

070585766

SENATE BILL NO. 1068

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on February 5, 2007)

(Patron Prior to Substitute—Senator McDougle)

A BILL to amend and reenact § 25.1-229 of the Code of Virginia, relating to jury selection in condemnation cases.

Be it enacted by the General Assembly of Virginia:

1. That § 25.1-229 of the Code of Virginia is amended and reenacted as follows:

§ 25.1-229. Selection of jurors.

A. The jury commissioners established pursuant to Chapter 11 (~~§ 8.01-336 et seq.~~) of Title 8.01 shall select condemnation jurors. Except as otherwise provided in this subsection section, the provisions of §§ ~~8.01-345, 8.01-346, 8.01-347, 8.01-356, and 8.01-358~~ relating to procedures for preparing this list from which members will be chosen, penalties for failure to appear and voir dire examination Chapter 11 (~~§ 8.01-336 et seq.~~) of Title 8.01 shall apply to the selection of condemnation jurors juries; mutatis mutandis. While preserving the random selection process set forth in § 8.01-345, the jury commissioner shall determine the freeholder status of individuals randomly selected by reference to tax rolls or other reliable data the judge of the circuit court deems appropriate.

B. The condemnation jury shall be comprised of five members. The members of the condemnation jury shall be drawn from the list submitted by the jury commission. The clerk shall, in the presence of the judge, after thoroughly mixing the ballots in the box, openly draw nine names therefrom. At the same time, the names of at least two additional persons shall be drawn to act as alternate jurors in the event of the death, absence, or disability of any acting juror. However, all All of the acting jurors and all of the names drawn for alternate jurors shall be freeholders of property within the jurisdiction. As soon as practicable thereafter, the clerk shall serve notice on the jurors so drawn to appear in court on the date set for trial. Alternatively, the procedures for selection by mechanical or electronic techniques as provided in § 8.01-350.1 may be utilized.

C. After each ballot containing a juror's name has been drawn, it shall be placed in a secure envelope maintained for the purpose of holding drawn ballots. The envelope shall be kept in the ballot box. No drawn ballot shall be returned to the pool of undrawn ballots until the pool has been exhausted, except as may be required to ensure that the required number of names drawn are freeholders of property within the jurisdiction. However, the clerk shall immediately return to the pool of undrawn ballots the ballot of any juror who was drawn but was excused by the court from appearing or was not required to appear because of trial cancellation. When the pool is exhausted, all ballots shall be returned to the box and drawing shall begin again. Alternatively, the procedures for selection by mechanical or electronic techniques as provided in § 8.01-350.1 may be utilized.

D. It shall be the duty of the clerk to notify each juror whose name has been drawn of the date on which he is to appear to hear the case. The notice shall be in writing and shall be delivered at least seven days prior to the trial. The clerk shall also promptly notify in writing the jurors who have been struck by pretrial challenge that they need not appear.

E. The court shall have the discretionary power to excuse a juror's attendance on any given day or for any specific case upon request of the juror for good cause shown. If a juror is so excused seven or more days prior to trial, a replacement juror shall be drawn and notified under the procedures provided in this section.

F. On the day set for trial, jurors who appear shall be called to be sworn on their voir dire until a disinterested and impartial panel is obtained. A juror may be stricken for cause. From the impartial panel the judge shall randomly select 13 jurors. From the panel of 13 jurors each party shall have four preemptory strikes. The court may appoint alternate jurors. Five persons from a panel of not fewer than 11 jurors shall constitute a jury in a condemnation case. If fewer than seven jurors remain before the court prior to the exercise of preemptory strikes, the trial may proceed and be heard by less than five jurors provided the parties agree. However, no trial shall proceed with fewer than three jurors.

GC. The conclusion of the jurors need not be unanimous, and a majority of the jurors may act in the name of the jury.

HD. In condemnation proceedings instituted by the Commonwealth Transportation Commissioner, a person owning structures or improvements for which an outdoor advertising permit has been issued by the Commonwealth Transportation Commissioner pursuant to § 33.1-360 shall be deemed to be an "owner" for purposes of this section.

SENATE SUBSTITUTE

SB1068S1

3/20/10 10:39