

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 POLICY COMMITTEE
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 3453

7 By: Staires

8 POLICY COMMITTEE RECOMMENDATION

9 An Act relating to eminent domain; defining term;
10 establishing standards for judicial review; requiring
11 de novo judicial review of public use and necessity
12 determinations; requiring strict construction of
13 eminent domain statutes; establishing burdens of
14 proof; providing for award of costs to prevailing
15 property owners; providing for codification; and
16 providing an effective date.

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 42 of Title 27, unless there is
20 created a duplication in numbering, reads as follows:

21 A. As used in this section, "de novo judicial review" means a
22 plenary, independent judicial examination and determination of all
23 legal and factual questions relating to public use, necessity, and
24 compliance with applicable law, made without any deference to prior
findings, assertions, conclusions, resolutions, interpretations, or
declarations by the condemning authority.

1 B. Any determination made by a condemning authority regarding
2 whether a proposed taking constitutes a lawful public use, whether
3 the taking is necessary for that public use, and whether the
4 condemnation complies with statutory and constitutional
5 requirements, shall be subject to de novo judicial review. A court
6 shall strictly construe all eminent domain statutes in favor of
7 the property owner and against the condemning authority. Any
8 ambiguity shall be resolved to limit rather than expand the power to
9 condemn private property.

10 C. In any judicial condemnation proceeding, the owner of an
11 interest in property sought to be condemned shall be entitled,
12 through the timely filing of an exception to the report of the
13 commissioners in such proceeding, to a hearing on the issues of
14 public use and/or necessity of the taking. At any such hearing, the
15 condemning authority shall bear the burden of proving by a
16 preponderance of the evidence that the proposed taking is for a
17 public use authorized by law, and that the property sought to be
18 taken is reasonably necessary to accomplish that public use.
19 Necessity shall be proven separately for each individual part,
20 parcel, or tract of property sought to be taken, and no taking may
21 be justified solely by general project necessity. The condemning
22 authority shall show by a preponderance of the evidence that no
23 feasible alternative route, alignment, design, or non-condemnation
24 option exists that would satisfy the public use with less harm to

1 private property, and that all alternatives have been analyzed in
2 good faith using competent engineering, environmental, and financial
3 methods. The burden of proof shall remain with the condemning
4 authority at all times, and a resolution of necessity from the
5 condemning authority shall not, in and of itself, be conclusive or
6 sufficient evidence of necessity or lawful public use.

7 D. Property owners invoking their right to a hearing shall have
8 a right to conduct any and all discovery, and issue any and all
9 subpoenas, authorized under the Oklahoma Discovery and Pleading
10 Codes. Subject to the Oklahoma Discovery Code, discovery disputes
11 shall be resolved in favor of disclosure of information to the
12 property owner.

13 E. If, upon a hearing on public use and/or necessity, the
14 condemning authority shall fail to establish its right to condemn
15 the property, or any part thereof, the property owner shall be
16 entitled to an award of the property owners' reasonable attorneys'
17 fees, costs, and expert witness fees, to be taxed and collected as
18 costs in a civil action.

19 SECTION 2. This act shall become effective November 1, 2026.

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21 60-2-16607 GRS 02/19/26

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