STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1525 By: Lindley

AS INTRODUCED

An Act relating to railroads; amending 66 O.S. 2001, Section 55, which relates to acquisition of land; modifying consideration given in determining reimbursement of certain fees; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 66 O.S. 2001, Section 55, is amended to read as follows:

Section 55. ~~(A)~~ A. The report of the commissioners may be reviewed by the district court, on written exceptions filed by either party, in the ~~clerk's~~ office of the clerk within thirty (30) days after the filing of ~~such~~ the report; and the court shall make ~~such~~ an order ~~therein~~ as right and justice may require, either by confirmation, rejection or by ordering a new appraisement on good cause shown; or either party may within sixty (60) days after the filing of ~~such~~ the report file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court. If the party demanding such trial does not recover a verdict more favorable to ~~him~~ the party than the assessment of the commissioners, all costs in the district court may be taxed against ~~him~~ that party.

~~(B)~~ B. Within ten (10) days after the report of commissioners is filed, the court clerk shall forward to the attorney of record for the condemner, the attorney of record for each condemnee, and to

all unrepresented condemnees, a copy of the ~~commissioners'~~ report of the commissioners and a notice stating the time limits for filing an exception or demand for jury trial as specified in ~~paragraph (A)~~ subsection A of this section. This notice shall be on a form prepared by the Court Administrator, which shall be approved by the Supreme Court, and shall be distributed to all clerks of the district court by ~~said~~ the Court Administrator. If a party has been served by publication, the clerk shall forward a copy of the report of commissioners and notice of time limits for filing an exception or demand for jury trial to the last-known mailing address, if any, and shall cause a copy of the notice of time limits to be published in one ~~(1)~~ issue of a newspaper qualified to publish legal notices, as defined in Section 106 of Title 25 of the Oklahoma Statutes. After issuing the notices provided herein, the court clerk shall endorse on the notice form filed in the case, the date and that a copy of the report together with the notice was mailed to each party or ~~his~~ the attorney of record, or the date the notice was published in compliance with ~~the~~ these provisions ~~hereof~~.

~~(C)~~ C. The time limits for filing an exception and demand for jury trial, as prescribed in ~~paragraph (A)~~ subsection A of this section, shall be calculated from the date the report of the commissioners is filed in the case. On failure of the court clerk to give notice within the time prescribed in ~~paragraph (B)~~ subsection B of this section, the court, on application of any party, may extend the time for filing an exception to the report or a demand for trial by jury for a period not to exceed twenty (20) days from the date the application is heard.

~~(D)~~ D. 1. Where the party instituting a condemnation proceeding abandons ~~such~~ or dismisses the proceeding prior to a jury verdict, or where the final judgment is that the real property cannot be acquired by condemnation or if the award of the jury exceeds the award of the court-appointed commissioners by at least

ten percent (10%), then the owner of any right, title or interest in the property involved ~~may~~ shall be paid ~~such~~ the sum as in the opinion of the court will reimburse ~~such~~ the owner for ~~his~~ reasonable attorney, appraisal, engineering, and expert witness fees actually incurred because of the condemnation proceeding. The sum awarded shall be paid by the party instituting the condemnation proceeding.

2. When the claim asserted by the condemning party in a condemnation proceeding is that the award should be lower than the award of the court-appointed commissioners, the condemning party shall pay a sum which in the opinion of the court will reimburse the property owner for reasonable attorney, appraisal, engineering, and expert witness fees actually incurred because of the condemnation proceeding, if the jury award returned is not at least ten percent (10%) lower than the award of the court-appointed commissioners.

SECTION 2. This act shall become effective November 1, 2005.

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