read as follows:

(b) Counties shall exercise the power of eminent domain for the purposes set forth in subsection (a) of this section in accordance with ~~the same procedures and methods by which municipalities are authorized to acquire property by exercising the power of eminent domain for municipal water works purposes, as set forth in §§ 18-15-401—18-15-410~~ § 18-15-104.

SECTION 81. Arkansas Code § 18-15-303 is amended to read as follows:

18-15-303. Municipal corporations – Power to condemn – Proceedings – Controversy.

~~(a)(1) When it shall be deemed necessary by any a~~ municipal corporation deems it necessary to enter upon or take private property for a permitted purpose, ~~an application in writing shall be made to the circuit court of the proper county, or the judge thereof in vacation, describing as correctly as may be the property to be taken, the object proposed, and the name of the owner of each lot or parcel thereof~~ the municipal corporation may

file an action in the manner provided in § 18-15-104.

~~(2) Notice of the time and place of the application shall be given either personally in the ordinary manner of serving process or by publishing a copy of the application with a statement of the time and place at which it is to be made. Notice shall be published for three (3) weeks preceding the time of the application in some newspaper of general circulation in the county.~~

~~(b)(1) When the determination of questions in controversy in the proceedings is likely to retard the progress of construction, the court, or judge in vacation, shall designate an amount of money to be deposited by the municipal corporation, subject to the order of the court and for the purpose of making the compensation and paying damages when the amount thereof has been assessed. The court or judge shall designate the place of the deposit.~~

~~(2) Whenever a deposit has been made in compliance with the order of the court or judge, it shall be lawful for the municipal corporation to enter upon the lands in controversy and proceed with its work of construction prior to the assessment and payment of damages and compensation.~~

SECTION 82. Arkansas Code § 18-15-304-18-15-307 are repealed.
~~18-15-304.—Hearing.~~

~~(a) If it appears to the court or judge that notice has been served ten (10) days before the time of application, or has been published as provided, and that the notice is reasonably specific and certain, then the court or judge may set a time for the inquiry into and assessment of compensation by a jury before the court or judge.~~

~~(b) A jury shall be summoned for the purpose of making inquiry in the same manner that petit jurors are summoned in the circuit court for other purposes. The inquiry and assessment shall be made at the time appointed unless, for good cause, continued to another day to be specified.~~

~~(c) If, at the time of the application, it appears that any of the owners of property sought to be condemned are infants or of unsound mind, a guardian ad litem shall be appointed.~~

~~(d) The municipal corporation may be required to file a more full and accurate description of the property to be taken and the object proposed and maps, plats, and surveys if the court or judge deems them necessary or proper.~~

~~18-15-305.— Payment of assessment—Disputes.~~

~~(a) The assessment shall be made on each lot or parcel of land separately and distributed to the owner of each tract, according to their true interest and ownership, on the order of the court.~~

~~(b)(1) In case of dispute as to interest, title, or ownership, the money allowed therefor shall be held subject to the order of the court until the dispute is amicably settled between the disputants or determined by due course of law.~~

~~(2) The inquiry and assessment in all other respects shall be made by the jury under such rules and restrictions as shall be given by the court.~~

~~18-15-306.— Verdict by jury.~~

~~(a) The jury shall be sworn to make the whole inquiry and assessment but may be allowed to return a verdict, as to part, and be discharged as to the rest, at the discretion of the court.~~

~~(b) In case the jury shall be discharged from rendering a judgment in whole or in part, another jury shall be impaneled at the earliest convenient time, who shall take the whole inquiry and assessment, or the part not made, as the case may be.~~

~~18-15-307.— Compensation for and possession of property.~~

~~(a) As soon as the amount of compensation that may be due to the owners of the property taken, or to any of them, shall have been ascertained by the jury, the court shall make such order as to its payment or deposit as shall be deemed right and proper in respect to the time and place of payment and the proportion to which each owner is entitled and may require adverse claimants of any part of the money or property to interplead, so as to fully settle and determine their rights and interests according to equity and justice.~~

~~(b) The court may direct the time and manner in which possession of the property condemned shall be taken or delivered and may, if necessary, enforce any order giving possession.~~

~~(c) The costs occasioned by the assessment shall be paid by the corporation, and, as to the other costs which may arise, they shall be~~

~~charged or taxed as the court may direct.~~

~~(d)(1) No delay in making an assessment of compensation or in taking possession shall be occasioned by any doubt which may arise as to ownership of the property, or any part thereof, or as to the interests of the respective owners.~~

~~(2) However, in cases in which ownership of the property is doubted, the court shall require a deposit of the money allowed as compensation for the whole property in dispute.~~

~~(e) In all cases, as soon as the corporation has paid the compensation assessed or secured the payment by a deposit of money under the order of the court, possession of the property may be taken and the public work or improvement progress.~~

SECTION 83. Arkansas Code § 18-15-309(b), concerning the authority of a municipality to condemn property for the purpose of flood control improvements, is amended to read as follows:

(b) Cities of the first class and cities of the second class shall exercise the power of eminent domain for the purposes prescribed in subsection (a) of this section in ~~accordance with the procedures and methods prescribed in §§ 18-15-303—18-15-307 or in accordance with the procedures and methods prescribed in § 18-15-401 et seq~~ the manner provided for in § 18-15-104.

SECTION 84. Arkansas Code § 18-15-401(a), concerning the right of municipal corporations and waterworks systems to acquire private property, is amended to read as follows:

(a) A municipality operating a waterworks system ~~under the provisions of this subchapter shall have~~ has the right to acquire ~~any~~ real property useful for municipal waterworks purposes by following the eminent domain proceedings ~~set forth in this subchapter~~ exercising the power of eminent domain in the manner provided in § 18-15-104.

SECTION 85. Arkansas Code § 18-15-403 is amended to read as follows:
18-15-403. Preliminary proceedings for condemnation.

~~(a)(1) When the~~ If an operating authority determines to condemn property, it shall ~~file an application in the circuit court of the county~~

~~where any portion of the property to be condemned is situated, and proceedings had in the court shall apply to all property described in the application exercise the power of eminent domain in the manner provided in § 18-15-104.~~

~~(2) The applicant shall describe the property to be taken and shall name as defendants all persons shown by public records as having any interest therein.~~

~~(3) Both residents and nonresidents of the state shall be summoned as in other civil proceedings.~~

~~(4)(A) However, if a verified affidavit is filed in behalf of the applicant stating that all or a number of the persons who might be claiming an interest in the property are unknown to the applicant, then unknown owners may be named as defendants.~~

~~(B) If the affidavit is filed or if a verified affidavit is filed in behalf of the applicant stating that the address of any known defendant cannot be determined after diligent inquiry by the applicant, then any defendant described in either affidavit shall be summoned by publication of notice as in the case of nonresident defendants in other civil actions, except that an attorney ad litem shall not be appointed for any defendant whose name or whose address is unknown.~~

~~(b) Answers may be filed, but none shall be required of any defendant.~~

~~(c)(1) The matter may proceed to trial after the lapse of twenty (20) days from the date of personal service of summons on residents and after the lapse of thirty (30) days from the date of first publication of notice on defendants constructively summoned.~~

~~(2) The suits shall receive precedence over other matters and shall be advanced for trial at the request of the applicant.~~

~~(3) The trial date shall be fixed by the court, and when fixed, the applicant shall give notice of the trial date by registered or certified mail to any defendant who was personally summoned. No notice of trial is required for any defendant whose address is unknown.~~

SECTION 86. Arkansas Code § 18-15-404 is repealed.

~~18-15-404. Assessment and payment of damages.~~

~~(a) At the trial of the cause, a jury shall assess the amount of damages the applicant shall pay for the property taken in the proceedings.~~

~~(b) Thereafter, a judgment shall be entered stating that title to the property shall vest in the applicant upon payment to the clerk of the court of the amount of damages so assessed.~~

~~(c)(1) If there is only one (1) defendant, the clerk of the court shall pay the proceeds of the judgment to the defendant upon demand.~~

~~(2) If there is more than one (1) defendant, the lower court shall retain jurisdiction of the matter solely for the purpose of making a division of the proceeds and shall determine the division sitting without a jury and without further notice to any defendant.~~

~~(3) The court shall then enter an order making a division of the proceeds and shall direct the clerk of the court to make payment to the various defendants in the amounts which shall be specified in the order. The payment shall be made by the clerk to each defendant upon his or her demand.~~

~~(4) The applicant shall not be a party to proceedings for the division of the damages.~~

SECTION 87. Arkansas Code § 18-15-407(e), concerning the authority of a municipality to condemn land to replace a state or county road, is amended to read as follows:

(e)(1) The county or state may permit the municipality to construct the relocated road.

~~(2) and in that event If the county or state grants permission under subdivision (e)(1) of this section, the operating authority shall be entitled to may condemn rights-of-way for the roads in its own name under this subchapter or under any eminent domain act available to the county or state in the manner provided in § 18-15-104.~~

SECTION 88. Arkansas Code § 18-15-408 is amended to read as follows:

18-15-408. Cemeteries and graves.

~~(a)(1) An operating authority of a municipal waterworks system shall file a notice of intent to condemn in the circuit court of the county where a cemetery or graves are situated if the operating authority determines that:~~
exercise the authority to condemn a cemetery or grave in the manner provided in § 18-15-104.

~~(A) Land occupied by the cemetery or by the graves will be flooded by an impounding lake;~~

~~(B) The water level of the lake will affect the graves underground;~~

~~(C) The lake may be contaminated by the graves; or~~

~~(D) The lands will be useful for waterworks purposes.~~

~~(2) The notice of intent to condemn shall set out the:~~

~~(A) Commonly known name of the cemetery, if any;~~

~~(B) Descriptions of the quarter sections of land upon which the cemetery or graves are situated;~~

~~(C) Description of a proposed new location of the cemetery or graves; and~~

~~(D) Name of the owner of the existing cemetery, if known.~~

~~(3) The notice shall take the place of the application to condemn which would be otherwise required under this subchapter.~~

~~(4) Service of process upon the owner, if known, shall be as specified in this subchapter. Service upon all other interested parties shall be as follows:~~

~~(A) The notice shall be published one (1) time a week for four (4) consecutive weeks in some newspaper having a general circulation throughout the state in order to give the widest publicity to the municipality's intention;~~

~~(B) In addition, a printed copy of the notice shall be posted in three (3) conspicuous public places in the cemetery or immediately surrounding the graves;~~

~~(C) The notice shall be posted within three (3) days of filing the notice with the court; and~~

~~(D) The municipality shall, by affidavit filed with the court, give proof of posting of the notice.~~

~~(5)(A) Before filing the notice with the court, the municipality shall be required to select a tract of land at least equal in size to the cemetery to be condemned and shall describe the tract in the notice.~~

~~(B) The municipality shall be required to file with its notice a statement from the Department of Health approving the proposed new location.~~

~~(6) After the notice of intent has been published for four (4) weeks, as required by this section, the circuit court sitting without a jury shall determine if the proposed new location is suitable, and, if the court~~

~~so finds, it shall enter an order to that effect. The owner of the cemetery or of the lands where the existing cemetery is located and the next of kin of any person buried in the cemetery or in the graves shall be entitled to appear in the proceeding and object to the proposed location and suggest other locations.~~

~~(b)(1) Thereafter, the municipality may file an application under the provisions of this subchapter for condemnation of the site so approved by the court, within a radius of four (4) miles of the existing cemetery.~~

~~(2) It is declared that the acquisition of the site shall be for public purposes and that the site may be condemned by the operating authority of a municipal waterworks system.~~

~~(c)(1) After judgment has been entered vesting title to the new site in the applicant, as set out in § 18-15-404, the court shall enter an order in the proceedings mentioned in subsection (a) of this section, vesting title to the new cemetery site in the persons owning the lands of the cemetery or graves to be relocated and vesting title in the municipality to the lands where the old cemetery or graves are located.~~

~~(2) The order vesting title to the new cemetery site in the owners of the old cemetery or grave sites shall be the compensation and damages to which the owners of the old sites are entitled.~~

~~(d)(1)(b)(1) Thereafter, If a municipality receives title for a cemetery or grave under this section, the municipality, at its own expense, shall be required to remove all bodies, tombstones, and markers from the site of the original graves and to reinter the bodies in the new site, properly resetting tombstones and markers, if any, at the new site.~~

~~(2) The court may require the municipality to deposit with the clerk of the court a sum found by the court to be sufficient to ensure the performance of the obligation by the municipality.~~

~~(3)(2) However, any a surviving spouse or next of kin of a person whose grave is to be relocated may demand, prior to before removal from the old grave site, that the municipality pay the expense of removing the body of the decedent to a cemetery selected by the surviving spouse or next of kin, the municipality paying the reasonable cost of the removal and reinterment.~~

~~(e)(c)(1) If a municipality receives title for a cemetery or grave under this section, and the old cemetery site was fenced, the municipality~~

shall ~~be required to~~ install a fence of similar type around the new cemetery site and shall be required to construct within the cemetery such hard-surfaced roads as may be necessary to give access to grave sites.

(2) The roads shall be of at least equal quality with the roads in the original cemetery site.

SECTION 89. Arkansas Code §§ 18-15-409 and 18-15-410 are repealed.
~~18-15-409.—Controversy.~~

~~(a)(1) When the determination of questions in controversy in the eminent domain proceedings authorized in this subchapter is, in the opinion of the operating authority of the municipal waterworks, likely to retard the progress of the project, the municipality shall so state in its application or in a separate pleading.~~

~~(2) The municipality shall also designate a sum which, in its opinion, is the reasonable value of the property to be taken and shall deposit that sum in the registry of the court for the purpose of making compensation and paying any damages which may be assessed against the municipality.~~

~~(3) The court shall thereupon immediately enter an order giving the municipality possession of the property and may enforce the order, if necessary.~~

~~(4) A copy of the order of possession shall be served upon any person of adult age found residing upon the premises, but only one (1) person need be served.~~

~~(5) However, at any time after the order is entered, any defendant may file a motion for a hearing on the amount of the deposit, giving notice of the motion to the applicant, and at the hearing the court may affirm the amount of the original deposit or may order it increased.~~

~~(6) No motion for hearing shall delay the applicant's right to possession.~~

~~(b)(1) Any person named as a defendant in the action and claiming to be an owner of the property being condemned shall be entitled to apply to the court for a withdrawal of all or a part of the funds so deposited upon giving reasonable notice of his or her motion to withdraw funds to the applicant. The defendant shall also notify all other defendants whose addresses are known of his motion.~~

~~(2)(A) Before entering an order permitting a withdrawal of any portion of the deposit, the court shall determine the ownership of the property to be condemned, and no defendant shall be permitted to withdraw any greater portion of the deposit than is equal to his or her interest in the property to be condemned.~~

~~(B) In no event shall the aggregate amount of the withdrawal for all defendants be greater than the amount originally deposited by the municipality on its own motion.~~

~~(3) If any defendant claims that the amount withdrawn by any other defendant was wrongful or was excessive, the dispute shall be solely between the defendants.~~

~~(4) In any judgment against the municipality, the municipality shall receive full credit against all defendants for the amount deposited with the clerk or paid to the clerk after judgment.~~

~~18-15-410. Rights of property owner upon entry by municipality.~~

~~(a) If a municipality shall enter upon property which it has the right to acquire by condemnation proceedings without commencing condemnation proceedings, the owner of the property shall have the right to commence condemnation proceedings against the municipality at any time before an action for the recovery of the property or compensation therefor would be barred by the statute of limitations.~~

~~(b) The measure of recovery in the action shall be the fair market value of the property at the time it was entered upon by the municipality.~~

SECTION 90. Arkansas Code § 18-15-503(b)(1), concerning the powers of electric utilities, is amended to read as follows:

(b)(1) In the event that an electric utility, upon application to the private individual, railroad, turnpike company, or other persons, should fail to secure by consent, contract, or agreement, a right-of-way for the purposes enumerated in subsection (a) of this section, ~~then~~ the electric utility ~~shall~~ have the right to may proceed to procure the condemnation of the property, lands, rights, privileges, and easements in the manner prescribed in ~~this~~ subchapter § 18-15-104.

SECTION 91. Arkansas Code §§ 18-15-504-18-15-506 are repealed.

~~18-15-504. Petition for assessment of damages.~~

~~(a) If an electric utility, having surveyed and located its line under the power conferred by this section, §§ 18-15-501-18-15-503, and §§ 18-15-505-18-15-509, fails to obtain, by agreement with the owner of the property through which the line may be located, the right of way over the property, it may apply by petition to the circuit court of the county in which the property is situated to have the damages for the right of way assessed, giving the owner of the property at least ten (10) days' notice in writing by certified mail, return receipt requested, of the time and place where the petition will be heard.~~

~~(b) In case property sought to be condemned is owned by any individual or corporation and is located in more than one (1) county, the petition may be filed in the circuit court of any county in which the whole or a part of the property may be located, and proceedings had therein will apply to all property designated in the petition.~~

~~(c) If the owners of the property are nonresidents of the state, infants, or persons of unsound mind, the notice shall be given as follows:~~

~~(1)(A) By publication in any newspaper in the county which is authorized by law to publish legal notices.~~

~~(B) The notices shall be published for the same length of time as may be required in other civil causes;~~

~~(2) If there is no such newspaper published in the county, then the publication shall be made in some newspaper designated by the circuit clerk and one (1) written or printed notice thereof posted on the door of the courthouse of the county; and~~

~~(3) In writing by certified mail, return receipt requested, to the address of the owners of the property as it appears on the records in the office of the county sheriff or county tax assessor for the mailing of statements of taxes, as provided in § 26-35-705.~~

~~(d) As nearly as may be, the petition shall describe the lands over which the right of way is located and for which damages are asked to be assessed, whether improved or unimproved, and be sworn to.~~

~~(e)(1) An electric utility shall not be required to petition a court in order to provide broadband services over its own lines of wire, cables, poles, or other structures that are in service at the time that the electric~~

~~utility provides broadband services over the lines of wire, cables, poles, or other structures.~~

~~(2) An owner of property upon which an electric utility's lines of wire, cables, poles, or other structures are located may petition the circuit court of the county in which the property is situated for any compensation to which it might be entitled under this subchapter.~~

~~18-15-505. Appointment of guardian ad litem.~~

~~In case of infants or persons of unsound mind, when no legal representative or guardian appears in their behalf at the hearing, it shall be the duty of the court to appoint a guardian ad litem who shall represent their interests for all purposes.~~

~~18-15-506. Trial by jury.~~

~~It shall be the duty of the court to impanel a jury of twelve (12) persons, as in other civil cases, to ascertain the amount of compensation which the electric utility shall pay, and the matter shall proceed and be determined as other civil causes.~~

SECTION 92. Arkansas Code § 18-15-507 is amended to read as follows:

18-15-507. Damages.

~~(a)(1) The amount of damages to be paid the owner of the lands for the right-of-way for the use of the electric utility shall be determined and assessed irrespective of any other benefit that the owner may receive from any improvement proposed by the electric utility.~~

~~(2)(A) If an owner of property petitions a court under § 18-15-504(e), the amount of damages, if any, payable to the owner for the use of preexisting lines of wire, cables, poles, or other structures by an electric utility to provide broadband services shall be limited to an amount sufficient to compensate the property owner for the increased interference, if any, with the owner's use of the property caused by any new or additional physical attachments to the preexisting facility for the purpose of providing broadband services.~~

~~(B) Evidence of revenues or profits derived by an electric utility from providing broadband services is not admissible for any purpose in a proceeding under § 18-15-504(e).~~

~~(b) In all cases in which damages for the right of way for the use of the electric utility shall have been assessed in the manner provided, it shall be the duty of the electric utility to deposit with the court or pay to the owners the amount so assessed and pay such costs as may be in the discretion of the court be adjudged against it within thirty (30) days after the assessment. Whereupon, it shall and may be lawful for the electric utility to enter upon, use, and have the right of way over the lands forever.~~

~~(c) In all cases in which the electric utility shall not pay or deposit the amount of damages assessed pursuant to this section, §§ 18-15-501—18-15-506, § 18-15-508, and § 18-15-509 within thirty (30) days after the assessment, the electric utility shall forfeit all rights in the premises.~~

SECTION 93. Arkansas Code § 18-15-508 is repealed.

~~18-15-508. Deposit in case of controversy.~~

~~(a) When the determination of questions in controversy in the proceedings is likely to retard the progress of work on or the business of the electric utility, the court or judge in vacation shall designate an amount of money to be deposited by the electric utility, subject to the order of the court, and for the purpose of making compensation when the amount thereof has been assessed, as provided in § 18-15-507, and the judge shall designate the place of deposit.~~

~~(b) Whenever the deposit has been made in compliance with the order of the court or judge, it shall be lawful for the electric utility to enter upon the land and proceed with its work, through and over the lands in controversy, prior to the assessment and payment of damages for the use and right to be determined as provided in this section, §§ 18-15-501—18-15-507, and § 18-15-509.~~

SECTION 94. Arkansas Code § 18-15-510(b)-(d), concerning the eminent domain power of hydroelectric dams construction companies, are amended to read as follows:

(b) The method or manner of making its survey, laying out its right-of-way, acquiring its right-of-way, either by contract or condemnation, shall be the same as now provided by law in case of the exercise of the right of eminent domain by telegraph, telephone, and railroad companies exercised in the manner provided in § 18-15-104.

~~(e) It shall be subject to the same duties and liabilities and shall have the same rights as prescribed by law with reference to railroads.~~

~~(d)(c)~~ This section shall not be so construed as to does not authorize the condemnation of public streets or highways.

SECTION 95. Arkansas Code § 18-15-601(b), concerning the power of eminent domain of municipal or other corporations, is amended to read as follows:

(b) ~~Whenever~~ If the municipal or other corporation, including not-for-profit corporations and water associations, in the construction of its waterworks, or in enlarging or extending the waterworks, or water distribution or water transmission lines, ~~shall deem it desirable~~ decides to condemn, take, use, or occupy private property in the construction of its water treatment or storage facilities, water transmission or distribution lines, or other appurtenances thereto, the corporation ~~may condemn, take, and use the private property, first making just compensation therefor, and proceed as provided in this subchapter~~ shall exercise the power of eminent domain in the manner provided in § 18-15-104.

SECTION 96. Arkansas Code § 18-15-604 is amended to read as follows:
18-15-604. Petition.

~~(a)(1) The~~ A municipal corporation or other corporation ~~so~~ intending and desiring to condemn, take, and use the real estate ~~may present to the circuit court in and for the county in which the lands so proposed to be taken, condemned, and used are situated, a petition signed by the president and secretary of the corporation or water association or by the mayor, recorder, or other executive officer of the city, town, or village~~ shall exercise the power of eminent domain in the manner provided in § 18-15-104.

~~(2) This petition shall set forth a description of the enterprise to be prosecuted by them and describe with reasonable certainty and by reference to the map or plat, or otherwise, the lands, property, and estate which it will be necessary to appropriate, take, use, overflow, drain, or otherwise affect, setting forth the name of each and every owner, encumbrancer, or other person interested in the lands, property, or estate or any part thereof, so far as it can be ascertained by the public records and by view of the premises or other inquiry touching the occupation thereof.~~

~~(b) In case the property sought to be condemned is owned by any individual or corporation and is located in more than one (1) county, the petition may be filed in any circuit court having jurisdiction in any county in which the whole or a part of the property may be located, and proceedings had in the circuit court will apply to all the property designated in the petition.~~

~~(c) The notice of the filing of the petition and the presentation thereof shall be given to the owners and parties interested as is now prescribed by law for the condemnation of property by railroad, telegraph, and telephone corporations.~~

~~(d) The written notice to the landowner shall include a statement that the owner may request, within twenty (20) days of receipt of the notice, that the corporations or associations shall mark and identify the proposed area of the easement on the landowner's property which is the subject of the eminent domain action, and which shall be done at the expense of the corporation or association.~~

SECTION 97. Arkansas Code §§ 18-15-605 and 18-15-606 are repealed.

~~18-15-605.—Damages—Deposits.~~

~~(a) The further proceedings in the matter of assessment of damages and the making of deposits to secure the owner shall be the same as is now prescribed by law in reference to condemnation proceedings by railroad, telegraph, and telephone corporations, except that the measure of damages shall be the fair market value of the condemned property at the time of the filing of the petition by the corporation or water association as may be determined by law.~~

~~(b) In the case of application for orders of immediate possession by the corporation or water association, if the amount awarded by the jury exceeds the amount deposited by the corporation or water association in an amount which is more than twenty percent (20%) of the sum deposited, the landowner shall be entitled to recover the reasonable attorney's fees and costs.~~

~~18-15-606.—Appeals.~~

~~Appeals may be taken by any party interested from the assessment and allotment of damages under the provisions of this subchapter.~~

SECTION 98. Arkansas Code § 18-15-803 is amended to read as follows:

18-15-803. Navigation companies connecting streams by railroad -
Petition.

Any A company desiring to avail itself of the benefits of the right-of-way provided for in this subchapter shall ~~petition the county court, or the judge thereof in vacation, of the county in which any lands are situated and over which a right of way is desired to appoint a jury of twelve (12) persons, qualified under the laws of this state to serve on juries, whose duties it shall be to appraise and ascertain the value of any lands over which a right of way is desired by any company petitioning, and provided for in this section~~ exercise the power of eminent domain in the manner provided in § 18-15-104.

SECTION 99. Arkansas Code §§ 18-15-804-18-15-806 are repealed.

~~18-15-804. Navigation companies connecting streams by railroad - Jury.~~

~~(a) When any company shall petition according to the requirements of § 18-15-803, the county court, or the judge thereof in vacation, shall make an order appointing the jury immediately.~~

~~(b) In the order, the jury shall be directed to ascertain and report to the court or judge, within thirty (30) days from the date of their appointments, the value of any lands which, under the provisions of this subchapter, they may be directed to ascertain.~~

~~(c) The jury, before entering upon the discharge of their duties, shall take an oath that they will, as nearly as may be, ascertain the number of acres of land by them to be appraised, and report the numbers to the court or judge, together with the average value per acre of the land in cash.~~

~~18-15-805. Navigation companies connecting streams by railroad - Jury report - Payment.~~

~~(a)(1) When any jury reports, as provided in § 18-15-804, it shall be the duty of the judge to cause the company to be notified that the report has been made.~~

~~(2) If the company shall deposit, within fifteen (15) days after receiving the notice, with the county clerk the full amount of money at which any lands may have been appraised or valued by the jury appointed for that~~

~~purpose, then the company shall be entitled to the use and possession of the appraised and valued lands.~~

~~(b) However, before the company shall be entitled to the use or possession of any lands as provided in this section, the judge shall make an order that the amount deposited with the clerk shall be paid to the owner or owners of the lands.~~

~~18-15-806. Navigation companies connecting streams by railroad—Order to vest land in petitioner.~~

~~(a) When any lands shall have been so appraised and valued, when a due report of the appraisement has been made, and when the amount of money has been deposited with the clerk and ordered to be paid as provided in § 18-15-805, it shall be the duty of the judge to make an order upon the records of his or her court that the lands so appraised shall vest in and belong to the company petitioning, as provided in § 18-15-803.~~

~~(b) The order shall contain a description of the lands, the amount at which they were valued by the appraisers, the fact that the amount was deposited with the clerk and ordered to be paid over to the original owner or owners, the date of the deposit and order, the names of the original owner or owners, and the corporate name of the company.~~

~~(c)(1) When so made and certified by the judge, the order shall be recorded as other deeds of conveyance.~~

~~(2) When so made, certified, and recorded, the order shall operate as, and have in law the effect of, conveyance in fee simple from the original owner or owners to the company of the lands named and described in the order.~~

SECTION 100. Arkansas Code § 18-15-807(c), concerning the power of eminent domain for packet, coal, and stone companies, is amended to read as follows:

(c) ~~The proceedings for the condemnation of the landing and loading places and rights of way shall be, in all things, the same as provided in §§ 18-15-1202—18-15-1207~~ An action brought under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 101. Arkansas Code § 18-15-1002, concerning the power of

eminent domain for board of directors or commissioners of any levee or drainage district, is amended to add an additional subsection to read as follows:

(e) An action brought under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 102. Arkansas Code §§ 18-15-1003 – 18-15-1010 are repealed.
~~18-15-1003. Appraisers.~~

~~(a)(1) Circuit judges of all counties in which it becomes necessary to condemn right of way for the purpose of constructing levees, ditches, drains, or canals, upon the application of the president or secretary of any levee or drainage district, shall appoint three (3) disinterested resident landholders of the county, to be known as appraisers, to assess damages for the appropriation of land for levee and drainage purposes.~~

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

~~(3) The appointment shall be made in writing by the circuit judge of the county in which it is necessary to construct a levee, ditch, canal, or drain and shall be filed with the circuit court clerk by the judge, who shall record the appointment in a book to be kept by him or her for that purpose.~~

~~(b)(1) The appraisers shall each take an oath before the clerk of the circuit court in their respective counties that they will make a just and true award of the compensation to be paid any landholder, or other person.~~

~~(2) The oath shall be recorded in the book provided for the record of the appointment of the appraisers and shall authorize the appraisers severally to enter upon the discharge of their respective duties.~~

~~(c) The compensation shall be:~~

~~(1) The cash market value of the lands appropriated or intended to be appropriated for either levee, drain, ditch, or canal purposes;~~

~~(2) The damage resulting to other lands of the same tract or obstruction to natural drainage, not exceeding the cost of artificial~~

~~drainage, and the inconvenience, if any, of crossing either the levees, ditches, canals, or drains, from one (1) portion of the tract of land to the other; and~~

~~(3) The value of crops and houses on the right of way, or the cost of moving the houses.~~

~~(d)(1) In the event one (1) or more of the appraisers who may be appointed under the provisions of this section shall be interested in any property to be condemned, the interested appraisers shall not act in the condemnation of the property.~~

~~(2) If one (1) or more of the appraisers shall refuse or neglect to act, it shall be the duty of the circuit judge to appoint another appraiser, whose appointment shall be recorded the same as the regular appraiser and who shall take the same oath of office.~~

~~18-15-1004. Petition—Appraisal—Summons.~~

~~(a) Whenever any levee or drainage district deems it necessary to take, use, or appropriate any right of way, land material, or other property for levee, drain, ditch, or canal purposes pursuant to this section, §§ 18-15-1001—18-15-1003, and §§ 18-15-1005—18-15-1010, or when the right of way, land material, or other property has already been entered upon by it or has already been used, taken, or appropriated, then the levee or drainage district, by its president, secretary, attorney, or other authorized agent, may file a petition with the clerk of the circuit court of the county in which the property is situated, describing as near as may be practical the property taken or proposed to be taken and asking that the appraisers make an award to the owners of land or property.~~

~~(b)(1) When the petition is filed, a copy of it shall be delivered to each of the appraisers. It shall then be the duty of the appraisers to assemble at some convenient time, enter upon the land or property which has been appropriated or is intended to be appropriated, and ascertain:~~

~~(A) The fair market value of the land appropriated, or intended to be appropriated;~~

~~(B) The damage which the construction of the levee will cause by the obstruction of natural drainage, not to exceed the cost of artificial drainage; and~~

~~(C) The inconvenience of passing over the levee, ditch,~~

~~drain, or canal or the cost of removing the houses.~~

~~(2)(A) The appraisers shall reduce their findings to writing, giving the amount they award:~~

~~(i) Per acre for the land appropriated;~~

~~(ii) For inconvenience of crossing the levee, ditch, canal, or drain; and~~

~~(iii) For the destruction of crops and houses or the cost of removing the houses upon the right of way.~~

~~(B) The appraisers shall sign the report and file it with the clerk of the circuit court.~~

~~(3) However, any levee or drainage district may have the appraisers go on the land and make the appraisal as provided in this section prior to filing its petition in court. Thereafter, if it becomes necessary to file the petition with the clerk of the circuit court of the county, the report of the appraisers may then be filed.~~

~~(c)(1) The clerk shall immediately issue a summons directed to the sheriff of the county, together with a copy of the award attached to the summons, commanding him or her to serve the owner if he or she resides in the county or, if the land belongs to a minor, an individual with mental illness, or an estate, to serve the summons upon the guardian, curator, executor, or administrator of the owner and make return thereof.~~

~~(2) However, if the owner is a nonresident of the county or is unknown to the officers of the levee or drainage district, it shall be the duty of the clerk to publish a warning order in some newspaper published in the county for four (4) insertions. The warning order may be in the following form and shall be dated and signed by the clerk:~~

~~“To (name of supposed owner) and all other persons having any claim or interest in and to the following described land, situated in County, Arkansas, namely: (here describe the land over which the levee or drainage passes according to U.S. Surveys). You are hereby warned to appear in this court within thirty (30) days, and file exceptions to the award which has been filed in this office by the levee and drainage appraisers of this county for the appropriation of the portion of the hereinbefore described land, for the construction or intended construction of a levee, ditch, canal, or drain, as the case may be, over and across the same.”~~

~~18-15-1005. Exception—Trial—Injunction.~~

~~(a)(1) If no exception is filed by the owner within ten (10) days after service of summons or within ten (10) days of the last date of the publication of the warning order, or by the levee or drainage district within ten (10) days after award is filed, then it shall be the duty of the clerk of the circuit court to call the court's attention to the award, and failure to file exception thereto after notice having been given as provided.~~

~~(2) Upon this information, the court shall proceed to enter a judgment condemning the property and land for the right of way purposes and a judgment in favor of the owner of the land against the levee or drainage district for the amount awarded by the appraisers.~~

~~(b) However, in case exceptions are filed by either party within the time prescribed in this section, it shall be the duty of the clerk to docket the cause.~~

~~(c) The petition originally filed by the levee or drainage district and the award of the appraisers shall constitute all necessary pleadings in the proceedings, and, in case a trial is demanded or requested by either party, the question shall be tried as other common law cases are tried.~~

~~(d)(1) The owner of the land shall be entitled to recover the:~~

~~(A) Value of the land appropriated or intended to be appropriated;~~

~~(B) Obstruction to natural drainage not to exceed the amount necessary to construct artificial drainage;~~

~~(C) Damage occasioned by the inconvenience of crossing the levee, ditch, canal, or drain from one (1) portion of the land to the other; and~~

~~(D) Value of any crops or houses on the right of way or the cost of removing the crops or houses.~~

~~(2) However, whenever any levee or drainage district shall cause any land or property to be appraised, as provided in this section, §§ 18-15-1001—18-15-1004, and §§ 18-15-1006—18-15-1010, it may enter upon the land and construct the levee, ditch, canal, or drain over and across it without paying the award until such time as the court in any term time shall so order or direct.~~

~~(e)(1) It shall be the duty of the court or any county, circuit, or~~

~~district judge to enjoin any owner of land from interfering with the construction of any levee, drain, ditch, or canal after an award has been made for the value of the land until such time as the court having proper jurisdiction shall render a final judgment.~~

~~(2) In case of an appeal from any judgment rendered by the circuit court, the levee or drainage district, upon filing a supersedeas bond with the Clerk of the Supreme Court, shall be entitled to have the owner of the land enjoined from interfering with the construction of any levee, ditch, drain, or canal until the cause can be heard in the Supreme Court.~~

~~18-15-1006. Payment of award — Adjudication of claim.~~

~~(a)(1) If no exception shall be taken to the award of the appraisers and no appeal taken from any judgment rendered by the circuit court, then the levee or drainage district seeking to condemn the right-of-way shall pay the award to the person in whose favor the award is made, taking duplicate receipts therefor, one (1) of which shall be attached to the award and filed with the proceedings in the cause.~~

~~(2) However, in the event the owner of the land, material, or property is unknown, or if it is uncertain who he or she is, or if there are conflicting claims to the land or to the award, or any part thereof, then the levee or drainage district shall pay the award to the clerk of the circuit court of the proper county for the owner and take the clerk's receipt from the owner and have it recorded in the book provided for the recording of petitions. The clerk and his or her sureties shall be answerable for the safekeeping of the money.~~

~~(b)(1) Any claimants to the land may file an application in the circuit court and set up title to the land or property, and after giving notice to all adverse claimants by summons if they are residents of the county, and by warning order if nonresidents of the county or unknown, then the claimants shall have their claim to the money adjudicated and tried as other cases are tried under the rules and practice of the circuit court. Upon a final hearing, the circuit court shall direct a proper disposition of the money.~~

~~(2) The judgment shall be a bar to recovery against the levee or drainage district for any other or further compensation or damages for the construction or maintenance of the levee, ditch, drain, or canal.~~

~~18-15-1007.—Refusal to pay award upon abandonment of line.~~

~~Any levee or drainage district may refuse to pay the award which may have been made by any board or appraisers provided for in this section, §§ 18-15-1001—18-15-1006, and §§ 18-15-1008—18-15-1010, or the judgment of any court assessing the damages for right-of-way and may abandon the line and relocate the levee, drain, ditch, or canal without being liable for any award or judgment rendered in any proceeding for the condemnation of right-of-way, except as to the costs.~~

~~18-15-1008.—Appropriation of land without owner's consent.~~

~~(a) Whenever the board of directors or commissioners of any levee or drainage district may have appropriated, or shall appropriate, any land for right-of-way for the construction and maintenance of either levees, ditches, canals, or drains, and constructed levees or drains thereon without having procured the consent of the owner of the land to construct the levees or drains or without having procured the right-of-way, either by purchase, donations, or condemnation, the owner, when his or her cause of action has not been barred by the statute of limitations, shall have a cause of action against the board of directors or commissioners for the market value of the land at the time it was actually occupied.~~

~~(b) The owner may also claim such damages for inconveniences of crossing from one (1) portion of the tract, then owned by the party seeking to recover, to the other portion of the tract, as he or she has sustained, and such damages as the owner may have sustained on account of obstruction of natural drainage to the tract of land over which the levee or drain may have been or shall be constructed, not to exceed the cost of constructing artificial drainage.~~

~~18-15-1009.—Limitation on actions and damages.~~

~~(a) All actions for the recovery of damages against any levee or drainage district for the appropriation of land or the construction or maintenance of either levees or drains shall be instituted within one (1) year after the construction of the levees or drains, and not thereafter.~~

~~(b) The recovery of damages on account of the construction or maintenance of levees or drains shall be limited and confined to the elements~~

~~of damage mentioned and provided for in this section, §§ 18-15-1001—18-15-1008, and § 18-15-1010.~~

~~18-15-1010.—Fees.~~

~~(a) The appraisers provided for in this section and §§ 18-15-1001—18-15-1009 shall be entitled to receive as compensation for viewing and appraising the land and property and making award of the damage therefor the sum of five dollars (\$5.00) per day for each day in which the appraisers are actually engaged in this service. The sum shall be paid by the levee or drainage districts, as the case may be.~~

~~(b)(1) In the event that there are exceptions filed to the award of any board or appraisers, the fees for conducting a trial of the cause shall be the same as are prescribed in ordinary proceedings in the common law court.~~

~~(2) The fees shall be paid by the levee or drainage district in all cases in which the judgment of the circuit court is in excess of the award made by the appraisers. The landowners shall pay the cost accruing when the judgment of the circuit court does not exceed the amount awarded by the appraisers.~~

SECTION 103. Arkansas Code § 18-15-1011(b), concerning acquisition of flowage and storage rights and other servitudes of levee or drainage districts and levee and drainage districts, is amended to read as follows:

~~(b)(1) If it becomes necessary for any a levee or drainage district, or levee and drainage district, to institute condemnation proceedings under Acts 1905, No. 53, and § 14-120-217, to acquire flowage and storage rights and other rights of servitudes over, upon, and across any lands embraced in any floodway, reservoir, emergency reservoir, spillway, or diversion, then all suits shall be prosecuted in the name of the district. If the district so elects, all lands sought to be condemned for these purposes may be embraced and included in one (1) suit an action brought under this section shall be exercised in the manner provided in § 18-15-104.~~

~~(2) All of the several and respective owners thereof, or other person, firm, or corporation having an interest therein, shall be made parties defendant. It shall not be necessary or required that the district institute independent and separate suits against the several and respective~~

~~owners of the land and rights sought to be condemned for these purposes.~~

SECTION 104. Arkansas Code § 18-15-1101 is amended to read as follows:
18-15-1101. Private property generally.

(a) ~~All corporations~~ A corporation organized in this state for ~~the purpose of~~ furnishing water to the public for irrigation of any lands or crops are authorized to exercise the right of eminent domain and to condemn, take, and use private property for the use of the corporations when necessary to carry out the purposes and objects of the corporations.

(b) ~~Whenever a corporation, in the construction of its canals, ditches, drains, conduits, aqueducts, dams, bulkheads, or water gates, or in laying pipes, shall deem it necessary or convenient to condemn, take, use, or occupy private property in the construction of its works or in making new lines of canals or other necessary works, the corporation may condemn, take, and use the private property, first making just compensation for the property, and proceeding as provided in this subchapter.~~ An action brought under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 105. Arkansas Code § 18-15-1103 is amended to read as follows:
18-15-1103. Condemnation of property upon failure to obtain by consent, contract, or agreement.

In the event a corporation fails, upon application to individuals, corporations, or railroad companies to secure rights-of-way for the canals, drains, or other works by consent, contract, or agreement, then the corporation ~~shall have the right to proceed to procure the condemnation of the property, lands, privileges, and easements in the manner prescribed by law for railroads, as provided by §§ 18-15-1201—18-15-1207~~ has the right to exercise the power of eminent domain in the manner provided in § 18-15-104.

SECTION 106. Arkansas Code § 18-15-1105 is amended to read as follows:
18-15-1105. Right-of-way and construction in city and town.

(a) The city council of any city of the first class or city of the second class and the town councils of any incorporated towns shall have power to grant an irrigation corporation the right-of-way through the streets of the city or town, with the right to construct any canal, ditch, drain, conduit, aqueduct, pipeline, dam, bulkhead, water gate, or any other

necessary works or improvements in the city or town.

~~(b) However, if any property is damaged thereby, the irrigation corporation shall be liable in damages to the owner of the property, and the damages shall be assessed in the manner provided by law for assessing damages for the appropriation of the right of way through lands by railroad companies. An action brought under this section shall be exercised in the manner provided in § 18-15-104.~~

SECTION 107. Arkansas Code § 18-15-1202 is amended to read as follows:
18-15-1202. Petition for condemnation.

~~(a)(1) Any railroad, telegraph, or telephone company, organized under the laws of this state, after having surveyed and located its lines of railroad, telegraph, or telephone, in all cases in which the companies fail to obtain the right-of-way over the property by agreement with the owner of the property through which the lines of railroad, telegraph, or telephone may be located, shall apply to the circuit court of the county in which the property is situated exercise the power of eminent domain in the manner provided in § 18-15-104.~~

~~(2) Application shall be made by petition to have the damages for the right of way assessed, giving the owner of the property at least ten (10) days' notice in writing by certified mail, return receipt requested, of the time and place where the petition will be heard.~~

~~(b)(1) In case the property sought to be condemned is owned by any individual or corporation and is located in more than one (1) county, the petition may be filed in any circuit court having jurisdiction in any county in which the whole or a part of the property may be located.~~

~~(2) Proceedings had in the circuit court will apply to all property designated in the petition.~~

~~(c) However, if the owner of the property is a nonresident of the state, an infant, or person of unsound mind, notice shall be given as follows:~~

~~(1)(A) By publication in any newspaper in the county which is authorized by law to publish legal notices.~~

~~(B) The notice shall be published for the same length of time as may be required in other civil causes.~~

~~(2) If there is no such newspaper published in the county, then~~

~~the publication shall be made in some newspaper designated by the circuit clerk, and one (1) written or printed notice thereof shall be posted on the door of the courthouse of the county; and~~

~~(3) In writing by certified mail, return receipt requested, to the address of the owners of the property as it appears on the records in the office of the county sheriff or county tax assessor for the mailing of statements of taxes as provided in § 26-35-705.~~

~~(d) The petition shall, nearly as may be, describe the lands over which the road is located and for which damages are asked to be assessed, whether improved or unimproved, and be sworn to.~~

SECTION 108. Arkansas Code §§ 18-15-1203 – 18-15-1207 are repealed.

~~18-15-1203. Appointment of guardian ad litem.~~

~~In all cases of infants or persons with mental illness, when no legal representative or guardian appears in their behalf at the hearing, it shall be the duty of the court to appoint a guardian ad litem, who shall represent their interests for all purposes.~~

~~18-15-1204. Assessment of damages by jury.~~

~~(a) It shall be the duty of the court to impanel a jury of twelve (12) persons, as in other civil cases, to ascertain the amount of compensation which the company shall pay. The matter shall proceed and be determined as other civil causes.~~

~~(b) The amount of damages to be paid the owner of the lands for the right of way for the use of the company shall be determined and assessed irrespective of any benefit the owner may receive from any improvement proposed by the company.~~

~~18-15-1205. Payment or deposit of damages and costs.~~

~~(a) In all cases in which damages for the right of way for the use of any railroad company have been assessed in the manner provided in this subchapter, it shall be the duty of the railroad company to deposit with the court or pay to the owners the amount so assessed and pay such costs as, in the discretion of the court, may be adjudged against it, within thirty (30) days after the assessment.~~

~~(b) After payment, it shall be lawful for the railroad company to~~

~~enter upon, use, and have the right of way over the lands forever.~~

~~18-15-1206. Deposit upon controversy.~~

~~(a) In cases in which the determination of questions in controversy in the proceedings is likely to retard the progress of work on or the business of the railroad company, the court, or judge in vacation, shall designate an amount of money to be deposited by the company, subject to the order of the court, for the purpose of making the compensation, when the amount thereof has been assessed and the judge shall designate the place of the deposit.~~

~~(b) Whenever the deposit has been made, in compliance with the order of the court or judge, it shall be lawful for the company to enter upon the lands and proceed with the company's work through and over the lands in controversy prior to the assessment and payment of damages for the use and right.~~

~~18-15-1207. Failure to pay or deposit.~~

~~In all cases in which the company shall not pay or deposit the amount of damages assessed within thirty (30) days after the assessment the company shall forfeit all rights in the premises.~~

SECTION 109. Arkansas Code § 18-15-1303 is amended to read as follows:

18-15-1303. Procedure for condemnation.

~~In the event any~~ If a company fails, upon application to individuals, railroads, or turnpike companies, to secure the right-of-way by consent, contract, or agreement, ~~then~~ the corporation shall ~~have the right to proceed to procure the condemnation of the property, lands, rights, privileges, and easements in the manner provided by law for taking private property for right of way for railroads as provided by §§ 18-15-1201—18-15-1207, including the procedure for providing notice by publication and by certified mail in § 18-15-1202~~ bring an action in the manner provided in § 18-15-104.

SECTION 110. Arkansas Code § 18-15-1401(d), concerning the right of eminent domain for burial purposes, is amended to read as follows:

(d) The right of eminent domain granted by this section shall be exercised as provided in ~~this subchapter~~ § 18-15-104.

SECTION 111. Arkansas Code §§ 18-15-1403-18-15-1407 are repealed.

~~18-15-1403.—Application.~~

~~(a) When it shall be deemed necessary by the city or town, cemetery or burial association, or persons owning land used for public burial purposes to take private property for burial purposes, an application in writing shall be made to the circuit court of the proper county or the judge thereof in vacation, describing as correctly as may be, the property to be taken and the name of the owner of the land proposed to be condemned and taken.~~

~~(b)(1) Notice of the time and place of the application shall be given, either personally in the ordinary manner of serving process on the owner of the property or by publishing a copy of the application with a statement of the time and place at which it is to be made for three (3) weeks next preceding the time of application in some newspaper of general circulation in the county.~~

~~(2) The personal service as provided for in this section shall be made at least ten (10) days before the time of application when the owner is a resident of the county where the property is situated.~~

~~(3) The publishing of the notice of application in some newspaper of general circulation in the county where the property is situated shall be legal notice to the owner of the property when the owner is not a resident of the county where the property is situated.~~

~~18-15-1404.—Setting of time for inquiry.~~

~~If it shall appear to the court or judge that notice has been served ten (10) days before the time of application, or has been published, and that the notice is reasonably specific and certain, then the court or judge shall set a time for the inquiry into the assessment of compensation by a jury before the court or judge.~~

~~18-15-1405.—Summoning of jury for inquiry.~~

~~(a) A jury shall be summoned for the purpose of making the inquiry in the same manner that petit jurors are summoned in the circuit court for other purposes when the circuit court is regularly in session. If the hearing is before the judge out of term time, then the jury shall be summoned on order of the judge by the sheriff of the county.~~

~~(b) The inquiry and assessment shall be made at the time appointed~~

~~unless for good cause it is continued to another day to be specified.~~

~~18-15-1406. Determination of compensation—Dispute.~~

~~(a) The jury shall hear the evidence and determine the amount of compensation to be paid to the owners of the property so condemned.~~

~~(b)(1) In case of dispute as to the ownership, title, or interest of the property condemned, the amount of compensation determined by the jury may be paid into the court by the city or town, cemetery or burial association, or persons owning land used for public burial purposes.~~

~~(2) The right to the funds so paid in may be determined between the parties making claim thereto and the city or town, cemetery or burial association, or persons owning land used for public burial purposes may proceed to actually take the property after the payment into court as provided in this section.~~

~~18-15-1407. Costs.~~

~~The cost of the condemnation proceedings provided for in this subchapter shall be paid by the city or town, cemetery or burial association, or persons owning land used for public burial purposes instituting the condemnation proceeding, except costs of review or appeal or any other proceeding taken by the owner of the property after the assessment of compensation is made by the jury as provided for in this subchapter.~~

SECTION 112. Arkansas Code § 18-15-1503(b), concerning the right of eminent domain of federal housing projects, is amended to read as follows:

(b) ~~Any~~ A corporate agency of the United States of America or any such corporation, upon the adoption of a resolution declaring that the acquisition of the real property described ~~therein~~ in the resolution is in the public interest and necessary for public use, may exercise the power of eminent domain ~~in the manner provided in § 18-15-104.~~

~~(1) In the manner now provided for taking private property for rights-of-way for railroads as provided by §§ 18-15-1202—18-15-1207;~~

~~(2) In the manner provided for condemnation by municipal corporations and counties as provided by §§ 18-15-301—18-15-307; or~~

~~(3) Pursuant to any other applicable statutory provision enacted~~

~~for the exercise of the power of eminent domain.~~

SECTION 113. Arkansas Code § 18-15-1504(b), concerning the power of eminent domain of housing authorities, is amended to read as follows:

(b) An authority may exercise the power of eminent domain in the manner ~~prescribed in §§ 18-15-1202—18-15-1207 for condemnation by railroad corporations in this state, or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain~~ provided in § 18-15-104.

SECTION 114. Arkansas Code § 18-15-1505(a), concerning the power of eminent domain of urban renewal agencies, is amended to read as follows:

(a)(1)~~(A)~~ ~~From and after the passage of this act, any~~ An urban renewal agency in this state created ~~pursuant to the provisions of~~ under §§ 14-169-601 – 14-169-609, 14-169-701 – 14-169-713, and 14-169-801 ~~shall have~~ has the power of eminent domain to carry out urban renewal plan objectives.

~~(B) The procedure to be followed by the urban renewal agency to acquire property by eminent domain shall be that the board of commissioners shall, by resolution, declare that:~~

~~(i) The acquisition of certain real property is necessary for urban renewal plan objectives which have been approved by the governing body of the municipal government after a public hearing;~~

~~(ii) Negotiations for acquisition have been unsuccessful; and~~

~~(iii) Suit is authorized to condemn the property.~~

(2)~~(A)~~ ~~An urban renewal agency may exercise the power of eminent domain in the manner prescribed by law for condemnation by railroad corporations in this state as prescribed by §§ 18-15-1202—18-15-1207 and acts amendatory thereof or supplementary thereto.~~

~~(B) The urban renewal agency may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain~~ The power of eminent domain under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 115. Arkansas Code § 18-15-1601(a), concerning the authority

to condemn property of traction companies, is amended to read as follows:

(a)(1) ~~Every~~ A traction company shall have the right to survey its lines, lay out its road, acquire its right-of-way not exceeding two hundred feet (200') in width, and, where necessary to acquire the right-of-way, ~~shall have~~ has the power to enter upon, condemn, and appropriate the lands, rights-of-way, easements, and property of persons, firms, or corporations of eminent domain.

(2) ~~The method and manner of making the traction company's surveys, laying out its railways, or acquiring its right of way, either by contract or condemnation, shall be the same as provided by law in case of the exercise of the right of eminent domain by telegraph, telephone, and railroad companies, under §§ 18-15-1201—18-15-1207, and it shall be subject to the same duties and liabilities and have the same rights as prescribed in those sections with reference to railroads~~ The power of eminent domain under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 116. Arkansas Code § 22-2-109(b)(2)(A), concerning the right of a state agency to acquire additional sites, is amended to read as follows:

(2)(A) Condemnation proceedings under the power of eminent domain ~~may~~ shall be exercised ~~within Pulaski County, Arkansas, in the manner now provided in §§ 18-15-1202—18-15-1207 or pursuant to any other applicable statutory provisions for the exercise of the power of eminent domain in the State of Arkansas or by any state agency~~ in the manner provided in § 18-15-104.

SECTION 117. Arkansas Code § 22-3-1002(2), concerning the powers and duties of the Stadium Commission, is amended to read as follows:

(2) Purchase, lease, or rent any real property, or acquire any real property by the exercise of its right of eminent domain in the manner provided in § 18-15-104, that right being vested in the commission;

SECTION 118. Arkansas Code § 23-15-101(b), concerning the power of eminent domain for common carriers, is amended to read as follows:

(b) ~~The procedure to be followed in the exercise of the right shall be the same as prescribed in § 18-15-1201 et seq. relating to railroad companies, telegraph companies, and telephone companies~~ The power of eminent

domain under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 119. Arkansas Code § 23-15-105(d), concerning the power of eminent domain of pipeline companies authorized to transport ammonia and other components of fertilizer, is amended to read as follows:

(d)(1) All companies authorized ~~by the department~~ to operate under subsection (a) of this section ~~are given~~ may exercise the right of eminent domain.

(2) ~~The procedure to be followed in the exercise of this right shall be the same as prescribed in § 18-15-1201 et seq. relating to railroad companies, telegraph companies, and telephone companies~~ The power of eminent domain under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 120. Arkansas Code § 23-17-103 is amended to read as follows:

23-17-103. Condemnation proceedings upon failure to secure right-of-way.

In the event that the telegraph or telephone companies upon application to such individuals, railroads, or turnpike companies fail to secure a right-of-way by consent, contract, or agreement, then the telegraph or telephone corporation shall have the right to proceed to procure the condemnation of the property, lands, rights, privileges, and easements in the manner prescribed by law for taking private property for right-of-way for railroads, as provided by ~~§ 18-15-1201 et seq~~ § 18-15-104.

SECTION 121. Arkansas Code § 23-17-205 is amended to read as follows:

23-17-205. Powers of cooperative.

~~Any~~ A cooperative created under ~~the provisions of~~ this subchapter ~~shall have power to~~ may:

- (1) Sue and be sued in its corporate name;
- (2) Have perpetual existence unless limited for a shorter term in its articles of incorporation;
- (3) Adopt and use a corporate seal and to alter it;
- (4) Furnish, improve, and expand telecommunications service to its members, to federal and state agencies, and to other persons;

(5) Construct, purchase, lease as lessee, or otherwise acquire, and to improve, expand, install, equip, maintain, and operate, and to sell, assign, convey, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber telecommunications lines, facilities or systems, lands, buildings, structures, plant and equipment, exchanges, and any other real or personal property, tangible or intangible, which are necessary or appropriate to accomplish any purpose of the cooperative authorized by this subchapter;

(6) Connect and interconnect its telecommunications lines, facilities, or systems with telecommunications lines, facilities, or systems owned and operated by other telecommunications companies or cooperatives;

(7) Make its facilities available to persons furnishing telecommunications services within or without this state;

(8) Purchase, lease as lessee, or otherwise acquire, and to use and exercise, and to sell, assign, convey, pledge, or otherwise dispose of, or encumber franchises, rights, privileges, licenses, and easements;

(9) Fix membership fees, issue membership certificates, and issue nonvoting shares of stock;

(10) Borrow money and otherwise contract indebtedness, to issue and guarantee notes, bonds, and other evidences of indebtedness, and secure the same by mortgage, pledge, deed of trust, or security deed, or any other encumbrances upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, or revenues;

(11) Construct, maintain, and operate telecommunications equipment, lines, facilities, and systems along, upon, under, and across publicly owned lands, easements, rights-of-way, and public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges, and causeways, subject, however, to the same requirements and limitations with respect to the use or occupancy of such thoroughfares and lands as are imposed by the laws of this state on telecommunications companies;

(12) Exercise the power of eminent domain in the manner ~~and to the same extent as provided by the laws of this state for the exercise of such power by telecommunications companies~~ provided in § 18-15-104;

(13) Adopt, and from time to time, amend, or repeal bylaws;

(14) Make any and all contracts necessary, convenient, or appropriate for the full exercise of the powers herein granted;

(15) Accept gifts or grants of money, services, or property,

real or personal; and

(16) Do or perform any other acts and things which may be necessary, convenient, or appropriate to accomplish any purpose of the cooperative authorized by this subchapter.

SECTION 122. Arkansas Code § 23-18-307(14) concerning the powers of eminent domain of electric cooperative corporations, is amended to read as follows:

(14) To have and exercise the right of eminent domain for the purpose of acquiring rights-of-way and other properties necessary or useful in the construction or operation of its properties and ~~in the manner now provided by the condemnation laws of this state for acquiring private property for public use~~ in the manner provided in § 18-15-104;

SECTION 123. Arkansas Code § 23-18-405 is repealed.

~~23-18-405. Damages for land taken—Assessment by court.~~

~~In case any person or corporation building any dam shall not agree with the owners of any lands used for the purpose of the dam or flooded thereby, the court shall assess the damages for the land flooded or taken and also the consequential damages to any lands necessary to the use of the lands taken or flooded and owned by the parties whose lands are taken and flooded.~~

SECTION 124. Arkansas Code § 23-18-406(b), concerning the power of eminent domain of waterpower corporations, is amended to read as follows:

(b)~~(1)~~ In all cases ~~where~~ in which the corporation fails to obtain by agreement with the owner of the property the right to overflow or use ~~such~~ the lands or the right-of-way for viaducts and electric transmission lines, ~~it may apply by petition to the circuit court in the counties in which the property is situated to have the damages for the overflowed lands or rights-of-way assessed, giving the owner of the property at least ten (10) days' notice in writing of the time and place where the petition will be heard~~ the corporation may exercise its power of eminent domain by bringing an action in the manner provided in § 18-15-104.

~~(2) If the owner of the property is a nonresident of the state, the notice shall be given by publication as provided in civil cases.~~

~~(3) In case proceedings are had against infants or persons of~~

~~unsound mind, it shall be the duty of the court to appoint a guardian ad litem, who shall represent their interest for all purposes.~~

~~(4) The petition as nearly as may be shall describe the lands to be overflowed or taken for right of way for viaducts and electric transmission lines and shall be sworn to.~~

SECTION 125. Arkansas Code § 23-18-406(c)-(f), concerning the power of eminent domain of waterpower corporations, are repealed.

~~(c) It shall be the duty of the court to impanel a jury of twelve (12) persons, as in other civil cases, to ascertain the amount of compensation which the corporation shall pay, and the matter shall proceed and be determined as other civil cases.~~

~~(d) In all cases where damages have been assessed, it shall be the duty of the corporation to deposit with the clerk of the court or to pay to the owners the amount so assessed and to pay such costs as may be adjudged against it within thirty (30) days after the assessment, whereupon it shall be lawful for the corporation to enter upon the lands and proceed with the work of developing the waterpower.~~

~~(e) Where the determination of questions in controversy in the proceeding is likely to retard the progress of the work, the court or the judge in vacation shall designate an amount of money to be deposited by the corporation, subject to the order of the court, and for the purpose of making the compensation when the amount thereof has been assessed, as provided in this section, and the judge shall designate the place of the deposit. Whenever the deposit shall be made, it shall be lawful for the corporation to enter upon the lands and to proceed with its work prior to the assessment and payment of damages for the use thereof.~~

~~(f) In all cases where the corporation fails to pay or deposit the amount of damages assessed as provided in this section within thirty (30) days after such demand, it shall forfeit all rights in the premises.~~

SECTION 126. Arkansas Code § 23-18-407(b)-(d), concerning the power of eminent domain of waterpower corporations for railroad construction in connection with use or construction of dams, are amended to read as follows:

~~(b) The method or manner of making its survey, laying out its right of way, and acquiring its right of way, either by contract or condemnation,~~

~~shall be the same as now provided by law in case of the exercise of the right of eminent domain by telegraph, telephone, and railroad companies~~ The power of eminent domain under this section shall be exercised in the manner provided in § 18-15-104.

~~(e) It shall be subject to the same duties and liabilities and shall have the same rights as prescribed by law with reference to railroads.~~

~~(d)(c)~~ This section ~~shall not be so construed as to~~ does not authorize the condemnation of public streets or highways.

SECTION 127. Arkansas Code § 23-18-510(d), concerning the power of eminent domain for utility facilities, is amended to read as follows:

(d)(1) An entity granted a certificate of environmental compatibility and public need pursuant to subsection (b) of this section shall have the right of eminent domain as provided by Arkansas law for the limited purpose of constructing the certificated electric transmission line and associated facilities, as described in § 23-18-503(6)(B), to the extent that the facility is located within a national interest electric transmission corridor.

(2) The power of eminent domain under subdivision (d)(1) of this section shall be exercised in the manner provided for in § 18-15-104.

SECTION 128. Arkansas Code § 23-18-528 is amended to read as follows:
23-18-528. Eminent domain.

(a)(1) As used in this section, the word "land" shall include any estate or interest therein.

(2) ~~Whenever~~ If a certificate has been issued to an applicant for the construction of any major utility facility under ~~the provisions of~~ this subchapter and the applicant is unable to reach agreement with the owner of land to construct, operate, maintain, and obtain reasonable access to the major utility facility in accordance with the certificate, ~~it~~ the applicant may acquire the land by the exercise of the power of eminent domain ~~in a state court of competent jurisdiction in the judicial district in which the land is located~~ in the manner provided for in § 18-15-104.

~~(b) The petition shall contain or have annexed thereto:~~

~~(1) A statement of the authority under which and the use for which the land is taken;~~

~~(2) A description of the land taken sufficient for the identification thereof;~~

~~(3) A statement of the estate or interest in the land taken for such a use;~~

~~(4) A statement that a certificate has been issued to the petitioner; and~~

~~(5) A statement of the sum of money estimated by the utility to be just compensation for the land taken.~~

~~(c) In the event the property sought to be condemned is owned by one (1) person and is situated in more than one (1) county, the petition may be filed in the court of any county where a part of the property may be located.~~

~~(d)(1) After the filing of the petition and upon the deposit in court of a sum determined by the court to be sufficient to secure compensation to the owner of the property or interest therein sought to be condemned, the court shall immediately enter an order finding title to the land in fee simple absolute, or such less estate or interest therein as is prayed in the petition, to be vested in the applicant. The land or interest therein shall be deemed to be condemned and taken for the use of the applicant. The right to just compensation for the same fee or for such lesser interest as may be taken shall vest in the person entitled thereto.~~

~~(2)(b)(1) However, any taking of lands in fee simple absolute under the authority granted in this section shall be limited to taking for electric generating plant sites and substation sites, compressor station sites, and meter station sites only.~~

~~(2) Nothing in this section shall be construed as authorizing This section does not authorize a utility to take fee simple title to lands for gas or electric transmission line or distribution line rights-of-way purposes.~~

~~(e) The compensation shall be determined by a jury pursuant to § 18-15-506.~~

~~(f) Upon the filing of a petition, the court shall have power to fix the time within which and the terms upon which the party in possession shall be required to surrender possession to the applicant.~~

~~(g) The court shall have power to make such orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and such other charges, if any, as shall be just and equitable.~~

~~(h) No appeal in the proceeding or any bond or undertaking given therein shall operate to prevent or delay the vesting of title to the land in the applicant.~~

~~(i)(c)~~ The right to exercise the power of eminent domain and to take possession and title in advance of final judgment in the proceeding and all powers delegated in this section shall be in addition to any right, power, or authority conferred by any other laws of the state or of franchises, contracts, or agreements and shall not be construed as abrogating, limiting, or modifying any such right, power, authority, franchise, contract, or agreement.

SECTION 129. Arkansas Code § 25-20-203(a)(9), concerning the powers of a public body, is amended to read as follows:

(9) Acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes, in the manner ~~prescribed in §§ 18-15-1202—18-15-1207 or in the manner provided by any other statutory provisions for the exercise of the power of eminent domain provided in § 18-15-104;~~ and

SECTION 130. Arkansas Code § 25-20-309(a), concerning the power of eminent domain of a public body, is amended to read as follows:

(a) Any public body created under this subchapter may acquire by the exercise of the power of eminent domain any real property that it may deem necessary for its purposes, in the manner ~~prescribed in § 18-15-301 et seq. or § 18-15-401 et seq., or in the manner provided by any other statutory provisions under which one (1) of the public body's participating public agencies may exercise a power of eminent domain provided in § 18-15-104.~~

SECTION 131. Arkansas Code § 25-20-407(a)(1), concerning the power of eminent domain of an authority, is amended to read as follows:

(a)(1) Any authority may acquire any private property that it may deem necessary for its purposes by exercising the power of eminent domain in the manner ~~prescribed in § 18-15-301 et seq.~~ provided in § 18-15-104.

SECTION 132. Arkansas Code § 25-20-509(a), concerning the power of eminent domain of a public body, is amended to read as follows:

(a) A public body under this subchapter may acquire by the exercise of the power of eminent domain any real property, rights, easements, franchises, and other property that it finds necessary for its purposes ~~under § 18-15-301 et seq. or § 18-15-401 et seq. or in the manner provided by law under which one (1) of the public body's participating public agencies may exercise a power of eminent domain~~ in the manner provided in § 18-15-104.

SECTION 133. Arkansas Code § 27-67-309 is repealed.

~~27-67-309. Venue for condemnation actions.~~

~~Actions by the commission to condemn a right of way shall be brought in the county where the land is situated.~~

SECTION 134. Arkansas Code § 27-67-311 is amended to read as follows:

27-67-311. Condemnation petition – Notice.

~~(a) The State Highway Commission may exercise its power of eminent domain by filing an appropriate petition in condemnation in the circuit court of the county in which the property sought to be taken is situated, to have the compensation for right of way determined, giving the owner of the property to be taken at least ten (10) days' notice in writing of the time and place where the petition will be heard~~ in the manner provided in § 18-15-104.

~~(b) If the property sought to be condemned is located in more than one (1) county, the petition may be filed in any circuit court having jurisdiction in any county in which the whole or part of the property may be located. The proceedings had in the circuit court will apply to all such property described in the petition.~~

~~(c)(1) If the owner of the property sought to be taken is a nonresident of the state, notice shall be by publication in any newspaper in the county which is authorized by law to publish legal notices. This notice shall be published for the same length of time as may be required in other civil causes.~~

~~(2) If there is no such newspaper published in the county, then publication shall be made in a newspaper designated by the circuit clerk, and one (1) written or printed notice thereof posted on the door of the county courthouse.~~

~~(d) The condemnation petition shall describe the lands and property~~

~~sought to be acquired for state highway right-of-way purposes and shall be sworn to.~~

~~(c) Where the immediate possession of lands and property is sought to be obtained, the Arkansas State Highway and Transportation Department may file a declaration of taking, as provided by § 27-67-312, at any time before judgment or together with the condemnation petition.~~

SECTION 135. Arkansas Code §§ 27-67-312 and 27-67-313 are repealed.

~~27-67-312. Declaration of taking.~~

~~(a) In any proceeding instituted by and in the name of the State of Arkansas, involving the acquisition of any real property or any interest therein or any easements for public highway purposes, the petitioner may file a declaration of taking at any time before judgment signed by the Director of State Highways and Transportation, or with the condemnation petition, declaring that the real property or any interest therein or any easement is thereby taken for the use of the State of Arkansas.~~

~~(b) The declaration of taking shall contain or have annexed thereto the following:~~

~~(1) A statement of the authority under which the property or any interest therein or any easement is taken;~~

~~(2) A statement of the public use for which such property or any interest therein or any easement is taken;~~

~~(3) A description of the property taken or any interest therein or an easement, sufficient for the identification thereof;~~

~~(4) A plat showing the property taken or any interest therein or any easement; and~~

~~(5) A statement of the amount of money estimated by the acquiring agency to be just compensation for the property taken, or any interest therein or any easement.~~

~~27-67-313. Motion to strike declaration of taking.~~

~~(a) In any case in which a declaration of taking has been filed as provided in § 27-67-312, any defendant desiring to raise any question with respect to the validity of the taking shall do so by filing a motion to strike the declaration of taking and dismiss the suit.~~

~~(b) The motion shall be made on or before the return day mentioned in~~

~~the summons or notice of publication, or within twenty (20) days after the filing of the declaration of taking, whichever is later.~~

~~(c) Failure to file such motion within the time herein provided shall constitute a waiver of the right of any defendant to challenge the validity of the taking.~~

SECTION 136. Arkansas Code § 27-67-314(d), concerning the right of entry onto private property of the State of Arkansas for the exercise of the power of eminent domain, is amended to read as follows:

(d) The right to take possession and title in advance of final judgment in condemnation proceedings ~~as provided in §§ 27-67-312—27-67-315, 27-67-316(a)–(c), and 27-67-317—27-67-319 shall be in addition to any right, power, or authority conferred by the laws of this state under which such proceedings may be conducted and shall not be construed as abrogating, limiting, or modifying any such right, power, or authority~~ is authorized under § 18-15-104.

SECTION 137. Arkansas Code §§ 27-67-315–27-67-318 are repealed.

~~27-67-315.—Title vests upon deposit.~~

~~Immediately upon the making of the deposit provided for in § 27-67-314, title to the lands in fee simple, or a conditional fee if mineral rights are sought to be preserved to the property owner, or a lesser estate or interest therein as is specified in the declaration, shall vest in the persons entitled thereto.~~

~~27-67-316.—Condemnation proceedings and judgment.~~

~~(a) It shall be the duty of the circuit court to impanel a jury of twelve (12) persons, as in other civil cases, to ascertain the amount of compensation which the Arkansas State Highway and Transportation Department shall pay.~~

~~(b) The matter shall proceed and be determined as in other civil cases.~~

~~(c) In all cases of infants or persons of unsound mind, when no legal representative or guardian appears in their behalf at the hearing, it shall be the duty of the court to appoint a guardian ad litem, who shall represent their interest for all purposes.~~

~~(d) Compensation shall be ascertained and awarded in the proceeding and established by judgment therein.~~

~~(e)(1) Judgment shall include, as a part of the just compensation awarded, interest at the rate of six percent (6%) per annum on the amount finally awarded as the value of the property, from the date of the surrender of possession to the date of payment, but interest shall not be allowed on so much thereof as may have been paid into court.~~

~~(2) No sum so paid into court shall be charged with commission or poundage.~~

~~(f) All courts and juries in cases of condemnation of lands for rights-of-way for state highways shall take into consideration the fact that lands are required to be assessed at fifty percent (50%) of their true value and shall also take into consideration the fact that owners of automobiles and trucks living miles off a state highway pay the same gasoline and auto license tax as those being fortunate enough to own land adjoining a state highway. Any court or jury considering claims for right-of-way damages shall deduct from the value of any land taken for a right-of-way the benefits of the state highway to the remaining lands of the owner.~~

~~(g) All suits involving the validity of subsection (f) of this section, or any portion thereof, shall be deemed matters of public interest and shall be advanced and disposed of at the earliest possible moment, and appeals in such suits must be taken and perfected within thirty (30) days from the date of the judgment or decree.~~

~~27-67-317. Payment of award.~~

~~(a) Upon the application of any party in interest and upon due notice to all parties, the court may order that the money deposited in the court, or any part thereof, be paid immediately to the person or persons entitled thereto.~~

~~(b) If the compensation finally awarded exceeds the amount of money deposited by twenty percent (20%) or more, the court shall enter judgment against the State of Arkansas and in favor of the party entitled thereto for the amount of the deficiency and shall award the party entitled to judgment its costs, expenses, and reasonable attorney's fees incurred in preparing and conducting the final hearing and adjudication, including without limitation the cost of appraisals and fees for experts.~~

~~(c) If the compensation finally awarded is less than the amount of money deposited and paid to the persons entitled thereto, the court shall enter judgment in favor of the State of Arkansas and against the proper parties for the amount of the excess.~~

~~27-67-318. Hearing on amount of deposit.~~

~~(a) If, after due notice, any party in interest should feel aggrieved at the amount of the estimated compensation as deposited by the Arkansas State Highway and Transportation Department in the registry of the circuit court, the party shall be entitled to a hearing, at which time evidence may be heard and received concerning the adequacy of the deposit.~~

~~(b) Thereafter, the circuit court shall, in its discretion, determine whether the present deposit is adequate, and if not, shall determine the additional amount which the department shall deposit. Such additional amount ordered deposited shall remain in the registry of the court without withdrawal until final adjudication of just compensation, but the additional deposit shall not prevent the accrual of interest on the difference in the amount of the original deposit and the compensation awarded as provided in §§ 27-67-315 and 27-67-316.~~

~~(c) This hearing and adjudication shall in no way interfere with the possession of the premises by the department.~~

SECTION 138. Arkansas Code § 27-67-320 is amended to read as follows:

27-67-320. Acquisition when county court fails to grant petition.

~~(a) Where If the State Highway Commission petitions any county court asking for right-of-way for any state highway and where the county court fails to grant the petition and to make court order procuring right-of-way within sixty (60) days after the petition is presented, ~~then~~ the commission may take such steps as it deems expedient to acquire right-of-way, either by purchase, exercise of its right of eminent domain, or otherwise may bring an action in the manner provided in § 18-15-104.~~

~~(b) In that event, one half (1/2) of the cost of acquiring the right-of-way shall be deducted from the next payment due any county by reason of any appropriation out of the State Highway Fund or state revenue from gasoline as motor vehicle fuel or auto license tax to the county or county highway fund of the county.~~

~~(c) All suits involving the validity of this section or any portion of it shall be deemed matters of public interest and shall be advanced and disposed of at the earliest possible moment, and appeals in such suits must be taken and perfected within thirty (30) days from the date of the judgment or decree.~~

SECTION 139. Arkansas Code § 27-69-104(3), concerning the powers and duties of state agencies, is amended to read as follows:

(3) Arrange for or rearrange fencing, cattle passes, or piping water supply to adjoining landowners; change overhead wires; construct underground wire and pipe crossings; reconstruct public and private roads; make surveys, and prepare land maps; and conduct condemnation suits in the manner provided in § 18-15-104, all without cost to the United States;

SECTION 140. Arkansas Code § 27-69-104(4), concerning the powers and duties of state agencies, is amended to read as follows:

(4) Exercise the right of eminent domain in the manner provided in § 18-15-104 to appropriate and condemn land or waters of sufficient width to conform to the requirements of this subchapter and to convey them to the United States for parkway, easement, recreation, or conservation purposes with title to the land vesting in the state upon institution of such proceedings; and to acquire by fee simple areas, scenic and other easements, and areas requested for revetments, quarries, gravel, dredging, and borrow pits found necessary for parkway construction;

SECTION 141. Arkansas Code § 27-76-401(10), concerning the powers of the board of directors of a regional mobility authority, is amended to read as follows:

(10) Acquire any property necessary to carry out the purposes of this chapter by exercising the power of eminent domain ~~as~~ in the manner provided under § 27-76-501 et seq. in § 18-15-104;

SECTION 142. Arkansas Code § 27-76-503 is amended to read as follows:
27-76-503. Condemnation ~~petition~~ - Compensation for right-of-way.

~~(a) A regional mobility authority may shall exercise its power of eminent domain by filing an appropriate petition in condemnation in the~~

~~ircuit court of the county in which the property sought to be taken is situated in the manner provided in § 18-15-104 to have the compensation for right-of-way determined.~~

~~(b) The petition in condemnation shall describe the lands and property sought to be taken.~~

~~(c) The regional mobility authority shall give the owner of the property to be taken at least ten (10) days' notice in writing of the time and place where the petition will be heard.~~

~~(d)(1) If the property sought to be taken is located in more than one (1) county, the petition may be filed in any circuit court having jurisdiction in any county in which any part of the property may be located.~~

~~(2) The proceedings held in the circuit court shall apply to all of the property described in the petition.~~

~~(e) If the owner of the property sought to be taken is a nonresident of the state, notice shall be made in accordance with the Arkansas Rules of Civil Procedure.~~

SECTION 143. Arkansas Code §§ 27-76-504 and 27-76-505 are repealed.
~~27-76-504. Declaration of taking.~~

~~(a) When the immediate possession of lands and property is sought to be obtained, the regional mobility authority may file a declaration of taking with a court of competent jurisdiction at any time before judgment or together with the petition in condemnation.~~

~~(b) The petitioner may file a declaration of taking at any time before a judgment is signed or with the petition in condemnation in any proceeding instituted by and in the name of the regional mobility authority that involves the acquisition of real property, an interest in real property, or an easement.~~

~~(c) The declaration of taking shall contain or have annexed to it the following:~~

~~(1) A statement that the regional mobility authority is taking the real property, the interest in the real property, or the easement;~~

~~(2) A statement of the purpose for which the regional mobility authority is taking the real property, the interest in the real property, or the easement for the use of the regional mobility authority;~~

~~(3) A description of the real property, the interest in the real~~

~~property, or the easement that the regional mobility authority is taking, sufficient for the identification thereof;~~

~~(4) A plat showing the real property, the interest in the real property, or the easement that the regional mobility authority is taking; and~~

~~(5) A statement of the amount of money estimated by the acquiring regional mobility authority to be just compensation for the taking of the real property, the interest in the real property, or the easement.~~

~~27-76-505. Condemnation proceedings and judgment.~~

~~(a) The circuit court shall impanel a jury of twelve (12) persons, as in other civil cases, to ascertain the amount of compensation that the regional mobility authority shall pay for the real property, the interest in the real property, or the easement which the regional mobility authority is taking.~~

~~(b) The matter shall proceed and be determined as in other civil cases.~~

~~(c) In all cases of infants or incompetent persons, when no legal representative or guardian appears in their behalf at the hearing, it shall be the duty of the circuit court to appoint a guardian ad litem who shall represent their interest for all purposes.~~

~~(d) Compensation shall be ascertained and awarded in the proceeding and established by judgment therein.~~

SECTION 144. Arkansas Code § 27-87-106(b), concerning state establishment and operation of ferries, is amended to read as follows:

(b)(1) ~~To the end of providing~~ provide ferry service, the State Highway Commission is authorized to acquire by negotiation, purchase, or exercise of eminent domain any required sites for landings or other needed acreage and to purchase or construct ferry boats and all facilities needed in the operation of the ferries.

(2) The power of eminent domain under subdivision (b)(1) of this section shall be exercised in the manner provided in § 18-15-104.

SECTION 145. Arkansas Code § 27-88-121 is amended to read as follows:
27-88-121. Right of eminent domain.

(a) For the purpose of acquiring any land, rights, easements,

franchises, or other real or personal property deemed to be necessary or convenient for the construction and reconstruction of any bridge or ferry, or for the acquisition of the approaches thereto, the State Highway Commission ~~shall have~~ has the right of eminent domain, as is provided ~~in Acts 1927, No. 116, § 5 [repealed] and Acts 1933, No. 115, § 1 [repealed]~~ and in §§ 27-64-104 and 27-67-316.

(b) The power of eminent domain under this section shall be exercised in the manner provided in § 18-15-104.

SECTION 146. Arkansas Code § 27-90-202(a), concerning the authority of the State Highway Commission to undertake turnpike projects, is amended to read as follows:

(a) The State Highway Commission ~~is authorized and empowered to~~ may:

(1)(A)(i) Acquire by purchase or exercise of its powers of eminent domain sites and rights-of-way for, and construct, maintain, repair, and operate, turnpike projects at ~~such locations as it shall determine~~ finds in accordance with proper design and construction standards.

(ii) The power of eminent domain under subdivision (a)(1)(A)(i) of this section shall be exercised in the manner provided in § 18-15-104.

(B)(i) Turnpike projects shall be constructed in accordance with applicable laws pertaining to competitive bidding, contracting, performance and payment bonds, and other matters applicable to similar highway construction by the commission.

(ii) However, turnpike projects developed in cooperation with other states, agencies, or political subdivisions thereof or nonmember nonstock transportation corporations created under the laws of another state may be developed, operated, and maintained on the basis of contracts for the design, engineering, procurement and construction, and like arrangements for the integrated development of turnpike projects or pursuant to the basis for the development, operation, and maintenance of a turnpike project permitted under the laws of another state upon the commission's setting forth in a resolution its finding that any such arrangement is the preferable method for development of the turnpike project and the reasons for such finding;

(2) Apply for, receive, accept, and use any moneys and

properties from agencies of the United States Government, from any state or other governmental agency or political subdivision, from any public or private corporation, agency, or organization of any nature, and from any individual or group of individuals;

(3) Establish accounts in one (1) or more banks and thereafter from time to time make deposits in and withdrawals from such accounts and otherwise invest or reinvest its money;

(4) Obtain the necessary funds for financing the objects specified in this subchapter, including without limitation the proceeds of the sale of revenue bonds as authorized in this subchapter;

(5) Fix, revise from time to time, charge, and collect tolls for transit over each turnpike project constructed;

(6) Establish rules and regulations for the use of each turnpike project;

(7) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, and other employees and agents that may be necessary in its judgment;

(8) Enter into and implement any agreements or compacts with the United States or any state or any department or agency of the United States or of any state, or a political subdivision of any state, or any person concerning operation, revenues, or other matters pertaining to planning, financing, constructing, and operating turnpike projects leading from this state into another state or states and turnpike projects to be developed and operated jointly, whether by the commission, by another party to the agreement or compact, by an agency created pursuant to the agreement or compact, or by another person, whether or not leading from this state into another state or states; and

(9) Take ~~such~~ other action, not inconsistent with law, ~~as may be~~ necessary or desirable to carry out the powers conferred by this subchapter and to carry out the intent and purposes of this subchapter.

/s/Ballinger