

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1490

5 By: Representative Ballinger
6

For An Act To Be Entitled

8 AN ACT TO REVISE CERTAIN EMINENT DOMAIN LAWS THAT
9 ARISE OUT OF PROPERTY RIGHTS SECURED UNDER THE
10 ARKANSAS CONSTITUTION, ARTICLE 2, § 22; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14 TO REVISE CERTAIN EMINENT DOMAIN LAWS
15 THAT ARISE OUT OF PROPERTY RIGHTS SECURED
16 UNDER THE ARKANSAS CONSTITUTION, ARTICLE
17 2, § 22.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. DO NOT CODIFY. Legislative intent.

24 (a) It is the intent of the General Assembly to protect the property
25 rights of the people of the State of Arkansas in eminent domain proceedings
26 initiated by the state or a state agency or political subdivision of the
27 state or a private entity because, as stated in the Arkansas Constitution,
28 Article 2, § 22, "the right of property is before and higher than any
29 constitutional sanction" and should not be taken without just compensation.

30 (b) The General Assembly believes that costs, expenses, and reasonable
31 attorney's fees should be awarded to a land owner to justly compensate the
32 land owner if the state, a state agency or political subdivision of the
33 state, or a private entity fails to offer the fair market value for the
34 condemned property located within the State of Arkansas.
35

36 SECTION 2. Arkansas Code § 4-35-210(16), concerning the powers of a



1 water authority, is amended to read as follows:

2 (16) To exercise the power of eminent domain in ~~accordance with the~~
 3 ~~procedures prescribed by § 18-15-301 et seq.~~ the manner provided in § 18-15-
 4 103;

5
 6 SECTION 3. Arkansas Code § 6-3-113(c), concerning the eminent domain
 7 power of the Arkansas Educational Television Commission, is amended to read
 8 as follows:

9 (c) The commission shall exercise the power of eminent domain in the
 10 manner provided ~~for~~ in § ~~27-67-311 et seq.~~ § 18-15-103.

11
 12 SECTION 4. Arkansas Code § 6-3-113(d), concerning the eminent domain
 13 power of the Arkansas Educational Television Commission, is repealed.

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

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

18
 19 SECTION 5. Arkansas Code § 6-13-103(b), concerning the eminent domain
 20 power of a school district, is amended to read as follows:

21 (b) If the owners of property desired to be acquired by the board of
 22 directors of any school district ~~shall~~ do not agree on the price, the board
 23 of directors of the school district may exercise the right of eminent domain,
 24 ~~after the same procedure as is provided by law for municipal corporations and~~
 25 ~~counties, and no advance deposit of money shall be required unless the school~~
 26 ~~district desires immediate possession of the property to be condemned, before~~
 27 ~~a hearing can be held fixing the value thereof; and after the verdict of the~~
 28 ~~jury finding the damage to the owner of the property in such proceedings, the~~
 29 ~~school district shall have the right to take the property at the value found~~
 30 ~~or abandon the proceedings to condemn it for one (1) year~~ and the procedure
 31 to be followed shall be exercised in the manner provided in § 18-15-103.

32
 33 SECTION 6. Arkansas Code § 6-61-521(12), concerning the powers and
 34 duties of local boards, is amended to read as follows:

35 (12) To exercise the right of eminent domain to condemn property
 36 necessary for the use of the community college. The procedure to be followed

1 in the exercise of the right of eminent domain by a local board shall be ~~that~~
 2 ~~prescribed for the boards of trustees of certain state colleges by § 6-62-201~~
 3 in the manner provided in § 18-15-103;
 4

5 SECTION 7. Arkansas Code § 6-62-201(d)(1), concerning the eminent
 6 domain power of certain colleges and universities, is amended to read as
 7 follows:

8 (d)(1) ~~The procedure to be followed except as otherwise provided in~~
 9 ~~this section, for the purposes of this section is that prescribed in §§ 18-~~
 10 ~~15-301—18-15-307, inclusive, for the exercise of eminent domain by~~
 11 ~~municipal corporations and counties~~ A state college or university having the
 12 right and power of eminent domain under subdivision (a)(1) of this section
 13 shall exercise the power of eminent domain in the manner provided in § 18-15-
 14 103.
 15

16 SECTION 8. Arkansas Code § 6-62-705(a)(5), concerning the power and
 17 duties of the Arkansas Development Finance Authority and the Arkansas Higher
 18 Education Coordinating Board, is amended to read as follows:

19 (5) Have and exercise the right of eminent domain ~~for the~~
 20 ~~purpose of acquiring lands~~ to acquire land, the fee title ~~thereto~~ to land or
 21 any easement, right-of-way, or other interest or estate ~~therein~~ in the land,
 22 for projects or ~~portions thereof of~~ parts of projects, by the procedure now
 23 in the manner provided for condemnation by railroads by §§ 18-15-1201—18-
 24 15-1207 in § 18-15-103;
 25

26 SECTION 9. Arkansas Code § 6-65-203(d)(1), concerning the eminent
 27 domain power of Arkansas State University, is amended to read as follows:

28 (d)(1) ~~Upon~~ On adoption of the resolution, the board ~~is authorized to~~
 29 may request the prosecuting attorney of the district in which the lands are
 30 situated to assist in instituting ~~proper proceedings~~ a proceeding for the
 31 condemnation of the lands in the manner provided in § 18-15-103.
 32

33 SECTION 10. Arkansas Code § 6-65-403(d)(1), concerning the eminent
 34 domain power of Southern Arkansas University, is amended to read as follows:

35 (d)(1) ~~Upon~~ On adoption of the resolution, the board ~~is authorized to~~
 36 may request the prosecuting attorney of the district in which the lands are

1 situated to assist in instituting ~~proper proceedings~~ a proceeding for the
2 condemnation of the lands in the manner provided in § 18-15-103.

3
4 SECTION 11. Arkansas Code § 6-66-112(d)(1), concerning the eminent
5 domain power of Henderson State University, is amended to read as follows:

6 (d)(1) ~~Upon~~ On adoption of the resolution, the board ~~is authorized to~~
7 may request the prosecuting attorney of the district in which the lands are
8 situated to assist in instituting ~~proper proceedings~~ a proceeding for the
9 condemnation of ~~such~~ the lands in the manner provided in § 18-15-103.

10
11 SECTION 12. Arkansas Code § 8-6-715(b)(1), concerning the eminent
12 domain power of a regional solid waste management district, is amended to
13 read as follows:

14 (b)(1) The proceedings ~~may be~~ shall be exercised in the manner now
15 provided for taking private property ~~for rights-of-way for railroads as set~~
16 ~~forth in §§ 18-15-1202—18-15-1207~~ under § 18-15-103.

17
18 SECTION 13. Arkansas Code § 14-14-807(7), concerning the restrictions
19 on the local legislative power of a county, is amended to read as follows:

20 (7) All laws governing eminent domain in the manner provided in
21 § 18-15-103;

22
23 SECTION 14. Arkansas Code § 14-16-112(a)(2)(B), concerning the power
24 of a county to condemn property for flood control, is amended to read as
25 follows:

26 (B) In the event it becomes necessary for counties to
27 exercise the right of eminent domain, condemnation proceedings shall be
28 ~~instituted and conducted~~ exercised in the ~~same~~ manner as provided in ~~§§ 18-~~
29 ~~15-304—18-15-307~~ § 18-15-103.

30
31 SECTION 15. Arkansas Code § 14-54-106(b)(1), concerning the power of
32 cities and towns on the state line, is amended to read as follows:

33 (b)(1) The procedure to be followed by the city to acquire property
34 shall be ~~that prescribed in~~ exercised under Arkansas Constitution, Article 2,
35 §§ 22, and 23, and Article 12, § 9, and in ~~§§ 14-54-601, 14-91-104, 14-262-~~
36 ~~102, 14-301-104, 14-333-101, 18-15-101 et seq., 23-11-209, and 23-12-303~~ the

1 manner provided in § 18-15-103 for the exercise of the right of eminent
 2 domain by municipal corporations and counties.

3
 4 SECTION 16. Arkansas Code § 14-88-202 is amended to read as follows:
 5 14-88-202. Purposes for which created.

6 The council of any city of the first or second class or any
 7 incorporated town may assess all real property within the city or town, or
 8 within any district thereof, ~~for the purpose of opening, grading, or~~
 9 ~~otherwise improving~~ to open, grade, or improve streets and alleys, including
 10 viaducts and underpasses either within the boundaries of an improvement
 11 district, or beyond the boundaries and beyond the limits of the city or town,
 12 if the property in the district will ~~be benefited thereby~~ benefit from an
 13 assessment, including the acquisition of rights-of-way by purchase or the
 14 exercise of the power of eminent domain ~~as in the manner provided in § 14-91-~~
 15 ~~104 § 18-15-103~~ and the payment of damages for the taking or injuring of
 16 property resulting from the making of any such improvement, if the work or
 17 construction is done or paid for by the federal government or any of its
 18 agencies or by the State of Arkansas or any other public body, or to pay for
 19 any local improvement of a public nature, including sewer systems,
 20 ~~theretofore made~~, by which the property within the district has benefited;
 21 for the purpose of paying the principal of and interest on any bonds at any
 22 time authorized and issued by any district under and in the manner and for
 23 the purposes specified in this section; for the purpose of buying to buy
 24 existing sewer systems, or the construction of sewers, or constructing
 25 facilities for the off-street parking of vehicles, including without
 26 limitation constructing, reconstructing, widening, extending, and maintaining
 27 and operating off-street parking facilities, or constructing sidewalks,
 28 sidewalk overhead covers, benches, recreational areas, and other facilities
 29 pertaining to the construction, maintenance, and utilization ~~thereof~~ of those
 30 facilities; ~~for the purpose of the making of~~ to make any other local
 31 improvement of a public nature in the manner set forth stated in this
 32 subchapter; and ~~for the purpose of maintaining, repairing, and operating~~ to
 33 maintain, repair, and operate any improvements.

34
 35 SECTION 17. Arkansas Code § 14-91-104(b)(4), concerning eminent domain
 36 proceedings involving a municipal board of improvement, is amended to read as

1 follows:

2 ~~(4)(A) The judge of the circuit court may hold a special term at~~
 3 ~~any time for the trial of any such cause, giving ten (10) days' notice to the~~
 4 ~~parties of the time of holding that special term, which may be in writing~~
 5 condemnation proceeding shall be exercised in the manner provided in § 18-15-
 6 103.

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

10
 11 SECTION 18. Arkansas Code § 14-91-303(b)(2), concerning the authority
 12 of a municipal levee or flood control improvement district, is amended to
 13 read as follows:

14 (2) The ordinary use of the railroads shall not be obstructed,
 15 and ~~just damages shall be paid to the owners of any land structure and~~
 16 ~~railroad right-of-way taken by eminent domain~~ the condemnation proceeding
 17 shall be exercised in the manner provided in § 18-15-103.

18
 19 SECTION 19. Arkansas Code § 14-91-309 is amended to read as follows:
 20 14-91-309. Eminent domain proceedings.

21 ~~(a)(1)(A) The circuit judge of any county in which~~ If it becomes
 22 necessary or desirable for a municipal levee or flood control improvement
 23 district to condemn rights-of-way, lands, or structures, ~~shall, upon the~~
 24 ~~written application of the district, appoint three (3) resident landowners of~~
 25 ~~the municipality in which the district is located, to be known as appraisers,~~
 26 ~~to assess damages for the appropriation of land for the project~~ the municipal
 27 levee or flood control improvement district may bring an eminent domain
 28 proceeding in the manner provided in § 18-15-103.

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

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

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

36 ~~(2) The appraisers shall take an oath before the circuit clerk~~

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

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

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

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

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

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

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

26 ~~(ii) Persons or corporations holding any lien or~~
27 ~~lease upon, or claiming any interest in, the land may also be made~~
28 ~~defendants.~~

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

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

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

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

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

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

16
17 ~~“To (name of supposed owners) and all other persons, having any claim and~~
18 ~~interest in and to the following described land situated in County, Arkansas,~~
19 ~~namely: (here describe the land set forth in the petition over which the~~
20 ~~levee or flood control project passes); you are hereby warned to appear in~~
21 ~~the Circuit Court within twenty (20) days, and file exceptions to the award~~
22 ~~which has been filed in my office by the levee and flood control appraisers~~
23 ~~of district for the appropriation of the hereinbefore described land, for the~~
24 ~~construction, or intended construction of a levee and flood control project~~
25 ~~over and across the same.”~~

26 ~~(ii) The warning order shall~~
27 ~~be dated and signed by the clerk.~~

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

1 ~~the owners or into the registry of the court for their benefit.~~

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

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

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

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

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

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

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

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

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

36 ~~(5) Upon the payment of any judgment, either to the owners or~~

1 ~~into the registry of the court, a final judgment of condemnation shall be~~
2 ~~entered.~~

3
4 SECTION 20. Arkansas Code § 14-92-219(3)(B), concerning the powers of
5 a suburban improvement district, is amended to read as follows:

6 (B) ~~Such purpose~~ A project under subdivision (3)(A) of
7 this section shall include the acquisition of rights-of-way by purchase or
8 the exercise of the power of eminent domain in the manner provided in § 18-
9 15-103, and to maintain ~~such~~ the streets, roads, highways, and every other
10 way for passage and use by vehicles, lying within the boundaries of the
11 district or beyond the boundaries of the district, if the property of the
12 district will benefit;

13
14 SECTION 21. Arkansas Code § 14-93-110(3), concerning the powers of a
15 property owner's improvement district, is amended to read as follows:

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

21 (B) ~~Such purpose~~ A project under subdivision (3)(A) of
22 this section shall include the acquisition of rights-of-way by purchase or
23 the exercise of the power of eminent domain in the manner provided in § 18-
24 15-103, and to maintain ~~such~~ the streets, roads, highways, and every other
25 way for passage and use by vehicles, lying within the boundaries of the
26 district or beyond the boundaries of the district, if the property of the
27 district will ~~be benefited thereby~~ benefit;

28
29 SECTION 22. Arkansas Code § 14-94-112(b), concerning the powers of a
30 municipal property owner's improvement district, is amended to read as
31 follows:

32 (b) This right shall be exercised in the ~~same manner as in the case of~~
33 ~~railroad, telegraph, and telephone companies~~ provided in § 18-15-103, but
34 without the necessity of making a deposit of money before entering into
35 possession of the property condemned.

36

1 SECTION 23. Arkansas Code § 14-116-402(a)(10)(A), concerning the
2 powers of a water district, is amended to read as follows:

3 (10)(A) Have and exercise the right of eminent domain ~~for the~~
4 ~~purpose of acquiring~~ to acquire rights-of-way and other properties necessary
5 in the construction or operation of its property and business in the manner
6 now provided ~~by the condemnation laws of this state~~ for acquiring private
7 property for public use under § 18-15-103.

8
9 SECTION 24. Arkansas Code § 14-116-604 is amended to read as follows:
10 14-116-604. Acquiescence in damage assessment – Condemnation.

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

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

23 (2) ~~An action under subdivision (b)(1) of this section shall be~~
24 ~~exercised in the manner provided in § 18-15-103.~~

25
26 SECTION 25. Arkansas Code § 14-117-305(b), concerning the powers of a
27 watershed improvement district, is amended to read as follows:

28 (b) Condemnation proceedings instituted under this section shall be
29 ~~conducted~~ exercised in the manner ~~as is now provided by §§ 18-15-1001—18-~~
30 ~~15-1010~~ in § 18-15-103.

31
32 SECTION 26. Arkansas Code § 14-117-406 is amended to read as follows:
33 14-117-406. Acquiescence in assessment of damages – Demand for
34 assessment – Condemnation.

35 (a) ~~Any~~ A property owner may accept the assessment of damages in his
36 or her favor made by the board, or acquiesce in ~~their~~ the board's failure to

1 assess damages in his or her favor, and shall be construed to have done so
 2 unless he or she gives to the board, within thirty (30) days after the
 3 assessment is filed, notice in writing that he or she demands an assessment
 4 of his or her damages by a jury.

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

10 (2) An action under subdivision (b)(1) of this section shall be
 11 exercised in the manner provided in § 18-15-103.

12
 13 SECTION 27. Arkansas Code § 14-118-114(2), concerning the powers of an
 14 improvement district for rivers, is amended to read as follows:

15 (2) The right of eminent domain as provided by law for other
 16 levee or drainage districts exercised in the manner provided for in § 18-15-
 17 103.

18
 19 SECTION 28. Arkansas Code § 14-120-103(b)(2), concerning the
 20 responsibilities of a drainage and levee improvement district, is amended to
 21 read as follows:

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

27 (B) Condemnation proceedings ~~therefor~~ shall be ~~instituted~~
 28 ~~and~~ conducted by ~~such districts~~ a district in the manner ~~as now~~ provided
 29 ~~condemnation for levee purposes by such districts~~ in § 18-15-103.

30
 31 SECTION 29. Arkansas Code § 14-120-217(c), concerning condemnation
 32 actions by a levee district or drainage district or levee and drainage
 33 district, is amended to read as follows:

34 (c) ~~Condemnation proceedings therefor shall be instituted and~~
 35 ~~conducted in the manner as is now provided in §§ 18-15-1001—18-15-1010.~~
 36 ~~Further damages shall be paid for any easement or flowage right or increased~~

1 ~~use or servitude on any lands by reason of increasing the amount or depth of~~
 2 ~~water on the lands regardless of whether the lands are protected or~~
 3 ~~unprotected by levees, and these damages shall be in addition to damages set~~
 4 ~~out in §§ 18-15-1001—18-15-1010 A condemnation proceeding under this~~
 5 ~~section shall be exercised in the manner provided in § 18-15-103.~~

6
 7 SECTION 30. Arkansas Code § 14-120-217(d), concerning condemnation
 8 actions by levee district or drainage district or levee and drainage
 9 district, is repealed.

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

13
 14 SECTION 31. Arkansas Code § 14-120-306(b), concerning the powers of
 15 board of directors of a levee district or drainage district or levee and
 16 drainage district, is amended to read as follows:

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

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

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

23 (2) ~~Condemnation proceedings therefor shall be instituted and~~
 24 ~~conducted in the manner as is now provided in §§ 18-15-1001—18-15-1010 and~~
 25 ~~provided further damages shall be paid for any easement or flowage right or~~
 26 ~~increased use or servitude on any lands by reason of increasing the amount or~~
 27 ~~depth of water on those lands regardless of whether the lands are protected~~
 28 ~~or unprotected by levees, and those damages shall be in addition to damages~~
 29 ~~set out in §§ 18-15-1001—18-15-1010. Any action for taking of property or~~
 30 ~~damaging property as provided in this subchapter or in §§ 18-15-1001—18-15-~~
 31 ~~1010 shall be commenced within five (5) years from the time the cause of~~
 32 ~~action accrues A condemnation proceeding under subdivision (b)(1) of this~~
 33 ~~section shall be exercised in the manner provided in § 18-15-103.~~

34
 35 SECTION 32. Arkansas Code § 14-121-406(b) concerning condemnation of
 36 land by the commissioners of a drainage improvement district, is amended to

1 read as follows:

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

7 ~~(2) This action shall be in accordance with the proceedings for~~
 8 ~~condemnation of rights of way by railroad, telegraph, and telephone~~
 9 ~~companies, with the same right of paying into court a sum to be fixed by the~~
 10 ~~circuit court or judge, and proceeding with the work before assessment by the~~
 11 ~~jury~~ An action under subdivision (b)(1) of this section shall be exercised in
 12 the manner provided in § 18-15-103.

13

14 SECTION 33. Arkansas Code § 14-121-406(c) concerning condemnation of
 15 land by the commissioners of a drainage improvement district, is repealed.

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

20

21 SECTION 34. Arkansas Code § 14-121-804(b), concerning access to land
 22 for drainage ditch improvement projects, is amended to read as follows:

23 (b) If ~~any~~ an intervening landowner should refuse permission to cross
 24 his lands with ~~such~~ a ditch, the landowner seeking to construct the ditch
 25 may, by proceedings in the circuit court to be ~~conducted in the same manner~~
 26 ~~as condemnation proceedings instituted by railroad, telegraph, and telephone~~
 27 ~~companies~~ exercised in the manner provided in § 18-15-103, condemn a right-
 28 of-way for the ditch.

29

30 SECTION 35. Arkansas Code § 14-121-804(c), concerning access to land
 31 for drainage ditch improvement projects, is repealed.

32 ~~(c) In those proceedings, the jury shall deduct from the damages the~~
 33 ~~benefits that will accrue to the intervening landowner by the construction of~~
 34 ~~the ditch, and the intervening landowner shall have the right to use the~~
 35 ~~ditch for the drainage of his own lands.~~

36

1 SECTION 36. Arkansas Code § 14-121-808(c), concerning construction of
 2 ditches beyond drainage improvement district limits,, is amended to read as
 3 follows:

4 ~~(c) The proceedings for the right of way shall be the same that are~~
 5 ~~now provided by law for the condemnation of the rights of way for railroads,~~
 6 ~~telegraphs, and telephones~~ A proceeding under subsection (b) of this section
 7 shall be exercised in the manner provided in § 18-15-103.

8
 9 SECTION 37. Arkansas Code § 14-121-1107(b)(2), concerning the powers
 10 of the board of directors of merged drainage improvement districts, is
 11 amended to read as follows:

12 ~~(2) Condemnation proceedings therefor shall be instituted and~~
 13 ~~conducted in the manner as is now provided in §§ 18-15-1001—18-15-1010 and~~
 14 ~~provided further damages shall be paid for any easement or flowage right or~~
 15 ~~increased use or servitude on any lands by reason of increasing the amount or~~
 16 ~~depth of water on those lands regardless of whether the lands are protected~~
 17 ~~or unprotected by levees, and those damages shall be in addition to damages~~
 18 ~~set out in §§ 18-15-1001—18-15-1010. Any action for taking of property or~~
 19 ~~damaging property as provided in this subchapter or in §§ 18-15-1001—18-15-~~
 20 ~~1010 shall be commenced within five (5) years from the time the cause of~~
 21 ~~action accrues~~ A proceeding under subdivision (b)(1) of this section shall be
 22 exercised in the manner provided in § 18-15-103.

23
 24 SECTION 38. Arkansas Code § 14-122-111(a) and (b), concerning the
 25 power of eminent domain for municipal drainage improvement districts, are
 26 amended to read as follows:

27 (a) The right and power of eminent domain is conferred ~~upon~~ on a
 28 district to enter upon, take, and condemn private property for the
 29 construction of improvements described in the plan of improvement, and the
 30 right and power of eminent domain ~~conferred~~ shall be exercised by the
 31 district in ~~accordance with the procedures in §§ 18-15-301—18-15-307, as~~
 32 ~~amended~~ the manner provided in § 18-15-103.

33 (b) The right and power conferred shall include without limitation the
 34 right and power to enter upon lands and proceed with the work of construction
 35 ~~prior to~~ before the assessment and payment of damages and compensation ~~upon~~
 36 on posting a deposit by the district in ~~accordance with the procedure~~

1 ~~described in §§ 18-15-301 — 18-15-303, as amended~~ the manner provided in §
 2 18-15-103.

3
 4 SECTION 39. Arkansas Code § 14-125-704 is amended to read as follows:
 5 14-125-704. Acquiescence in damage assessment – Demand for assessment –
 6 Condemnation.

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

10 (b)(1) He or she shall be construed to have done so unless he or she
 11 gives to the board, not later than the date of the hearing provided for in §
 12 14-125-703, notice in writing that he or she demands an assessment of his or
 13 her damages by a jury.

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

20 (B) An action under subdivision (b)(2)(A) of this section
 21 shall be exercised in the manner provided in § 18-15-103.

22
 23 SECTION 40. Arkansas Code § 14-137-112(c), concerning the authority of
 24 a public facilities board to acquire and transfer facilities, is amended to
 25 read as follows:

26 (c) Public facilities boards ~~which~~ that operate water works facilities
 27 ~~may~~ shall exercise the power of eminent domain in ~~accordance with the~~
 28 ~~procedures prescribed by § 18-15-201 et seq~~ the manner provided for in § 18-
 29 15-103.

30
 31 SECTION 41. Arkansas Code § 14-139-104 is amended to read as follows:
 32 14-139-104. Right of eminent domain.

33 ~~For the purpose of acquiring~~ To acquire any exhibition grounds and
 34 buildings to be used in connection with the exhibition of livestock under ~~the~~
 35 ~~provisions of~~ this chapter, or ~~for the purpose of acquiring~~ to acquire any
 36 property necessary thereof, the municipality shall have the right of eminent

1 domain as ~~is~~ provided for in §§ 18-15-301 – 18-15-303 and ~~any acts amendatory~~
 2 ~~or supplemental to it~~ shall exercise the power of eminent domain in the
 3 manner provided in § 18-15-103.

4
 5 SECTION 42. Arkansas Code § 14-140-207 is amended to read as follows:

6 14-140-207. Acquisition of property and property rights.

7 For the purposes of this subchapter, the market authority ~~is authorized~~
 8 ~~to~~ may acquire private or public, real or personal property and property
 9 rights necessary for market facilities or other purposes by purchase, eminent
 10 domain exercised in the manner provided in § 18-15-103, gift, lease, or
 11 otherwise.

12
 13 SECTION 43. Arkansas Code § 14-143-120 is amended to read as follows:

14 14-143-120. Acquisition of property.

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

23 (b) Should an authority elect to exercise the right of eminent domain,
 24 condemnation proceedings shall be maintained by and in the name of the
 25 authority, and ~~it may proceed~~ shall be exercised in the manner provided by
 26 ~~the general laws of the State of Arkansas for the procedure by any county,~~
 27 ~~municipality, or authority organized under the laws of this state, or by~~
 28 ~~railroad corporations, as the authority may, in its discretion, elect~~ in §
 29 18-15-103.

30
 31 SECTION 44. Arkansas Code § 14-144-205(a), concerning the power of a
 32 research park authority, is amended to read as follows:

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

36 (2) The exercise of eminent domain under subdivision (a)(1) of

1 this section shall be in the manner provided in § 18-15-103.
2

3 SECTION 45. Arkansas Code § 14-163-206(a)(2), concerning the authority
4 of a city industrial commission, is amended to read as follows:

5 (2) The acquisition by gift, purchase, negotiation, or
6 condemnation under the power of eminent domain exercised in the manner
7 provided in § 18-15-103, the construction, reconstruction, extension,
8 equipment, owning, leasing, with or without options to purchase and with or
9 without options to extend or renew, and the selling, the contracting
10 concerning, or otherwise dealing in, with, or disposing of, any lands,
11 buildings, machinery, or other personal property and facilities of any ~~and~~
12 ~~every~~ nature whatever necessary ~~or desirable~~ in connection with the
13 establishing, developing, and improving of harbors, ports, and river-rail and
14 barge terminals, and the improving of ~~such portions~~ the parts of waterways as
15 ~~may be necessary or desirable~~ in connection with them, which waterways are
16 not within the exclusive jurisdiction of the federal government;
17

18 SECTION 46. Arkansas Code § 14-163-206(a)(4), concerning the authority
19 of a city industrial commission, is amended to read as follows:

20 (4) The acquisition by gift, purchase, negotiation, or
21 condemnation under the power of eminent domain exercised in the manner
22 provided in § 18-15-103, the construction, reconstruction, extension,
23 equipment, owning, leasing, with or without options to purchase and with or
24 without options to extend or renew, and the selling, the contracting
25 concerning, or otherwise dealing in, with, or disposing of, any lands,
26 buildings, machinery, or other personal property and facilities of any ~~and~~
27 ~~every~~ nature whatever necessary ~~or desirable~~ in connection with the securing
28 and developing of factories, industries, river transportation, industrial
29 sites, and facilities for them within and adjacent to any city;
30

31 SECTION 47. Arkansas Code § 14-168-304(7)(B), concerning the powers of
32 a local government, is amended to read as follows:

33 (B) ~~The rules and procedures set forth in §§ 18-15-301—~~
34 ~~18-15-307 shall govern all~~ condemnation proceedings authorized in this
35 subchapter shall be exercised in the manner provided in § 18-15-103;
36

1 SECTION 48. Arkansas Code § 14-169-215(4), concerning the power of a
2 housing authority, is amended to read as follows:

3 (4) To acquire real property by the exercise of the power of
4 eminent domain ~~any real property in the manner provided in § 18-15-103;~~

5
6 SECTION 49. Arkansas Code § 14-169-605(a), concerning the rights of a
7 housing authority, is amended to read as follows:

8 (a) In undertaking development projects, a housing authority shall
9 have all the rights, powers, privileges, and immunities that a housing
10 authority has under the Housing Authorities Act, §§ 14-169-201 – 14-169-205,
11 14-169-207 – 14-169-225, 14-169-227, 14-169-229 – 14-169-240, ~~and 14-169-804~~
12 § 14-169-804, and any other ~~provision of~~ law relating to slum clearance and
13 housing projects for persons of low income, including, without limiting the
14 generality of the foregoing, the power to make and execute contracts, to
15 issue bonds and other obligations and give security therefor, to acquire real
16 property by eminent domain in the manner provided in § 18-15-103 or purchase,
17 and to do ~~any and~~ all things necessary to carry out projects, in the same
18 manner as though all the provisions of law applicable to slum clearance and
19 housing projects were applicable to redevelopment projects undertaken under
20 this subchapter.

21
22 SECTION 50. Arkansas Code § 14-169-802(a)(2), concerning the power of
23 eminent domain for housing authorities, is amended to read as follows:

24 (2) An urban renewal agency may exercise the power of eminent
25 domain in the manner ~~prescribed by law for condemnation by railroad~~
26 ~~corporations in this state as prescribed by §§ 18-15-1202 – 18-15-1207 and~~
27 ~~acts amendatory thereof or supplementary thereto; the urban renewal agency~~
28 ~~may exercise the power of eminent domain in the manner provided by any other~~
29 ~~applicable statutory provisions for the exercise of the power of eminent~~
30 domain provided in § 18-15-103.

31
32 SECTION 51. Arkansas Code § 14-184-116(b) concerning the power of
33 eminent domain for central business improvement districts, is amended to read
34 as follows:

35 (b) The right and power of eminent domain conferred by this section
36 shall be exercised by the district ~~in accordance with the procedures in §§~~

1 ~~18-15-301—18-15-307~~ in the manner provided in § 18-15-103.

2
3 SECTION 52. Arkansas Code § 14-184-117(2), concerning the power of
4 eminent domain for municipal governing bodies, is amended to read as follows:

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

7 (B) ~~Except as otherwise provided in this subchapter, the~~
8 ~~rules and procedures set forth in §§ 18-15-301—18-15-307 shall govern all~~
9 ~~condemnation proceedings~~ An action under subdivision (2)(A) of this section
10 shall be exercised in the manner provided in § 18-15-103;

11
12 SECTION 53. Arkansas Code § 14-185-111(b), concerning the power of a
13 port authority, is amended to read as follows:

14 (b) If an authority determines to exercise the right of eminent
15 domain, it ~~may~~ shall be exercised in the manner provided for taking private
16 property ~~for railroads as provided by §§ 18-15-1202—18-15-1207, in the~~
17 ~~manner provided by §§ 18-15-301—18-15-307, or in the manner provided by any~~
18 ~~other statutes enacted for the exercise of the power of eminent domain by the~~
19 ~~State of Arkansas, or by any of its officers, departments, agencies, or~~
20 ~~political subdivisions~~ under § 18-15-103.

21
22 SECTION 54. Arkansas Code § 14-201-110(a)(2), concerning the general
23 powers of a municipal commission, is amended to read as follows:

24 (2) Without limiting the generality of the foregoing, the
25 commission ~~is empowered to~~ may acquire, construct, and equip ~~any and~~ all
26 facilities, consisting of real property, personal property, or mixed property
27 of any ~~and every~~ kind, which in the judgment of the commission are necessary
28 ~~or useful~~ as a part of or in connection with the municipal waterworks and
29 distribution system or electric light plant and system, or both, including,
30 without limitation, facilities for the generation of electric power and
31 related transmission facilities, which may be located ~~within or without~~
32 inside or outside the corporate boundaries of the city. In furtherance of its
33 authority to construct facilities for the distribution or transmission of
34 electric energy and to provide its customers reliable utility service, the
35 commission is granted the right of eminent domain outside the corporate
36 limits of the municipality creating the commission, but ~~subject to the~~

1 ~~provisions of~~ under § 14-201-102(b) and only within the contiguous service
 2 territory as heretofore or hereafter granted to the municipality by the
 3 Arkansas Public Service Commission and in ~~accordance with the procedures of~~
 4 ~~§§ 18-15-301—18-15-308 and as those sections may be amended~~ the manner
 5 provided in § 18-15-103.

6
 7 SECTION 55. Arkansas Code § 14-205-112(b), concerning the power of
 8 eminent domain of a municipal corporation, is amended to read as follows:

9 (b) The right and power of eminent domain, as conferred in this
 10 section, shall be exercised in the ~~same manner as is~~ provided in ~~§§ 18-15-301~~
 11 ~~—18-15-307 and any act amendatory or supplemental thereto~~ § 18-15-103.

12
 13 SECTION 56. Arkansas Code § 14-207-106(a), concerning the exercise of
 14 the power of eminent domain of a municipality, is amended to read as follows:

15 (a) At the conclusion of the six-month notification period, ~~in the~~
 16 ~~event that~~ if an agreement is not reached pursuant to § 14-207-103(a) or (b),
 17 or the municipality and the electric public utility disagree on the
 18 valuations described in § 14-207-104, but no later than three (3) years from
 19 certification of annexation or three (3) years from termination of any
 20 franchise agreement authorized by this subchapter, the municipality may,
 21 after paying, or, if applicable, commencing payment of, any amounts not in
 22 dispute and depositing into the registry of the court the amount in dispute,
 23 or such lesser amounts as the court, after hearing, determines to be just,
 24 exercise the right and power of eminent domain under the procedures of ~~§ 18-~~
 25 ~~15-301 et seq.~~ § 18-15-103, and may take possession of the properties and
 26 facilities and commence service to the customers as of the date it makes the
 27 deposit; ~~provided, however, that~~ if any compensation or damages for the
 28 properties, facilities, and customers taken shall be determined ~~in accordance~~
 29 ~~with~~ under § 14-207-104.

30
 31 SECTION 57. Arkansas Code § 14-218-133(b), concerning the power of
 32 eminent domain of a consolidated district, is amended to read as follows:

33 (b) ~~Suits~~ A suit brought by the board for condemnation of lands or
 34 rights-of-way ~~shall be deemed cases~~ is of public interest and shall be
 35 ~~advanced both by the circuit courts and Supreme Court~~ exercised in the manner
 36 provided in § 18-15-103.

1
2 SECTION 58. Arkansas Code § 14-232-113(b), concerning the power of
3 eminent domain of a county or municipality, is amended to read as follows:

4 (b) Such proceedings ~~may~~ shall be exercised in the manner ~~now~~ provided
5 for taking private property ~~for rights-of-way for railroads as set forth by~~
6 ~~§§ 18-15-1202 — 18-15-1207, or in the manner provided by §§ 18-15-301 — 18-~~
7 ~~15-307, or pursuant to any other applicable statutory provisions enacted for~~
8 ~~the exercise of the power of eminent domain by the various counties or~~
9 ~~municipalities in the State of Arkansas~~ under § 18-15-103.

10
11 SECTION 59. Arkansas Code § 14-233-107(15)(A), concerning the specific
12 powers of a sanitation authority, is amended to read as follows:

13 (15)(A) To have and exercise the power of eminent domain ~~for the~~
14 ~~purpose of acquiring~~ to acquire rights-of-way, easements, other properties
15 necessary in the construction or operation of its projects, property, or
16 business under subdivision (14) of this section and exercised ~~through the~~
17 ~~procedures under §§ 14-235-201 — 14-235-205 and 14-235-210~~ in the manner
18 provided in § 18-15-103;

19
20 SECTION 60. Arkansas Code § 14-234-111(e), concerning a municipality
21 providing service to an adjacent area, is amended to read as follows:

22 (e) ~~For the purpose of carrying~~ To carry out ~~the provisions of~~ this
23 section, a municipality shall have the right of eminent domain as ~~is~~ provided
24 in §§ 18-15-301 — 18-15-307 and exercised in the manner provided for in § 18-
25 15-103.

26
27 SECTION 61. Arkansas Code § 14-234-516 is amended to read as follows:

28 14-234-516. Eminent domain.

29 ~~For the purpose of acquiring~~ To acquire any waterworks system under ~~the~~
30 ~~provisions of~~ this subchapter, or ~~for the purpose of acquiring~~ to acquire any
31 properties necessary therefor, each of the municipalities joining together
32 under ~~the provisions of~~ this subchapter shall have the right of eminent
33 domain, as is provided in §§ 18-15-301 — 18-15-303 and shall be exercised in
34 the manner provided in § 18-15-103.

35
36 SECTION 62. Arkansas Code § 14-235-210(a)(3), concerning action

1 regarding the power of eminent domain for municipal sewage systems, is
2 amended to read as follows:

3 ~~(3) Proceedings for such appropriation of property shall be~~
4 ~~under and pursuant to the provisions of §§ 18-15-301—18-15-303 and any acts~~
5 ~~supplemental to it. However, a municipality shall be under no obligation to~~
6 ~~accept and pay for any property condemned or purchased except from the funds~~
7 ~~provided pursuant to this subchapter. An action under this subsection shall be~~
8 ~~exercised in the manner provided in § 18-15-103.~~

9
10 SECTION 63. Arkansas Code § 14-235-210(a)(4), concerning action
11 regarding the power of eminent domain for municipal sewage systems, is
12 repealed.

13 ~~(4)(A) In any proceedings to condemn, such orders may be made as may~~
14 ~~be just to the municipality and to the owners of the property to be~~
15 ~~condemned.~~

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

22
23 SECTION 64. Arkansas Code § 14-238-112(c), concerning the rights of
24 rural waterworks facilities boards to acquire property, is amended to read as
25 follows:

26 ~~(c) Boards may~~ A board shall exercise the power of eminent domain in
27 ~~accordance with the procedures prescribed by § 18-15-201 et seq.,~~ the manner
28 provided in § 18-15-103.

29
30 SECTION 65. Arkansas Code § 14-250-111(9), concerning the powers of a
31 wastewater district, is amended to read as follows:

32 (9) To have and exercise the right of eminent domain ~~for the~~
33 ~~purpose of acquiring~~ to acquire rights-of-way and other properties necessary
34 in the construction or operation of its property and business in the manner
35 ~~now provided by the condemnation laws of this state for acquiring private~~
36 ~~property for public use~~ in § 18-15-103;

1
2 SECTION 66. Arkansas Code § 14-269-103(d)(2), concerning the general
3 authority of a municipality, is amended to read as follows:

4 (2) The proceedings ~~may~~ shall be exercised in the manner
5 provided for taking private property ~~for rights-of-way for railroads as set~~
6 ~~forth in §§ 18-15-1202—18-15-1207, or in the manner provided by §§ 18-15-~~
7 ~~301—18-15-307, or pursuant to any other applicable statutory provisions for~~
8 ~~the exercise of the power of eminent domain by the various municipalities in~~
9 ~~the State of Arkansas~~ under § 18-15-103.

10
11 SECTION 67. Arkansas Code § 14-298-120(d) concerning opening,
12 changing, and classifying roads by order of a county court, is amended to
13 read as follows:

14 ~~(d)(1) On filing the petition, the county court shall set a date for~~
15 ~~the hearing~~ An action under this section shall be exercised in the manner
16 provided in § 18-15-103.

17 ~~(2) If service is not obtained, then by one (1) insertion for~~
18 ~~two (2) weeks at least thirty (30) days before the hearing in some newspaper~~
19 ~~having a general circulation in the county, the county clerk shall publish a~~
20 ~~notice as to the filing of the petition, naming the day on which the county~~
21 ~~court will hear the parties and those for and those against the opening of~~
22 ~~the road.~~

23
24 SECTION 68. Arkansas Code § 14-298-120(e)-(1), concerning opening,
25 changing, and classifying roads by order of a county court, are repealed.

26 ~~(e) On the day named, the county court shall hear those for and~~
27 ~~against the opening of the petitioned road and shall grant or deny the prayer~~
28 ~~of the petitioners as may be deemed wise and expedient by the court and shall~~
29 ~~make and cause to be entered an appropriate court order either laying out or~~
30 ~~changing the road or denying the petition.~~

31 ~~(f) Upon the entry of the foregoing order of the county court, the~~
32 ~~clerk of the court within ten (10) days shall cause a copy of the order to be~~
33 ~~served upon each of the owners of record of any lands affected by the order.~~
34 ~~The service shall be in the form and manner provided by law for service in~~
35 ~~civil actions.~~

36 ~~(g) Upon return to be made by the sheriff showing service of the order~~

1 upon any landowner, the clerk shall note in the records of the county court
2 the record of the service, showing the date thereof and the person served,
3 which shall be and become a part of the permanent records of the court.

4 (h) Upon the entry of the order by the county court, the records shall
5 constitute valid constructive notice to all subsequent purchasers of the
6 lands and all other persons acquiring or holding the lands by or through the
7 landowners affected.

8 (i) If the owner of the land over which any road shall hereafter be so
9 laid out by the court shall refuse to give a right of way therefor, then the
10 owner shall have the right to present his or her verified claim to the county
11 court for damages the owner may claim by reason of the road's being laid out
12 on his or her land.

13 (j) If the owner is not satisfied with the amount allowed by the
14 court, he or she shall have the right to appeal, as now provided by law from
15 judgments of the county court.

16 (k) However, no claim shall be presented for such damages after twelve
17 (12) months from the date of the service of the order as provided in this
18 section. When the order is made and entered of record laying out or changing
19 any road, the county court or judge thereof shall have the right to enter
20 upon the lands of the owner and proceed with the construction of the road.
21 All damages allowed under this section shall be paid out of any funds
22 appropriated for roads and bridges, and if no funds are so appropriated, then
23 damages shall be paid out of the general revenue fund of the county.

24 (l) This section and § 27-67-212 shall be cumulative to all existing
25 laws and parts of laws, and shall not be construed as to repeal any existing
26 laws or parts of laws, unless they are in conflict herewith, and then only to
27 the extent of the conflict.

28
29 SECTION 69. Arkansas Code § 14-298-121(d), concerning opening or
30 altering roads in counties voting for road tax generally, is amended to read
31 as follows:

32 (d)(1) ~~On filing the petition, the county court shall set a date for~~
33 ~~the hearing~~ An action under this section shall be exercised in the manner
34 provided in § 18-15-103.

35 (2)(A) ~~It shall be the duty of one (1) of the petitioners to~~
36 ~~give at least thirty (30) days' notice in writing to the owners as required~~

1 by ~~§ 14-298-108.~~

2 ~~(B) If service is not obtained, then by one (1) insertion~~
3 ~~for two (2) weeks in some newspaper published and having a general~~
4 ~~circulation in the county, the county clerk shall publish a notice as to the~~
5 ~~filing of the petition and naming the day on which the county court will hear~~
6 ~~the parties and those for and against the opening of the road.~~

7
8 SECTION 70. Arkansas Code § 14-298-121(e)-(g), concerning opening or
9 altering roads in counties voting for road tax generally, are repealed.

10 ~~(e) On the day named, the county court shall hear those for and~~
11 ~~against the opening of the petitioned for road and shall grant or deny the~~
12 ~~prayer of the petitioners as they may be deemed wise and expedient by the~~
13 ~~court and shall make and cause to be entered an appropriate court order~~
14 ~~either laying out the road or denying the petition.~~

15 ~~(f) If the owner of the land over which any road shall hereafter be so~~
16 ~~laid out by the court shall refuse to give a right-of-way therefor or to~~
17 ~~agree upon the damages therefor, then that owner shall have the right to~~
18 ~~present his or her verified claim to the county court for such damages as the~~
19 ~~owner may claim by reason of the road being laid out on his or her land, and~~
20 ~~if the owner is not satisfied with the amount allowed by the court, the owner~~
21 ~~shall have the right to appeal as now provided by law from judgments of the~~
22 ~~county court.~~

23 ~~(g)(1) However, no claim shall be presented for the damages after~~
24 ~~twelve (12) months from the date of the order laying out or changing any~~
25 ~~road.~~

26 ~~(2) When the order is made and entered of record laying out or~~
27 ~~changing any road, the county court or county judge shall have the right to~~
28 ~~enter upon the lands of the owner and proceed with the construction of the~~
29 ~~road.~~

30 ~~(3) All damages allowed under this chapter shall be paid out of~~
31 ~~any funds appropriated for roads and bridges, and if no such funds exist,~~
32 ~~then damages shall be paid out of the general revenue fund of the county.~~
33

34 SECTION 71. Arkansas Code § 14-298-122 is repealed.

35 ~~14-298-122. Opening or altering roads in counties voting for road tax—~~
36 ~~Notice by actions.~~

1 ~~(a) The purpose of this section is to establish a rule defining what~~
 2 ~~actions have supplied the requisite notice to affected landowners of the~~
 3 ~~condemnation of their property by county court orders effected pursuant to §~~
 4 ~~14-298-121.~~

5 ~~(b) Entry and notice shall mean:~~

6 ~~(1) Any construction work performed on a road, street, or~~
 7 ~~highway where the right of way thereof condemned by the county court is on a~~
 8 ~~new location was entry and was notice of the existence of the condemnation~~
 9 ~~order, from the date of performance of the work, to the person owning, prior~~
 10 ~~to the court order, the property entered upon;~~

11 ~~(2) Where the right of way condemned by a county court order~~
 12 ~~included an existing road, street, or highway, construction work on the~~
 13 ~~right of way which was more than the mere resurfacing or reconditioning of~~
 14 ~~the existing road, street, or highway, was entry and was notice of the~~
 15 ~~existence of the condemnation order to the person owning, prior to the court~~
 16 ~~order, the property entered upon.~~

17
 18 SECTION 72. Arkansas Code § 14-298-123(d), concerning the replacement
 19 of washed-out roads, is amended to read as follows:

20 ~~(d) Appeals may be taken from the appointment and orders of the judge~~
 21 ~~and from the assessment allowed by the viewers as a jury to the owners of the~~
 22 ~~property, in the manner provided by this chapter, within the time allowed by~~
 23 ~~law, after the first regular term of the court thereafter held An action~~
 24 ~~under this section shall be exercised in the manner provided in § 18-15-103.~~

25
 26 SECTION 73. Arkansas Code § 14-301-101 is amended to read as follows:

27 14-301-101. City council – Powers and duties.

28 (a) The city council shall:

29 (1) Have the care, supervision, and control of all the public
 30 highways, bridges, streets, alleys, public squares, and commons within the
 31 city; and

32 (2) Cause those public highways, bridges, streets, alleys,
 33 public squares, and commons to be kept open and in repair, and free from
 34 nuisance.

35 (b) An action concerning the power of eminent domain under this
 36 chapter shall be exercised in the manner provided in § 18-15-103.

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SECTION 74. 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 § 18-15-103, gift, lease, or otherwise.

SECTION 75. 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 § 18-15-103, but without the necessity of making a deposit of money before entering into possession of the property condemned.

SECTION 76. 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 § 18-15-103, but ~~shall be~~ without the necessity of making a deposit of money before entering into possession of the property condemned.

SECTION 77. 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 § 18-15-103.

1
2 SECTION 78. Arkansas Code § 14-358-102(b), concerning the right of a
3 county to acquire property, is amended to read as follows:

4 (b) The power of eminent domain granted to counties by this section
5 shall be exercised in the ~~same manner and procedure as is prescribed for the~~
6 ~~exercise of this power by railroads~~ provided in § 18-15-103.

7
8 SECTION 79. Arkansas Code § 14-360-102(b), concerning the right of a
9 city to acquire property, is amended to read as follows:

10 (b) The procedure for the exercise of the right of eminent domain
11 shall be ~~that prescribed by law for the exercise of this power by railroads~~
12 exercised in the manner provided in § 18-15-103.

13
14 SECTION 80. Arkansas Code § 14-362-120 is amended to read as follows:
15 14-362-120. Acquisition of property.

16 ~~Whenever~~ If it shall be is deemed necessary by an authority, in
17 connection with the exercise of its powers conferred in this chapter, to take
18 or acquire any lands, structures, buildings, or other rights, either in fee
19 or as easements, for the purposes ~~set forth~~ stated in this chapter, the
20 authority may purchase them directly or through its agents from the owners
21 thereof, or failing to agree with the owners, the authority ~~may~~ shall
22 exercise the power of eminent domain in the manner provided ~~for condemnation~~
23 ~~proceedings under §§ 14-358-101, 14-358-102, and 14-360-102~~ in § 18-15-103,
24 and these purposes are declared to be public uses for which private property
25 may be taken or damaged.

26
27 SECTION 81. Arkansas Code § 15-11-206(b)(5), concerning the functions,
28 powers, and duties of the State Parks, Recreation, and Travel Commission, is
29 amended to read as follows:

30 (5) Acquire such land within the state as it may deem necessary
31 ~~or proper~~ to the extension, development, or improvement of the state park
32 system and, ~~when~~ if necessary to properly carry out its functions, to acquire
33 any real property by the exercise of its right of eminent domain, this right
34 being vested in the commission, in the manner provided in § 18-15-103;

35
36 SECTION 82. Arkansas Code § 15-20-1314(15), concerning the additional

1 powers of the Arkansas Natural Resources Commission, is amended to read as
2 follows:

3 (15) Have and exercise the right of eminent domain ~~for the~~
4 ~~purpose of acquiring~~ to acquire the fee title, an easement, a right-of-way,
5 or any other interest or estate in lands for projects or ~~portions~~ parts of
6 projects ~~by the procedure now in the manner~~ provided ~~condemnation by~~
7 ~~municipal corporations, § 18-15-401 et seq.~~ in § 18-15-103;
8

9 SECTION 83. Arkansas Code § 15-22-1212(a)(8), concerning the powers of
10 a county conservation board, is amended to read as follows:

11 (8) Have and exercise the power of eminent domain ~~for the~~
12 ~~purpose of acquiring~~ to acquire lands, rights-of-way, and other properties
13 necessary in the construction or operation of any water facilities in the
14 manner ~~now provided by the condemnation laws of this state for acquiring~~
15 ~~private property for public use~~ in § 18-15-103;
16

17 SECTION 84. Arkansas Code § 15-31-106(a)(8), concerning the functions,
18 powers, and duties of the Arkansas Forestry Commission, is amended to read as
19 follows:

20 (8) Purchase, lease, rent, or sell and receive bequests or
21 donations of any real, corporeal, or personal property, and, ~~when~~ if
22 necessary to properly carry out its functions, to acquire any real property
23 by the exercise of its right of eminent domain, ~~such~~ this right being vested
24 in the Arkansas Forestry Commission, in the manner provided in § 18-15-103;
25

26 SECTION 85. Arkansas Code § 15-72-606 is amended to read as follows:

27 15-72-606. Petition for eminent domain – Subsequent proceedings.

28 ~~(a)~~ Any natural gas public utility having first obtained a certificate
29 from the Oil and Gas Commission as provided in § 15-72-605 desiring to
30 exercise the right of eminent domain for the purpose of acquiring property
31 for the underground storage of natural gas shall do so in the manner provided
32 in ~~this section~~ § 18-15-103.

33 ~~(b)~~ ~~The natural gas public utility shall present to the circuit court~~
34 ~~of the county wherein the land is situated, or to the judge thereof, a~~
35 ~~petition setting forth the purpose for which the property is sought to be~~
36 ~~acquired, a description of the property sought to be appropriated, and the~~

1 ~~names of the owners thereof as shown by the records of the county.~~

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

5 ~~(d) The court or the judge thereof shall examine the petition and~~
 6 ~~determine whether the property is necessary to its lawful purposes, and if~~
 7 ~~found in the affirmative, the finding shall be entered of record and~~
 8 ~~subsequent proceedings shall follow the procedure by law for the exercise of~~
 9 ~~the right of eminent domain for rights of way for railroads as provided by §~~
 10 ~~18-15-1201 et seq.~~

11
 12 SECTION 86. Arkansas Code § 18-15-102 is amended to read as follows:

13 18-15-102. Actions against corporations appropriating private
 14 property.

15 (a) Whenever any corporation authorized by law to appropriate private
 16 property for its use shall have entered upon and appropriated any real or
 17 personal property, the owner of the property ~~shall have the right to bring an~~
 18 ~~action against the corporation in the circuit court of the county in which~~
 19 ~~the property is situated for damages for the appropriation at any time before~~
 20 ~~an action at law or in equity for the recovery of the property so taken, or~~
 21 ~~compensation therefor, would be barred by the statute of limitations may~~
 22 ~~bring an action in the manner provided in § 18-15-103.~~

23 (b) The measure of recovery in the action shall be the same as that
 24 governing proceedings by corporations for the condemnation of property.

25 ~~(c) Proceedings instituted under this section shall be governed by the~~
 26 ~~rules of pleading and practice prescribed for the government of proceedings~~
 27 ~~in the circuit court.~~

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

30 ~~(e) The court shall make the proper orders of the distribution of the~~
 31 ~~compensation recovered in the action among the parties as may be entitled~~
 32 ~~thereto and shall include in the judgment in the proceedings an order~~
 33 ~~condemning the property for the public use to which it may have been~~
 34 ~~appropriated.~~

35
 36 SECTION 87. Arkansas Code Title 18, Chapter 15, Subchapter 1, is

1 amended to add an additional section to read as follows:

2 18-15-103. Procedure for condemnation – Eminent domain.

3 (a) As used in this section, "entity" means:

4 (1) A department, agency, board, or commission of the state, or
5 a political subdivision of the state, including without limitation a city,
6 county, school district, and institution of higher education; and

7 (2) A private entity having the power of eminent domain.

8 (b) An entity having the right of eminent domain to condemn private
9 property under Arkansas state law shall use the procedure described in
10 subsection (c) of this section.

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

13 (1)(A) File a petition for condemnation of property in the
14 circuit court of the county in which the private property is located that
15 includes:

16 (i) A declaration that the private property listed
17 in the petition is taken for a public use;

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

20 (iii) A statement of the authority under which the
21 private property is acquired;

22 (iv) A legal description of the private property to
23 be condemned that is sufficient for the identification of the private
24 property and the owner of the private property; and

25 (v) An estimate of the market value of the private
26 property.

27 (B) If the private property is located in more than one
28 (1) county, the petition may be filed in any circuit court having
29 jurisdiction in any county in which the whole or part of the property may be
30 located.

31 (C) The proceedings had in the circuit court shall apply
32 to all property described in the petition;

33 (2) Deposit with the circuit clerk the amount of money estimated
34 by the entity to be just compensation for the private property to be
35 condemned; and

36 (3)(A) Provide notice to the owner of the private property in

1 the manner provided for under the Arkansas Rules of Civil Procedure.

2 (B) If the owner of the private property is a nonresident
3 of the state, notice shall be made:

4 (i) In the manner provided for under the Arkansas
5 Rules of Civil Procedure; and

6 (ii)(a) By publication in a newspaper in the county
7 that is authorized by law to publish legal notices.

8 (b) If there is no newspaper published in the
9 county, then by publication in a newspaper designated by the circuit clerk,
10 and one (1) written or printed notice shall be posted on the door of the
11 courthouse of the county of the court in which the petition for condemnation
12 of property shall be heard.

13 (c) The notice shall be published for the same
14 length of time as may be required in other civil cases.

15 (C) If the owner of the private property is a minor or a
16 person of unsound mind, notice shall be provided:

17 (i) To the owner's legal representative or guardian
18 in the manner provided for under the Arkansas Rules of Civil Procedure; and

19 (ii)(a) By publication in a newspaper in the county
20 that is authorized by law to publish legal notices.

21 (b) If there is no such newspaper published in
22 the county, then by publication in a newspaper designated by the circuit
23 clerk, and one (1) written or printed notice shall be posted on the door of
24 the courthouse of the county of the court in which the petition for
25 condemnation of property shall be heard.

26 (c) The notice shall be published for the same
27 length of time as may be required in other civil cases.

28 (d) The circuit court shall:

29 (1) Have jurisdiction over all real property designated in the
30 petition;

31 (2) Impanel a jury of twelve (12) persons, as in other civil
32 cases, to determine the amount of compensation that the entity shall pay;

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

1 (4)(A) Award an amount to include interest at the rate of six
2 percent (6%) per annum on the amount finally awarded as the value of the
3 property, from the date of the surrender of possession to the date of
4 payment, but interest shall not be allowed on any amount paid into court upon
5 the filing of the petition.

6 (B) However, a sum paid into court shall not be charged
7 with commission or poundage.

8 (e)(1) Upon the application of a party in interest and upon proper
9 notice to all parties, the court may order that the money deposited into the
10 court, or any part of the money deposited into the court, be paid immediately
11 to the person or persons entitled to money deposited into the court.

12 (2)(A) If the compensation finally awarded exceeds the amount
13 of money deposited into the court by ten percent (10%) or more, the court
14 shall enter judgment against the entity and in favor of the party entitled to
15 be compensated for the amount of the deficiency and shall award the party
16 entitled to judgment the party's costs, expenses, and reasonable attorney's
17 fees incurred in preparing and conducting the final hearing and adjudication,
18 including without limitation the cost of appraisals and fees for experts.

19 (B) If the final award of compensation is less than the
20 amount of money deposited into the court and paid to the party entitled to be
21 compensated, the court shall enter judgment in favor of the entity and
22 against the proper parties for the amount of the excess.

23
24 SECTION 88. Arkansas Code § 18-15-303 is amended to read as follows:

25 18-15-303. Municipal corporations – Power to condemn – Proceedings –
26 Controversy.

27 ~~(a)(1) When it shall be deemed necessary by any a~~ municipal
28 corporation deems it necessary to enter upon or take private property for a
29 permitted purpose, ~~an application in writing shall be made to the circuit~~
30 ~~court of the proper county, or the judge thereof in vacation, describing as~~
31 ~~correctly as may be the property to be taken, the object proposed, and the~~
32 ~~name of the owner of each lot or parcel thereof~~ the municipal corporation may
33 file an action in the manner provided in § 18-15-103.

34 ~~(2) Notice of the time and place of the application shall be~~
35 ~~given either personally in the ordinary manner of serving process or by~~
36 ~~publishing a copy of the application with a statement of the time and place~~

1 at which it is to be made. Notice shall be published for three (3) weeks
 2 preceding the time of the application in some newspaper of general
 3 circulation in the county.

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

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

14
 15 SECTION 89. Arkansas Code § 18-15-309(b), concerning the authority of
 16 a municipality to condemn property for the purpose of flood control
 17 improvements, is amended to read as follows:

18 (b) Cities of the first class and cities of the second class shall
 19 exercise the power of eminent domain for the purposes prescribed in
 20 subsection (a) of this section in accordance with the procedures and methods
 21 prescribed in §§ 18-15-303—18-15-307 or in accordance with the procedures
 22 and methods prescribed in § 18-15-401 et seq the manner provided for in § 18-
 23 15-103.

24
 25 SECTION 90. Arkansas Code § 18-15-403 is amended to read as follows:
 26 18-15-403. Preliminary proceedings for condemnation.

27 (a)(1) ~~When the If an operating authority determines to condemn~~
 28 ~~property, it shall file an application in the circuit court of the county~~
 29 ~~where any portion of the property to be condemned is situated, and~~
 30 ~~proceedings had in the court shall apply to all property described in the~~
 31 ~~application exercise the power of eminent domain in the manner provided in §~~
 32 18-15-103.

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

36 (3) ~~Both residents and nonresidents of the state shall be~~

1 ~~summoned as in other civil proceedings.~~

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

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

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

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

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

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

24
 25 SECTION 91. Arkansas Code § 18-15-407(e), concerning the authority of
 26 a municipality to condemn land to replace a state or county road, is amended
 27 to read as follows:

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

30 ~~(2) and in that event~~ If the county or state grants permission
 31 under subdivision (e)(1) of this section, the operating authority shall be
 32 entitled to may condemn rights-of-way for the roads ~~in its own name under~~
 33 ~~this subchapter or under any eminent domain act available to the county or~~
 34 ~~state~~ in the manner provided in § 18-15-103.

35
 36 SECTION 92. Arkansas Code § 18-15-408 is amended to read as follows:

1 18-15-408. Cemeteries and graves.

2 (a)~~(1)~~ An operating authority of a municipal waterworks system shall
 3 ~~file a notice of intent to condemn in the circuit court of the county where a~~
 4 ~~cemetery or graves are situated if the operating authority determines that:~~
 5 exercise the authority to condemn a cemetery or grave in the manner provided
 6 in § 18-15-103.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~(5)(A) Before filing the notice with the court, the municipality~~

1 shall be required to select a tract of land at least equal in size to the
2 cemetery to be condemned and shall describe the tract in the notice.

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

6 (6) ~~After the notice of intent has been published for four (4)~~
7 ~~weeks, as required by this section, the circuit court sitting without a jury~~
8 ~~shall determine if the proposed new location is suitable, and, if the court~~
9 ~~so finds, it shall enter an order to that effect. The owner of the cemetery~~
10 ~~or of the lands where the existing cemetery is located and the next of kin of~~
11 ~~any person buried in the cemetery or in the graves shall be entitled to~~
12 ~~appear in the proceeding and object to the proposed location and suggest~~
13 ~~other locations.~~

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

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

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

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

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

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

1 ~~(3)~~(2) However, ~~any~~ a surviving spouse or next of kin of a
 2 person whose grave is to be relocated may demand, ~~prior to~~ before removal
 3 from the old grave site, that the municipality pay the expense of removing
 4 the body of the decedent to a cemetery selected by the surviving spouse or
 5 next of kin, the municipality paying the reasonable cost of the removal and
 6 reinterment.

7 ~~(e)(c)(1)~~ If a municipality receives title for a cemetery or grave
 8 under this section, and the old cemetery site was fenced, the municipality
 9 shall ~~be required to~~ install a fence of similar type around the new cemetery
 10 site and shall be required to construct within the cemetery such hard-
 11 surfaced roads as may be necessary to give access to grave sites.

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

14
 15 SECTION 93. Arkansas Code § 18-15-503(b) and (c), concerning the
 16 powers of electric utilities, are amended to read as follows:

17 (b)(1) In the event that an electric utility, upon application to the
 18 private individual, railroad, turnpike company, or other persons, should fail
 19 to secure by consent, contract, or agreement, a right-of-way for the purposes
 20 enumerated in subsection (a) of this section, ~~then~~ the electric utility ~~shall~~
 21 ~~have the right to~~ may proceed to procure the condemnation of the property,
 22 lands, rights, privileges, and easements in the manner prescribed in ~~this~~
 23 ~~subchapter~~ § 18-15-103.

24 (2) However, an electric utility shall not be required to secure
 25 by consent, contract, or an agreement or to procure by condemnation the right
 26 to provide broadband services over its own lines of wire, cables, poles, or
 27 other structures that are in service at the time that the electric utility
 28 provides broadband services over the lines of wire, cables, poles, or other
 29 structures.

30 (c) ~~Whenever~~ If an electric utility desires to construct its line on
 31 or along the lands of individuals or other persons or on the right-of-way and
 32 the structures of ~~any~~ a railroad or upon and along ~~any~~ a turnpike, the
 33 electric utility, by its agent, ~~shall have the right to enter peacefully upon~~
 34 ~~the lands, structures, or right-of-way and survey, locate, and lay out its~~
 35 ~~line thereon, being liable, however, for any damage that may result by reason~~
 36 ~~of the acts~~ shall exercise its power of eminent domain in the manner provided

1 in § 18-15-103.

2
3 SECTION 94. Arkansas Code § 18-15-510(b)-(d), concerning the eminent
4 domain power of hydroelectric dams construction companies, are amended to
5 read as follows:

6 (b) The method or manner of making its survey, laying out its right-
7 of-way, acquiring its right-of-way, either by contract or condemnation, shall
8 be ~~the same as now provided by law in case of the exercise of the right of~~
9 ~~eminent domain by telegraph, telephone, and railroad companies~~ exercised in
10 the manner provided in § 18-15-103.

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

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

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

19 (b) ~~Whenever~~ If the municipal or other corporation, including not-for-
20 profit corporations and water associations, in the construction of its
21 waterworks, or in enlarging or extending the waterworks, or water
22 distribution or water transmission lines, ~~shall deem it desirable~~ decides to
23 condemn, take, use, or occupy private property in the construction of its
24 water treatment or storage facilities, water transmission or distribution
25 lines, or other appurtenances thereto, the corporation ~~may condemn, take, and~~
26 ~~use the private property, first making just compensation therefor, and~~
27 ~~proceed as provided in this subchapter~~ shall exercise the power of eminent
28 domain in the manner provided in § 18-15-103.

29
30 SECTION 96. Arkansas Code § 18-15-604 is amended to read as follows:
31 18-15-604. Petition.

32 ~~(a)(1) The~~ A municipal corporation or other corporation ~~se~~ intending
33 and desiring to condemn, take, and use the real estate ~~may present to the~~
34 ~~circuit court in and for the county in which the lands so proposed to be~~
35 ~~taken, condemned, and used are situated, a petition signed by the president~~
36 ~~and secretary of the corporation or water association or by the mayor,~~

1 ~~recorder, or other executive officer of the city, town, or village shall~~
 2 exercise the power of eminent domain in the manner provided in § 18-15-103.

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

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

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

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

27
 28 SECTION 97. Arkansas Code § 18-15-807(c), concerning the power of
 29 eminent domain for packet, coal, and stone companies, is amended to read as
 30 follows:

31 ~~(c) The proceedings for the condemnation of the landing and loading~~
 32 ~~places and rights of way shall be, in all things, the same as provided in §§~~
 33 ~~18-15-1202—18-15-1207~~ An action brought under this section shall be
 34 exercised in the manner provided in § 18-15-103.

35
 36 SECTION 98. Arkansas Code § 18-15-1002, concerning the power of

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

4 (e) An action brought under this section shall be exercised in the
 5 manner provided in § 18-15-103.

6
 7 SECTION 99. Arkansas Code §§ 18-15-1003 – 18-15-1006 are repealed.
 8 ~~18-15-1003. Appraisers.~~

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

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

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

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

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

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

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

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

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

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

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

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

14
 15 ~~18-15-1004. Petition—Appraisal—Summons.~~

16 (a) ~~Whenever any levee or drainage district deems it necessary to~~
 17 ~~take, use, or appropriate any right of way, land material, or other property~~
 18 ~~for levee, drain, ditch, or canal purposes pursuant to this section, §§ 18-~~
 19 ~~15-1001—18-15-1003, and §§ 18-15-1005—18-15-1010, or when the right-of-~~
 20 ~~way, land material, or other property has already been entered upon by it or~~
 21 ~~has already been used, taken, or appropriated, then the levee or drainage~~
 22 ~~district, by its president, secretary, attorney, or other authorized agent,~~
 23 ~~may file a petition with the clerk of the circuit court of the county in~~
 24 ~~which the property is situated, describing as near as may be practical the~~
 25 ~~property taken or proposed to be taken and asking that the appraisers make an~~
 26 ~~award to the owners of land or property.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

27
 28 ~~“To (name of supposed owner) and all other persons having any claim or~~
 29 ~~interest in and to the following described land, situated in County,~~
 30 ~~Arkansas, namely: (here describe the land over which the levee or~~
 31 ~~drainage passes according to U.S. Surveys). You are hereby warned to appear~~
 32 ~~in this court within thirty (30) days, and file exceptions to the award which~~
 33 ~~has been filed in this office by the levee and drainage appraisers of this~~
 34 ~~county for the appropriation of the portion of the hereinbefore described~~
 35 ~~land, for the construction or intended construction of a levee, ditch, canal,~~
 36 ~~or drain, as the case may be, over and across the same.”~~

1
2 ~~18-15-1005. Exception—Trial—Injunction.~~

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

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

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

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

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

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

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

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

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

30 ~~(2) However, whenever any levee or drainage district shall cause~~
31 ~~any land or property to be appraised, as provided in this section, §§ 18-15-~~
32 ~~1001—18-15-1004, and §§ 18-15-1006—18-15-1010, it may enter upon the land~~
33 ~~and construct the levee, ditch, canal, or drain over and across it without~~
34 ~~paying the award until such time as the court in any term time shall so order~~
35 ~~or direct.~~

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

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

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

10
11 ~~18-15-1006. Payment of award — Adjudication of claim.~~

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

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

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

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

1
2 SECTION 100. Arkansas Code § 18-15-1007 is amended to read as follows:
3 18-15-1007. Refusal to pay award upon abandonment of line.

4 ~~Any~~ A levee or drainage district may refuse to pay the award ~~which that~~
5 may have been made by any board or appraisers provided for in this section,
6 ~~§§ 18-15-1001—18-15-1006, and §§ 18-15-1008—18-15-1010~~ under § 18-15-103,
7 or the judgment of any court assessing the damages for right-of-way and may
8 abandon the line and relocate the levee, drain, ditch, or canal without being
9 liable for ~~any~~ an award or judgment rendered in ~~any~~ a proceeding for the
10 condemnation of right-of-way, except as to the costs.

11
12 SECTION 101. Arkansas Code §§ 18-15-1008 – 18-15-1010 are repealed.

13 ~~18-15-1008. Appropriation of land without owner's consent.~~

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

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

31
32 ~~18-15-1009. Limitation on actions and damages.~~

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

1 ~~(b) The recovery of damages on account of the construction or~~
 2 ~~maintenance of levees or drains shall be limited and confined to the elements~~
 3 ~~of damage mentioned and provided for in this section, §§ 18-15-1001—18-15-~~
 4 ~~1008, and § 18-15-1010.~~

5
 6 ~~18-15-1010. Fees.~~

7 ~~(a) The appraisers provided for in this section and §§ 18-15-1001—~~
 8 ~~18-15-1009 shall be entitled to receive as compensation for viewing and~~
 9 ~~appraising the land and property and making award of the damage therefor the~~
 10 ~~sum of five dollars (\$5.00) per day for each day in which the appraisers are~~
 11 ~~actually engaged in this service. The sum shall be paid by the levee or~~
 12 ~~drainage districts, as the case may be.~~

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

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

22
 23 SECTION 102. Arkansas Code § 18-15-1011(b), concerning acquisition of
 24 flowage and storage rights and other servitudes of levee or drainage
 25 districts and levee and drainage districts, is amended to read as follows:

26 ~~(b)(1) If it becomes necessary for any a levee or drainage district,~~
 27 ~~or levee and drainage district, to institute condemnation proceedings under~~
 28 ~~Acts 1905, No. 53, and § 14-120-217, to acquire flowage and storage rights~~
 29 ~~and other rights of servitudes over, upon, and across any lands embraced in~~
 30 ~~any floodway, reservoir, emergency reservoir, spillway, or diversion, then~~
 31 ~~all suits shall be prosecuted in the name of the district. If the district so~~
 32 ~~elects, all lands sought to be condemned for these purposes may be embraced~~
 33 ~~and included in one (1) suit an action brought under this section shall be~~
 34 ~~exercised in the manner provided in § 18-15-103.~~

35 ~~(2) All of the several and respective owners thereof, or other~~
 36 ~~person, firm, or corporation having an interest therein, shall be made~~

1 ~~parties defendant. It shall not be necessary or required that the district~~
 2 ~~institute independent and separate suits against the several and respective~~
 3 ~~owners of the land and rights sought to be condemned for these purposes.~~

4
 5 SECTION 103. Arkansas Code § 18-15-1202 is amended to read as follows:
 6 18-15-1202. Petition for condemnation.

7 ~~(a)(1) Any railroad, telegraph, or telephone company, organized under~~
 8 ~~the laws of this state, after having surveyed and located its lines of~~
 9 ~~railroad, telegraph, or telephone, in all cases in which the companies fail~~
 10 ~~to obtain the right-of-way over the property by agreement with the owner of~~
 11 ~~the property through which the lines of railroad, telegraph, or telephone may~~
 12 ~~be located, shall apply to the circuit court of the county in which the~~
 13 ~~property is situated exercise the power of eminent domain in the manner~~
 14 ~~provided in § 18-15-103.~~

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

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

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

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

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

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

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

36 ~~(3) In writing by certified mail, return receipt requested, to~~

1 ~~the address of the owners of the property as it appears on the records in the~~
2 ~~office of the county sheriff or county tax assessor for the mailing of~~
3 ~~statements of taxes as provided in § 26-35-705.~~

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

7
8 SECTION 104. Arkansas Code §§ 18-15-1203 – 18-15-1207 are repealed.

9 ~~18-15-1203. Appointment of guardian ad litem.~~

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

14
15 ~~18-15-1204. Assessment of damages by jury.~~

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

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

24
25 ~~18-15-1205. Payment or deposit of damages and costs.~~

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

32 ~~(b) After payment, it shall be lawful for the railroad company to~~
33 ~~enter upon, use, and have the right of way over the lands forever.~~

34
35 ~~18-15-1206. Deposit upon controversy.~~

36 ~~(a) In cases in which the determination of questions in controversy in~~

1 ~~the proceedings is likely to retard the progress of work on or the business~~
 2 ~~of the railroad company, the court, or judge in vacation, shall designate an~~
 3 ~~amount of money to be deposited by the company, subject to the order of the~~
 4 ~~court, for the purpose of making the compensation, when the amount thereof~~
 5 ~~has been assessed and the judge shall designate the place of the deposit.~~

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

11
 12 ~~18-15-1207. Failure to pay or deposit.~~

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

16
 17 SECTION 105. Arkansas Code § 18-15-1303 is amended to read as follows:

18 18-15-1303. Procedure for condemnation.

19 ~~In the event any~~ If a company fails, upon application to individuals,
 20 railroads, or turnpike companies, to secure the right-of-way by consent,
 21 contract, or agreement, ~~then~~ the corporation shall ~~have the right to proceed~~
 22 ~~to procure the condemnation of the property, lands, rights, privileges, and~~
 23 ~~easements in the manner provided by law for taking private property for~~
 24 ~~right of way for railroads as provided by §§ 18-15-1201—18-15-1207,~~
 25 ~~including the procedure for providing notice by publication and by certified~~
 26 ~~mail in § 18-15-1202~~ bring an action in the manner provided in § 18-15-103.

27
 28 SECTION 106. Arkansas Code § 18-15-1401(d), concerning the right of
 29 eminent domain for burial purposes, is amended to read as follows:

30 (d) The right of eminent domain granted by this section shall be
 31 exercised as provided in ~~this subchapter~~ § 18-15-103.

32
 33 SECTION 107. Arkansas Code § 18-15-1504(b), concerning the power of
 34 eminent domain of housing authorities, is amended to read as follows:

35 (b) An authority may exercise the power of eminent domain in the
 36 manner ~~prescribed in §§ 18-15-1202—18-15-1207 for condemnation by railroad~~

1 ~~corporations in this state, or it may exercise the power of eminent domain in~~
 2 ~~the manner provided by any other applicable statutory provisions for the~~
 3 ~~exercise of the power of eminent domain provided in § 18-15-103.~~

4
 5 SECTION 108. Arkansas Code § 18-15-1505(a), concerning the power of
 6 eminent domain of urban renewal agencies, is amended to read as follows:

7 (a)~~(1)~~(A) ~~From and after the passage of this act, any~~ An urban renewal
 8 agency in this state created ~~pursuant to the provisions of~~ under §§ 14-169-
 9 601 – 14-169-609, 14-169-701 – 14-169-713, and 14-169-801 ~~shall have~~ has the
 10 power of eminent domain to carry out urban renewal plan objectives.

11 ~~(B) The procedure to be followed by the urban renewal~~
 12 ~~agency to acquire property by eminent domain shall be that the board of~~
 13 ~~commissioners shall, by resolution, declare that: The power of eminent domain~~
 14 ~~under this section shall be exercised in the manner provided in § 18-15-103.~~

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

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

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

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

25 ~~(B) The urban renewal agency may exercise the power of~~
 26 ~~eminent domain in the manner provided by any other applicable statutory~~
 27 ~~provisions for the exercise of the power of eminent domain.~~

28
 29 SECTION 109. Arkansas Code § 18-15-1601(a) concerning the authority to
 30 condemn property of traction companies, is amended to read as follows:

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

1 (2) ~~The method and manner of making the traction company's~~
 2 ~~surveys, laying out its railways, or acquiring its right of way, either by~~
 3 ~~contract or condemnation, shall be the same as provided by law in case of the~~
 4 ~~exercise of the right of eminent domain by telegraph, telephone, and railroad~~
 5 ~~companies, under §§ 18-15-1201—18-15-1207, and it shall be subject to the~~
 6 ~~same duties and liabilities and have the same rights as prescribed in those~~
 7 ~~sections with reference to railroads~~ The power of eminent domain under this
 8 section shall be exercised in the manner provided in § 18-15-103.

9
 10 SECTION 110. Arkansas Code § 22-2-109(b)(2)(A), concerning the right
 11 of a state agency to acquire additional sites, is amended to read as follows:

12 (2)(A) ~~Condemnation proceedings under the power of eminent~~
 13 ~~domain may shall be exercised within Pulaski County, Arkansas, in the manner~~
 14 ~~now provided in §§ 18-15-1202—18-15-1207 or pursuant to any other~~
 15 ~~applicable statutory provisions for the exercise of the power of eminent~~
 16 ~~domain in the State of Arkansas or by any state agency~~ in the manner provided
 17 in § 18-15-103.

18
 19 SECTION 111. Arkansas Code § 22-3-1002(2), concerning the powers and
 20 duties of the Stadium Commission, is amended to read as follows:

21 (2) Purchase, lease, or rent any real property, or acquire any
 22 real property by the exercise of its right of eminent domain in the manner
 23 provided in § 18-15-103, that right being vested in the commission;

24
 25 SECTION 112. Arkansas Code § 23-15-101(b), concerning the power of
 26 eminent domain for common carriers, is amended to read as follows:

27 (b) ~~The procedure to be followed in the exercise of the right shall be~~
 28 ~~the same as prescribed in § 18-15-1201 et seq. relating to railroad~~
 29 ~~companies, telegraph companies, and telephone companies~~ The power of eminent
 30 domain under this section shall be exercised in the manner provided in § 18-
 31 15-103.

32
 33 SECTION 113. Arkansas Code § 23-15-105(d), concerning the power of
 34 eminent domain of pipeline companies authorized to transport ammonia and
 35 other components of fertilizer, is amended to read as follows:

36 (d)(1) All companies authorized ~~by the commission~~ to operate under

1 subsection (a) of this section ~~are given~~ may exercise the right of eminent
2 domain.

3 ~~(2) The procedure to be followed in the exercise of this right~~
4 ~~shall be the same as prescribed in § 18-15-1201 et seq. relating to railroad~~
5 ~~companies, telegraph companies, and telephone companies~~ The power of eminent
6 domain under this section shall be exercised in the manner provided in § 18-
7 15-103.

8
9 SECTION 114. Arkansas Code § 23-17-205 is amended to read as follows:
10 23-17-205. Powers of cooperative.

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

- 13 (1) Sue and be sued in its corporate name;
- 14 (2) Have perpetual existence unless limited for a shorter term
15 in its articles of incorporation;
- 16 (3) Adopt and use a corporate seal and to alter it;
- 17 (4) Furnish, improve, and expand telecommunications service to
18 its members, to federal and state agencies, and to other persons;
- 19 (5) Construct, purchase, lease as lessee, or otherwise acquire,
20 and to improve, expand, install, equip, maintain, and operate, and to sell,
21 assign, convey, lease as lessor, mortgage, pledge, or otherwise dispose of or
22 encumber telecommunications lines, facilities or systems, lands, buildings,
23 structures, plant and equipment, exchanges, and any other real or personal
24 property, tangible or intangible, which are necessary or appropriate to
25 accomplish any purpose of the cooperative authorized by this subchapter;
- 26 (6) Connect and interconnect its telecommunications lines,
27 facilities, or systems with telecommunications lines, facilities, or systems
28 owned and operated by other telecommunications companies or cooperatives;
- 29 (7) Make its facilities available to persons furnishing
30 telecommunications services within or without this state;
- 31 (8) Purchase, lease as lessee, or otherwise acquire, and to use
32 and exercise, and to sell, assign, convey, pledge, or otherwise dispose of,
33 or encumber franchises, rights, privileges, licenses, and easements;
- 34 (9) Fix membership fees, issue membership certificates, and
35 issue nonvoting shares of stock;
- 36 (10) Borrow money and otherwise contract indebtedness, to issue

1 and guarantee notes, bonds, and other evidences of indebtedness, and secure
2 the same by mortgage, pledge, deed of trust, or security deed, or any other
3 encumbrances upon any or all of its then-owned or after-acquired real or
4 personal property, assets, franchises, or revenues;

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

12 (12) Exercise the power of eminent domain in the manner ~~and to~~
13 ~~the same extent as provided by the laws of this state for the exercise of~~
14 ~~such power by telecommunications companies~~ provided in § 18-15-103;

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

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

18 (15) Accept gifts or grants of money, services, or property,
19 real or personal; and

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

23
24 SECTION 115. Arkansas Code § 23-17-236(b), concerning the power of
25 eminent domain telecommunications cooperatives, is amended to read as
26 follows:

27 (b) If a cooperative places or utilizes any telecommunications line,
28 cable, or facility over, upon, or under lands owned or occupied by a
29 nongovernmental entity with eminent domain rights under Arkansas law, the
30 nongovernmental entity ~~shall be entitled to just compensation of ten cents~~
31 ~~(10¢) per linear foot traversed on such entity's land. The reasonableness of~~
32 ~~the just compensation for use of the nongovernmental entity's land shall be~~
33 ~~presumed. This presumption shall be rebuttable, but in no event shall the~~
34 ~~just compensation paid by the cooperative exceed the diminution in value of~~
35 ~~the land traversed resulting from the use~~ may bring an action in the manner
36 provided in § 18-15-103.

1
2 SECTION 116. Arkansas Code § 23-18-307(14) concerning the powers of
3 eminent domain of electric cooperative corporations, is amended to read as
4 follows:

5 (14) To have and exercise the right of eminent domain for the
6 purpose of acquiring rights-of-way and other properties necessary or useful
7 in the construction or operation of its properties and ~~in the manner now~~
8 ~~provided by the condemnation laws of this state for acquiring private~~
9 ~~property for public use~~ in the manner provided in § 18-15-103;

10
11 SECTION 117. Arkansas Code § 23-18-406(b), concerning the power of
12 eminent domain of waterpower corporations, is amended to read as follows:

13 (b)~~(1)~~ In all cases where the corporation fails to obtain by agreement
14 with the owner of the property the right to overflow or use ~~such~~ the lands or
15 the right-of-way for viaducts and electric transmission lines, ~~it may apply~~
16 ~~by petition to the circuit court in the counties in which the property is~~
17 ~~situated to have the damages for the overflowed lands or rights-of-way~~
18 ~~assessed, giving the owner of the property at least ten (10) days' notice in~~
19 ~~writing of the time and place where the petition will be heard~~ the
20 corporation may bring an action in the manner provided in § 18-15-103.

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

23 ~~(3) In case proceedings are had against infants or persons of~~
24 ~~unsound mind, it shall be the duty of the court to appoint a guardian ad~~
25 ~~litem, who shall represent their interest for all purposes.~~

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

29
30 SECTION 118. Arkansas Code § 23-18-406(c)-(f), concerning the power of
31 eminent domain of waterpower corporations, are repealed.

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

36 ~~(d) In all cases where damages have been assessed, it shall be the~~

1 ~~duty of the corporation to deposit with the clerk of the court or to pay to~~
2 ~~the owners the amount so assessed and to pay such costs as may be adjudged~~
3 ~~against it within thirty (30) days after the assessment, whereupon it shall~~
4 ~~be lawful for the corporation to enter upon the lands and proceed with the~~
5 ~~work of developing the waterpower.~~

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

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

18
19 SECTION 119. Arkansas Code § 23-18-407(b), concerning the power of
20 eminent domain of waterpower corporations for railroad construction in
21 connection with use or construction of dams, is amended to read as follows:

22 ~~(b) The method or manner of making its survey, laying out its right-~~
23 ~~of-way, and acquiring its right-of-way, either by contract or condemnation,~~
24 ~~shall be the same as now provided by law in case of the exercise of the right~~
25 ~~of eminent domain by telegraph, telephone, and railroad companies The power~~
26 ~~of eminent domain under this section shall be exercised in the manner~~
27 ~~provided in § 18-15-103.~~

28
29 SECTION 120. Arkansas Code § 23-18-510(d) concerning the power of
30 eminent domain for utility facilities, is amended to read as follows:

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

1 corridor.

2 (2) The power of eminent domain under subdivision (d)(1) of this
 3 section shall be exercised in the manner provided for in § 18-15-103.

4
 5 SECTION 121. Arkansas Code § 23-18-528 is amended to read as follows:
 6 23-18-528. Eminent domain.

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

9 (2) ~~Whenever~~ If a certificate has been issued to an applicant
 10 for the construction of any major utility facility under ~~the provisions of~~
 11 this subchapter and the applicant is unable to reach agreement with the owner
 12 of land to construct, operate, maintain, and obtain reasonable access to the
 13 major utility facility in accordance with the certificate, it may acquire the
 14 land by the exercise of the power of eminent domain ~~in a state court of~~
 15 ~~competent jurisdiction in the judicial district in which the land is located~~
 16 in the manner provided for in § 18-15-103.

17 ~~(b)(1) The petition shall contain or have annexed thereto:~~

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

20 ~~(B) A description of the land taken sufficient for the~~
 21 ~~identification thereof;~~

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

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

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

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

31 ~~(d)(1) After the filing of the petition and upon the deposit in court~~
 32 ~~of a sum determined by the court to be sufficient to secure compensation to~~
 33 ~~the owner of the property or interest therein sought to be condemned, the~~
 34 ~~court shall immediately enter an order finding title to the land in fee~~
 35 ~~simple absolute, or such less estate or interest therein as is prayed in the~~
 36 ~~petition, to be vested in the applicant. The land or interest therein shall~~

1 ~~be deemed to be condemned and taken for the use of the applicant. The right~~
 2 ~~to just compensation for the same fee or for such lesser interest as may be~~
 3 ~~taken shall vest in the person entitled thereto.~~

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

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

12 ~~(e) The compensation shall be determined by a jury pursuant to § 18-~~
 13 ~~15-506.~~

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

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

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

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

30
 31 SECTION 122. Arkansas Code § 25-20-203(a)(9), concerning the powers of
 32 a public body, is amended to read as follows:

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

1 provided in § 18-15-103; and
 2

3 SECTION 123. Arkansas Code § 25-20-309(a), concerning the power of
 4 eminent domain of a public body, is amended to read as follows:

5 (a) Any public body created under this subchapter may acquire by the
 6 exercise of the power of eminent domain any real property that it may deem
 7 necessary for its purposes, in the manner ~~prescribed in § 18-15-301 et seq.,~~
 8 ~~or § 18-15-401 et seq., or in the manner provided by any other statutory~~
 9 ~~provisions under which one (1) of the public body's participating public~~
 10 ~~agencies may exercise a power of eminent domain~~ provided in § 18-15-103.
 11

12 SECTION 124. Arkansas Code § 25-20-407(a)(1), concerning the power of
 13 eminent domain of an authority, is amended to read as follows:

14 (a)(1) Any authority may acquire any private property that it may deem
 15 necessary for its purposes by exercising the power of eminent domain in the
 16 manner ~~prescribed in § 18-15-301 et seq.,~~ provided in § 18-15-103.
 17

18 SECTION 125. Arkansas Code § 25-20-509(a), concerning the power of
 19 eminent domain of a public body, is amended to read as follows:

20 (a) A public body under this subchapter may acquire by the exercise of
 21 the power of eminent domain any real property, rights, easements, franchises,
 22 and other property that it finds necessary for its purposes ~~under § 18-15-301~~
 23 ~~et seq., or § 18-15-401 et seq., or in the manner provided by law under which~~
 24 ~~one (1) of the public body's participating public agencies may exercise a~~
 25 ~~power of eminent domain~~ in the manner provided in § 18-15-103.
 26

27 SECTION 126. Arkansas Code § 27-66-401 is amended to read as follows:

28 27-66-401. Establishment.

29 ~~(a)(1)~~ When the lands, dwelling house, or plantation of any owner is
 30 so situated as to render it necessary to have a road from such lands,
 31 dwelling house, or plantation to any public road or navigable watercourse
 32 over the lands of any other person and the other person refuses to allow that
 33 owner the road, the owner may ~~petition the county court to appoint viewers to~~
 34 ~~lay off the road, provided the owner gives written notice to the person~~
 35 ~~twenty (20) days before application to the court and attaches the written~~
 36 ~~notice to the petition~~ bring an action in the manner provided in § 18-15-103.

1 ~~(2) The written notice shall include the amount of payment the~~
2 ~~owner offers for the road.~~

3 ~~(b) The petition for an easement for ingress and egress to and from~~
4 ~~the petitioner's lands over, through, and across the respondent's lands to~~
5 ~~any public road or navigable watercourse shall be filed with the clerk of the~~
6 ~~county court and shall allege with particularity facts demonstrating that:~~

7 ~~(1) The written notice was provided by the petitioner to the~~
8 ~~respondent twenty (20) days before application to the court;~~

9 ~~(2) The respondent refused to convey to the petitioner the~~
10 ~~requested access easement; and~~

11 ~~(3) The petitioner lacked the legal right of ingress and egress~~
12 ~~to and from his or her lands across the respondent's lands or otherwise to a~~
13 ~~public road.~~

14 ~~(c) Copies of abstracts, deeds, or plats referenced in the petition~~
15 ~~shall be attached to the petition.~~

16 ~~(d) After the petition is filed, the county court shall issue a notice~~
17 ~~setting the time, date, and location of a preliminary hearing, and the~~
18 ~~hearing shall not be any earlier than sixty (60) days from the date of the~~
19 ~~petition's filing.~~

20 ~~(e)(1) In accordance with the Arkansas Rules of Civil Procedure, the~~
21 ~~petitioner shall serve the resident or nonresident respondent with a:~~

22 ~~(A) Summons;~~

23 ~~(B) Copy of the petition and any exhibits; and~~

24 ~~(C) Copy of the court notice of the preliminary hearing.~~

25 ~~(2) If service is not obtained, the notice shall be published~~
26 ~~one (1) time per week for two (2) consecutive weeks in a newspaper of general~~
27 ~~circulation in the county at the petitioner's expense. If there is no~~
28 ~~newspaper of general circulation in the county, the notice shall be posted at~~
29 ~~the county courthouse.~~

30 ~~(f)(1) The court may dismiss the case without prejudice and allow the~~
31 ~~petition to be refiled within one (1) year from dismissal if the court~~
32 ~~determines at the preliminary hearing that:~~

33 ~~(A) Required notices and service have not been provided to~~
34 ~~the respondent; or~~

35 ~~(B) The petition fails to sufficiently demonstrate the~~
36 ~~requirements of subsection (b) of this section.~~

1 ~~(2)(A)(i) If the court determines at the preliminary hearing~~
 2 ~~that required notices and service have been provided to the adjoining owner~~
 3 ~~who has refused the landlocked petitioner an access easement or to any other~~
 4 ~~adjoining owner that has been included in the petition and the petition~~
 5 ~~sufficiently demonstrates the requirements of subsection (b) of this section,~~
 6 ~~the court shall appoint viewers as provided under this section.~~

7 ~~(ii) The court shall give each party at least ten~~
 8 ~~(10) business days to submit up to three (3) potential viewers.~~

9 ~~(iii) The court shall give due consideration to all~~
 10 ~~potential viewers that were submitted by the parties and shall select one (1)~~
 11 ~~of the potential viewers submitted from each party and one (1) or more~~
 12 ~~viewers selected by the court for a total of three (3) viewers.~~

13 ~~(B) If viewers are appointed by the court, the court~~
 14 ~~shall:~~

15 ~~(i) Issue a preliminary order directing the~~
 16 ~~landlocked petitioner to deposit into the registry of the court an estimated~~
 17 ~~sum sufficient for payment of:~~

18 ~~(a) Viewers' fees and expenses;~~

19 ~~(b) The survey cost;~~

20 ~~(c) Damages related to the adjoining owner's~~
 21 ~~property, including without limitation an estimate of:~~

22 ~~(1) The loss of property value for the~~
 23 ~~area of acquisition;~~

24 ~~(2) The loss of exclusive use the~~
 25 ~~adjoining owner will realize; and~~

26 ~~(3) Damages to the owner's remaining~~
 27 ~~property; and~~

28 ~~(d) Notice and publication costs, if any;~~

29 ~~(ii) Set the time, date, and location of the~~
 30 ~~evidentiary hearing; and~~

31 ~~(iii) Require the funds deposited to be used~~
 32 ~~exclusively for the purposes stated under this subsection.~~

33
 34 SECTION 127. Arkansas Code § 27-67-311 is amended to read as follows:

35 27-67-311. Condemnation petition - Notice.

36 ~~(a)~~ The State Highway Commission may exercise its power of eminent

1 domain by filing an appropriate petition in condemnation in the circuit court
 2 of the county in which the property sought to be taken is situated, to have
 3 the compensation for right of way determined, giving the owner of the
 4 property to be taken at least ten (10) days' notice in writing of the time
 5 and place where the petition will be heard in the manner provided in § 18-15-
 6 103.

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

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

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

21 (d) ~~The condemnation petition shall describe the lands and property~~
 22 ~~sought to be acquired for state highway right-of-way purposes and shall be~~
 23 ~~sworn to.~~

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

28
 29 SECTION 128. Arkansas Code § 27-67-320 is amended to read as follows:

30 27-67-320. Acquisition when county court fails to grant petition.

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

1 action in the manner provided in § 18-15-103.

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

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

12
 13 SECTION 129. Arkansas Code § 27-69-104(3), concerning the powers and
 14 duties of state agencies, is amended to read as follows:

15 (3) Arrange for or rearrange fencing, cattle passes, or piping
 16 water supply to adjoining landowners; change overhead wires; construct
 17 underground wire and pipe crossings; reconstruct public and private roads;
 18 make surveys, and prepare land maps; and conduct condemnation suits in the
 19 manner provided in § 18-15-103, all without cost to the United States;
 20

21 SECTION 130. Arkansas Code § 27-69-104(4), concerning the powers and
 22 duties of state agencies, is amended to read as follows:

23 (4) Exercise the right of eminent domain in the manner provided
 24 in § 18-15-103 to appropriate and condemn land or waters of sufficient width
 25 to conform to the requirements of this subchapter and to convey them to the
 26 United States for parkway, easement, recreation, or conservation purposes
 27 with title to the land vesting in the state upon institution of such
 28 proceedings; and to acquire by fee simple areas, scenic and other easements,
 29 and areas requested for revetments, quarries, gravel, dredging, and borrow
 30 pits found necessary for parkway construction;
 31

32 SECTION 131. Arkansas Code § 27-76-401(10), concerning the powers of
 33 the board of directors of a regional mobility authority, is amended to read
 34 as follows:

35 (10) Acquire any property necessary to carry out the purposes of
 36 this chapter by exercising the power of eminent domain ~~as~~ in the manner

1 provided under ~~§ 27-76-501 et seq.~~ in § 18-15-103;

2
3 SECTION 132. Arkansas Code § 27-76-503 is amended to read as follows:

4 27-76-503. Condemnation ~~petition~~ - Compensation for right-of-way.

5 ~~(a) A regional mobility authority may~~ shall exercise its power of
6 eminent domain ~~by filing an appropriate petition in condemnation in the~~
7 ~~circuit court of the county in which the property sought to be taken is~~
8 ~~situated~~ in the manner provided in § 18-15-103 to have the compensation for
9 right-of-way determined.

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

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

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

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

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

23
24 SECTION 133. Arkansas Code § 27-76-504(b), concerning a declaration of
25 taking by a regional mobility authority, is amended to read as follows:

26 (b) The petitioner may file a declaration of taking at any time before
27 a judgment is signed or with the petition in condemnation in any proceeding
28 instituted by and in the name of the regional mobility authority in the
29 manner provided in § 18-15-103 that involves the acquisition of real
30 property, an interest in real property, or an easement.

31
32 SECTION 134. Arkansas Code § 27-76-505 is amended to read as follows:

33 27-76-505. Condemnation proceedings and judgment.

34 ~~(a) The circuit court shall impanel a jury of twelve (12) persons, as~~
35 ~~in other civil cases, to ascertain the amount of compensation that the~~
36 ~~regional mobility authority shall pay for the real property, the interest in~~

1 ~~the real property, or the easement which the regional mobility authority is~~
 2 ~~taking~~ A regional mobility authority shall exercise the power of eminent
 3 domain in the manner provided in § 18-15-103.

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

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

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

12
 13 SECTION 135. Arkansas Code § 27-87-106(b), concerning state
 14 establishment and operation of ferries, is amended to read as follows:

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

20 (2) The power of eminent domain under subdivision (b)(1) of this
 21 section shall be exercised in the manner provided in § 18-15-103.

22
 23 SECTION 136. Arkansas Code § 27-88-121 is amended to read as follows:
 24 27-88-121. Right of eminent domain.

25 (a) For the ~~purpose of~~ acquiring any land, rights, easements,
 26 franchises, or other real or personal property deemed to be necessary or
 27 convenient for the construction and reconstruction of any bridge or ferry, or
 28 for the acquisition of the approaches thereto, the State Highway Commission
 29 shall have the right of eminent domain, as is provided ~~in Acts 1927, No. 116,~~
 30 ~~§ 5 [repealed] and Acts 1933, No. 115, § 1 [repealed] and~~ in §§ 27-64-104 and
 31 27-67-316.

32 (b) The power of eminent domain under this section shall be exercised
 33 in the manner provided in § 18-15-103.

34
 35 SECTION 137. Arkansas Code § 27-90-202(a), concerning the authority of
 36 the State Highway Commission to undertake turnpike projects, is amended to

1 read as follows:

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

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

7 (ii) The power of eminent domain under subdivision
8 (a)(1)(A)(i) of this section shall be exercised in the manner provided in §
9 18-15-103.

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

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

25 (2) Apply for, receive, accept, and use any moneys and
26 properties from agencies of the United States Government, from any state or
27 other governmental agency or political subdivision, from any public or
28 private corporation, agency, or organization of any nature, and from any
29 individual or group of individuals;

30 (3) Establish accounts in one (1) or more banks and thereafter
31 from time to time make deposits in and withdrawals from such accounts and
32 otherwise invest or reinvest its money;

33 (4) Obtain the necessary funds for financing the objects
34 specified in this subchapter, including without limitation the proceeds of
35 the sale of revenue bonds as authorized in this subchapter;

36 (5) Fix, revise from time to time, charge, and collect tolls for

1 transit over each turnpike project constructed;

2 (6) Establish rules and regulations for the use of each turnpike
3 project;

4 (7) Employ consulting engineers, attorneys, accountants,
5 construction and financial experts, superintendents, and other employees and
6 agents that may be necessary in its judgment;

7 (8) Enter into and implement any agreements or compacts with the
8 United States or any state or any department or agency of the United States
9 or of any state, or a political subdivision of any state, or any person
10 concerning operation, revenues, or other matters pertaining to planning,
11 financing, constructing, and operating turnpike projects leading from this
12 state into another state or states and turnpike projects to be developed and
13 operated jointly, whether by the commission, by another party to the
14 agreement or compact, by an agency created pursuant to the agreement or
15 compact, or by another person, whether or not leading from this state into
16 another state or states; and

17 (9) Take ~~such~~ other action, not inconsistent with law, ~~as may be~~
18 necessary or desirable to carry out the powers conferred by this subchapter
19 and to carry out the intent and purposes of this subchapter.

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