

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representative Lynn

A Bill

HOUSE BILL 2063

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 18-15-601, § 18-15-604
9 AND § 18-15-605 TO LIMIT THE AUTHORITY OF CORPORATIONS
10 WHICH SUPPLY WATER TO CITIES, TOWNS, VILLAGES AND RURAL
11 AREAS TO EXERCISE THE POWER OF EMINENT DOMAIN AND TO
12 CLARIFY THE MEASURE OF DAMAGES IN EMINENT DOMAIN ACTIONS;
13 AND FOR OTHER PURPOSES."

Subtitle

14
15 "TO LIMIT THE AUTHORITY OF CORPORATIONS
16 TO EXERCISE THE POWER OF EMINENT DOMAIN
17 AND TO CLARIFY THE MEASURE OF DAMAGES IN
18 EMINENT DOMAIN ACTIONS."
19

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

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23 SECTION 1. Arkansas Code § 18-15-601 is amended to read as follows:
24 "18-15-601. Power of eminent domain.

25 (a) All municipal corporations in this state, and all corporations
26 organized for the purpose of supplying any town, city, or village in this
27 state, or the inhabitants thereof with water, or with electrical power
28 generated by water, for supplying the city, town, or village with such
29 electricity as may be required for lighting the city, town, or village or
30 operating machinery or running street cars or other cars on tracks for public
31 purposes only, are authorized to exercise the power of eminent domain to
32 condemn, take, and use private property for the use of the corporations when
33 necessary and reasonable to carry out the purposes and objects of the
34 corporations. The power of eminent domain is reasonable if the public good
35 outweighs the damage or inconvenience to the owner, including due

1 consideration of alternative routes and potential changes to the natural
2 landscape.

3 (b) Whenever the municipal or other corporation in the construction of
4 its waterworks, or in enlarging or extending the waterworks, shall deem it
5 desirable to condemn, take, use, or occupy private property in the
6 construction of its works, or in making new lines of work, the corporation
7 may condemn, take, and use the private property, first making just
8 compensation therefor, and proceed as provided in this subchapter.

9 (c) The corporations shall exercise the power of eminent domain only
10 as a last resort and shall make use of existing easements and rights-of-way
11 to the extent practicable."
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13 SECTION 2. Arkansas Code § 18-15-604 is amended to read as follows:
14 "18-15-604. Petition.

15 (a) The municipal corporation or other corporation so intending and
16 desiring to condemn, take, and use the real estate may present to the circuit
17 court in and for the county in which the lands so proposed to be taken,
18 condemned, and used are situated, a petition signed by the president and
19 secretary of the corporation, or by the mayor, recorder, or other executive
20 officer of the city, town, or village. This petition shall set forth a
21 description of the enterprise to be prosecuted by them and describe with
22 reasonable certainty and by reference to the map or plat, or otherwise, the
23 lands, property, and estate which it will be necessary to appropriate, take,
24 use, overflow, drain, or otherwise affect, setting forth the name of each and
25 every owner, encumbrancer, or other person interested in the lands, property,
26 or estate or any part thereof, so far as it can be ascertained by the public
27 records and by view of the premises or other inquiry touching the occupation
28 thereof.

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

35 (c) The notice of the filing of the petition and the presentation

1 thereof shall be given to the owners and parties interested as is now
2 prescribed by law for the condemnation of property by railroad, telegraph,
3 and telephone corporations.

4 (d) The written notice to landowner shall include a statement that the
5 owner may request, within the time to answer, that the corporations shall
6 identify the proposed location of the water line by generally accepted land
7 survey markers on the landowner_s property which is the subject of the
8 eminent domain action, and which shall be done at the expense of the
9 corporation."

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11 SECTION 3. Arkansas Code § 18-15-605 is amended to read as follows:

12 "18-15-605. Damages - Deposits.

13 (a) The further proceedings in the matter of assessment of damages and
14 the making of deposits to secure the owner shall be the same as is now
15 prescribed by law in reference to condemnation proceedings by railroad,
16 telegraph, and telephone corporations, except that the measure of damages
17 shall be the fair market value of the condemned property at the time of the
18 filing of the petition by the corporation as determined by a certified
19 appraiser.

20 (b) If the amount awarded by the jury exceeds the amount deposited by
21 the corporation, the landowner shall be entitled to recover the reasonable
22 attorney_s fees and costs."

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24 SECTION 4. All provisions of this act of general and permanent nature
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
26 Revision Commission shall incorporate the same in the Code.

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28 SECTION 5. If any provisions of this act or the application thereof to
29 any person or circumstance is held invalid, the invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provisions or application, and to this end the provisions of this
32 act are declared to be severable.

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34 SECTION 6. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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