

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SENATE BILL 2113

By: Boren

AS INTRODUCED

An Act relating to eminent domain; requiring condemning authority to provide a written finding of necessity; authorizing any respondent property owner to file a request of a necessity hearing within a certain time period; requiring condemning authorities to serve evidentiary submissions within certain time period; requiring the court to conduct certain hearing and make certain determination; allocating burden of proof; requiring de novo review of public use and necessity determinations; requiring dismissal of certain claims; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18.1 of Title 27, unless there is created a duplication in numbering, reads as follows:

A. No condemning authority may initiate or maintain a condemnation proceeding pursuant to Section 2 of Title 27 of the Oklahoma Statutes unless the condemning authority has adopted an express, written finding of necessity. A conclusory, generalized, or pretextual declaration of necessity shall be insufficient as a

1 matter of law. The finding shall be specific, fact-based, and
2 supported by evidence and shall:

3 1. Identify the specific statutory authority relied upon
4 pursuant to Sections 2 through 8 of Title 27 of the Oklahoma
5 Statutes;

6 2. Describe with particularity the precise property interest
7 sought to be condemned, including the nature, scope, and duration of
8 the interest;

9 3. State the reasons the taking is necessary for a public use
10 recognized under Section 1 of Title 27 of the Oklahoma Statutes and
11 Section 24 of Article II of the Oklahoma Constitution;

12 4. Demonstrate that the proposed taking is reasonably necessary
13 to accomplish the stated public use and is not merely convenient or
14 advantageous;

15 5. Demonstrate that the condemning authority has considered
16 reasonable alternatives, including alternative locations, designs,
17 or methods, and that no reasonable alternative exists that would
18 avoid or materially reduce the taking; and

19 6. Demonstrate that the taking is narrowly tailored and limited
20 to the minimum property interest necessary to accomplish the public
21 use.

22 B. Within thirty (30) days of service of a petition for eminent
23 domain, any respondent property owner may file a written request for
24 a necessity hearing to determine public use and necessity. Upon the

1 filing of a timely request, the court shall stay all further
2 condemnation proceedings, including the appointment of commissioners
3 and any request for immediate possession, until public use and
4 necessity have been adjudicated.

5 C. Within twenty (20) days of service of the petition for
6 eminent domain, the condemning authority shall serve upon all
7 respondents its evidentiary submission establishing a prima facie
8 case of necessity.

9 D. Within thirty (30) days of receipt of the condemning
10 authority's evidentiary submission, the respondent property owner
11 may submit evidence refuting the prima facie case of necessity.

12 E. The court shall conduct an evidentiary necessity hearing
13 promptly after the close of submissions. The condemning authority
14 shall bear the burden of proof and persuasion and must establish
15 public use and necessity by clear and convincing evidence.

16 F. A district court of this state shall independently determine
17 whether the proposed condemnation satisfies the requirements of
18 public use and necessity under Title 27 of the Oklahoma Statutes.
19 No deference shall be afforded to any legislative, administrative,
20 or condemning authority's declaration of necessity.

21 G. No presumption of necessity shall arise in favor of the
22 condemning authority. All presumptions shall favor retention of
23 private property.
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1 H. Any order determining statutory authority, public use, or
2 necessity shall be deemed to resolve questions of law and shall be
3 reviewed de novo on appeal.

4 I. If the court determines that the evidentiary requirements of
5 this section have not been met, the condemnation action shall be
6 dismissed with prejudice, the condemning authority shall be
7 prohibited from refiling for the same condemnation absent materially
8 changed circumstances, and the landowner shall be awarded reasonable
9 attorney fees, expert fees, and costs.

10 J. No condemning authority may exercise immediate possession
11 authority unless and until necessity has been established pursuant
12 to this section or the time to request a necessity hearing has
13 expired without a request being filed.

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