

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: S3/7/01 S3/28/01

# A Bill

SENATE BILL 857

5 By: Senator Hoofman  
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## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE 18-15-301  
10 CONCERNING MUNICIPAL RIGHT-OF-WAY EMINENT DOMAIN;  
11 AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

15 AN ACT TO AMEND ARKANSAS CODE 18-15-301  
16 CONCERNING MUNICIPAL RIGHT-OF-WAY  
17 EMINENT DOMAIN.  
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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 18-15-301 is amended to read as follows:

23 18-15-301. Municipal corporations - Power to condemn generally.

24 (a) The right and power of eminent domain is conferred upon municipal  
25 corporations to enter upon, take, and condemn private property for the  
26 construction of wharves, levees, parks, squares, market places, or other  
27 lawful purposes. The term "or other lawful purposes," as used in this  
28 section, shall include a waterworks or electric transmission system in its  
29 entirety or any integral part thereof, or any extension, addition,  
30 betterment, or improvement to an existing waterworks or electric transmission  
31 system operated by a municipal corporation.

32 (b) ~~For water works systems it~~ shall be no objection to the  
33 exercise of power that the property to be condemned is located in a different  
34 county from the municipal corporation. In addition, for electric  
35 transmission systems it shall be no objection to the exercise of power that  
36 the property to be condemned is located outside the corporate limits of the

1 municipal corporation or in a county other than the one wherein the municipal  
2 corporation is located.

3 (c) It shall be no objection to the exercise of power that the  
4 property to be condemned is a cemetery, provided the purpose for which the  
5 cemetery is being taken is for an impounding lake for a supply of water or to  
6 supplement a supply of water for the waterworks system of the municipality,  
7 including land occupied by the cemetery adjacent to the impounding lake taken  
8 to prevent pollution of the supply or for an impounding dam to create the  
9 impounding lake. The power of a municipality to condemn a cemetery for those  
10 purposes shall extend to all cemeteries except those owned by the United  
11 States of America, or the State of Arkansas, or a county of the State of  
12 Arkansas, or a municipality of the State of Arkansas.

13 (d) In case of water pipelines or electric transmission facilities, a  
14 right-of-way or easement therefor may be condemned, and rights-of-way and  
15 easements for the pipelines or electric transmission facilities may be  
16 condemned along and under railroad rights-of-way, provided that the ordinary  
17 use of the railroad rights-of-way are not obstructed thereby.

18 (1) The water pipelines or electric transmission facilities may  
19 be constructed and maintained across and under lands and waters of the state,  
20 but the ordinary use of the lands and waters shall not be unduly obstructed  
21 thereby.

22 (2) The water pipelines or electric transmission facilities may  
23 be constructed and maintained under, across, and along public highways,  
24 roads, streets, and alleys, but the ordinary use of such public highways,  
25 roads, streets, and alleys shall not be unduly obstructed thereby. The  
26 municipality constructing the water pipelines or electric transmission  
27 facilities shall, at its own expense, properly backfill the trench in which  
28 the pipeline or electric transmission lines ~~is~~ are laid and shall, at its own  
29 expense, restore any sidewalks, curbs, gutters, pavements, or surfacing cut  
30 or damaged by the construction or maintenance.

31 (e)(1) As used in this section, the terms "electric transmission  
32 system or systems", "electric transmission facilities", and "electric  
33 transmission lines" mean electric utility properties and facilities necessary  
34 for transmitting electricity at 69KV phase-to-phase or higher and not for  
35 service to a directly tapped, retail, end-use customer or customers or any  
36 wholesale customer or customers, except municipal corporations. Any electric

1 utility properties and facilities necessary for transmitting electricity at  
2 69KV phase-to-phase or higher constructed on lands acquired in whole or in  
3 part by the municipal corporation utilizing the power of eminent domain  
4 granted in this section may be connected only with the following defined  
5 entities for the life of the properties and facilities and no others:

6 (A) The municipal corporation's electric generation or  
7 transmission or distribution system;

8 (B) Any electric utility as defined by § 23-19-102(9), or  
9 an independent transmission system operator, independent transmission  
10 company, independent regional transmission group, other independent  
11 transmission entity operating transmission facilities in this state under §  
12 23-19-103(g); and

13 (C) The electric generation or transmission or  
14 distribution system owned by other municipal corporations owning an electric  
15 system.

16 (2) As used in this subsection, "electric distribution system"  
17 means electric utility properties and facilities necessary for distributing  
18 electricity below 69KV phase-to-phase to a municipal corporation's retail  
19 customers within its corporate limits, or within any other area served by the  
20 municipal corporation pursuant to any grant of authority by the Arkansas  
21 Public Service Commission or any other municipality.

22 (f) Prior to availing itself of the power of eminent domain as  
23 provided in this section for the purpose of acquiring properties or  
24 constructing facilities necessary for transmitting electricity outside the  
25 corporate limits of the municipal corporation, a municipal corporation shall  
26 obtain from the Arkansas Public Service Commission a certificate of  
27 convenience and necessity pursuant to §§ 23-3-201 through 23-3-206.

28 (g) For purposes of this section, "municipal corporations" shall  
29 include consolidated municipal utility improvement districts owning an  
30 electric system.

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32 /s/ Hoofman  
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