

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

# A Bill

HOUSE BILL 1139

5 By: Representative J. Dickinson  
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## For An Act To Be Entitled

9 AN ACT CONCERNING ACCESS TO A PUBLIC UTILITY  
10 EASEMENT; TO DESIGNATE THE MEANS OF ACCESS; TO  
11 PROVIDE PENALTIES; AND FOR OTHER PURPOSES.  
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## Subtitle

15 CONCERNING ACCESS TO A PUBLIC UTILITY  
16 EASEMENT; TO DESIGNATE THE MEANS OF  
17 ACCESS; AND TO PROVIDE PENALTIES.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 23, Chapter 1, Subchapter 1, is amended  
23 to add an additional section to read as follows:

24 23-1-116. Access to public utility easements – Procedure – Designation  
25 of access route – Penalty – Applicability.

26 (a) As used in this section:

27 (1) “Public utility” means a public utility as defined in § 23-  
28 1-101;

29 (2) “Public utility easement” means the right of a public  
30 utility to use or control land for a limited purpose;

31 (3) “Surface estate” means the land burdened by an easement; and

32 (4) “Surface owner” means the owner of the land burdened by an  
33 easement.

34 (b)(1) At least thirty (30) days before exercising a right under a  
35 public utility easement, the public utility shall give the surface owner  
36 actual notice or written notice by certified mail of the public utility’s



1 intention to exercise the right under the public utility easement.

2 (2) The notice shall include with respect to each right to be  
3 exercised under the public utility easement:

4 (A) The proposed location of each site that will be used;

5 (B) The proposed means of access to and travel across the  
6 surface estate to exercise each right under the public utility easement;

7 (C) The proposed date on or after which the exercise of a  
8 right under the public utility easement will begin;

9 (D) An offer of the public utility to consult with the  
10 surface owner to review and discuss the location of the means of access to  
11 and travel across the surface estate to exercise a right under the public  
12 utility easement;

13 (E) A full disclosure of the surface owner's rights under  
14 this section; and

15 (F) The name, address, telephone number, and title of a  
16 contact person employed by or representing the public utility whom the  
17 surface owner may contact during the thirty-day period following receipt of  
18 the notice concerning the location of the means of access to and travel  
19 across the surface estate to exercise a right under the public utility  
20 easement.

21 (c)(1) Except as provided in subdivision (c)(2) of this section,  
22 within the period described in subdivision (b)(1) of this section, the  
23 surface owner may select the locations of the means of access to and travel  
24 across the surface estate to exercise a right granted under the public  
25 utility easement that:

26 (A) Are preferable to the surface owner; and

27 (B) May increase the costs to the public utility to  
28 exercise a right granted under the public utility easement.

29 (2) The surface owner shall not select locations that make it  
30 impossible due to geographic or geologic obstacles for the public utility to  
31 exercise a right granted under the public utility easement.

32 (3) The surface owner's selection shall be in writing and  
33 delivered to the contact person specified under subdivision (b)(2)(F) of this  
34 section.

35 (4) If the surface owner does not make the selection within the  
36 time and in the manner required by this subsection, the surface owner shall

1 be deemed to have accepted the locations proposed by the public utility to  
 2 exercise a right granted under the public utility easement.

3 (d) A means of access to and travel across the surface estate to  
 4 exercise a right granted under the public utility easement established under  
 5 this section shall be used for the future exercise of a right granted under  
 6 the public utility easement unless:

7 (1) The public utility and surface owner agree in writing to a  
 8 different means of access to and travel across the surface estate to exercise  
 9 a right granted under the public utility easement; or

10 (2) A different means of access to and travel across the surface  
 11 estate to exercise a right granted under the public utility easement is  
 12 designated by following the procedure established by this section.

13 (e) A violation of this section by a public utility:

14 (1) Is a Class A misdemeanor; and

15 (2) Entitles the surface owner to recover two (2) times the  
 16 amount of damages caused by the violation.

17 (f) This section does not apply to the exercise by a public utility of  
 18 a right granted under a public utility easement that is accomplished through  
 19 public access to the surface estate without using a means of access to or  
 20 travel across the surface estate.

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