

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 4171

By: Staires

6 AS INTRODUCED

7 An Act relating to eminent domain; amending 66 O.S.  
8 2021, Section 53, which relates to taking property by  
9 eminent domain; requiring a commission to determine  
10 if condemnation action is based upon a valid public  
11 use; requiring the commission in their report to the  
12 court to provide whether the action is for a valid  
13 public use; and providing an effective date.

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

14 SECTION 1. AMENDATORY 66 O.S. 2021, Section 53, is  
15 amended to read as follows:

16 Section 53. A. If the owner of any real property or interest  
17 therein, over which any railroad corporation, incorporated under the  
18 laws of this state, may desire to locate its road, shall refuse to  
19 grant the right-of-way through and over his premises, the district  
20 judge of the county in which said real property may be situated  
21 shall, upon the application or petition of either party, and after  
22 ten (10) days' notice to the opposite party, direct the sheriff of  
23 said county to summon three disinterested freeholders, to be  
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1 selected by said judge as commissioners, and who shall not be  
2 interested in a like question.

3 B. The condemnor shall give notice to a condemnee by personal  
4 service or by leaving a copy of the notice at the condemnee's place  
5 of residence with some member of his family over fifteen (15) years  
6 of age, or by publication in the case of a condemnee who resides out  
7 of this state or a resident of this state who has departed herefrom  
8 with intent to avoid service of notice, or whose whereabouts or  
9 identity the condemnor, or his attorney, upon diligent inquiry is  
10 unable to ascertain, or an unknown heir, successor or assign of one  
11 in whom some right, title or interest in the property concerned was  
12 possessed, by publishing such notice once a week for two (2)  
13 consecutive weeks in a newspaper authorized by law to publish legal  
14 notices in the county where the petition is filed, the ten-day  
15 period to begin with the first publication. A copy of such notice  
16 and a copy of the petition shall be mailed to such opposite party's  
17 last-known mailing address within five (5) days of the first  
18 publication thereof. The procedure for service by publication as  
19 authorized herein shall in all other respects be as provided by law  
20 for service by publication in civil actions, except summons need not  
21 first be issued.

22 C. The commissioners shall be sworn to perform their duties  
23 impartially and justly; ~~and they~~ the commission shall hold a  
24 necessity hearing to confirm that the real property is being

1 condemned for a valid public use and if so the commission shall  
2 inspect said real property and consider the injury which said owner  
3 may sustain by reason of the condemnation and they shall assess the  
4 just compensation to which said owner is entitled; and they shall  
5 forthwith make report in writing to the clerk of the court, setting  
6 forth whether the condemnation action should continue or not based  
7 upon their determination on whether the action is based upon a valid  
8 public use as well as the quantity, boundaries, and just  
9 compensation for the property taken, and amount of injury done to  
10 the property, either directly or indirectly, which they assess to  
11 the owner; which report must be filed and recorded by the clerk. A  
12 certified copy of the report may be transmitted to the county clerk  
13 of the county where the land lies, to be by him filed and recorded,  
14 without further acknowledgment or proof, in the manner and with like  
15 force and effect as is provided for the recording of deeds. And if  
16 said corporation shall, at any time before it enters upon said real  
17 property for the purpose of constructing said road, pay to said  
18 clerk for the use of said owner the sum so assessed and reported to  
19 him as aforesaid, it shall thereby be authorized to construct and  
20 maintain its road over and across said premises.

21 D. "Just compensation", as used in subsection C of this  
22 section, shall mean the value of the property taken, and in  
23 addition, any injury to any part of the property not taken. Any  
24 special and direct benefits to the part of the property not taken

1 may be offset only against any injury to the property not taken. If  
2 only a part of a tract is taken, just compensation shall be  
3 ascertained by determining the difference between the fair market  
4 value of the whole tract immediately before the taking and the fair  
5 market value of that portion left remaining immediately after the  
6 taking.

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

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