

**Hall of the House of Representatives**  
88th General Assembly - Regular Session, 2011  
**Amendment Form**

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**Subtitle of House Bill No. 2229**

CONCERNING ROUTE-OF-EASEMENT ISSUES IN CONDEMNATION PROCEEDINGS.

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**Amendment No. 1 to House Bill No. 2229**

Amend House Bill No. 2229 as originally introduced:

Page 1, delete line 29 and substitute the following:

"(1)(A) In any instance in which a route of a right-of-way proposed by a"

AND

Page 1, line 30, delete "company specified" and substitute "company, other than a public utility, specified"

AND

Page 1, delete lines 31 through 36 and substitute the following:

"property, the owner may file with the circuit court an objection to the route of the right-of-way.

(B) If an owner objects under subdivision (1)(A) of this section, the circuit court, within thirty (30) days of the filing of the objection, shall hold a hearing on the owner's objection, and based on the information provided by the parties at the hearing, the circuit court shall determine whether:

(i) The proposed route of the right-of-way should be accepted notwithstanding the objections raised by the owner of the property; or

(ii) Another route for the right-of-way should be proposed for condemnation purposes; and"

AND

Page 2, delete lines 1 through 5 and substitute the following:

"(2)(A) If a circuit court conducts a hearing under subdivision (1) of this section, the circuit court shall render its determination within fifteen (15) days following the conclusion of the hearing.

(B) In making a determination under this section, the circuit court shall consider all potentially relevant factors, including without limitation the following factors:



objection;  
company;  
construction and use of any alternative routes;  
silvicultural productivity; and

- (i) The factual basis of the property owner's
- (ii) Other access and routes available to the
- (iii) The relative costs associated with the
- (iv) Safety issues;
- (v) Potential obstructions;
- (vi) The relative impact on agricultural and
- (vii) Other economic and noneconomic factors."

AND

Immediately following SECTION 1, add an additional section to read as follows:

"SECTION 2. Arkansas Code § 18-15-1202(a), concerning petition for condemnation, is amended to read as follows:

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

(2) Application to have the damages for the right-of-way assessed or for any other purpose under this section shall be made by petition ~~to have the damages for the right-of-way assessed~~, giving the owner of the property at least ~~ten (10)~~ twenty (20) days' notice in writing by certified mail, return receipt requested, of the time and place where the petition will be heard.

(3)(A) If an owner of property objects to the route of the right-of-way under § 18-15-1303, the owner shall file the objection in response to the petition filed under subdivision (a)(2) of this section within ten (10) days of the filing of the petition.

(B) The timely filing of an objection under subdivision (a)(3)(A) of this section stays further proceedings on the petition for condemnation until the circuit court issues an order under § 18-15-1303."

The Amendment was read \_\_\_\_\_  
By: Representative Dale  
JLL/JLL - 03/18/11 09:58  
JLL197

\_\_\_\_\_  
Chief Clerk