

**SENATE BILL NO. 2321**

Introduced by

Senators Magrum, Luick, Paulson

1 A BILL for an Act to amend and reenact sections 32-15-28, 32-15-32, and 32-15-35 of the North  
2 Dakota Century Code, relating to awarding costs and fees in eminent domain proceedings.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 32-15-28 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **32-15-28. Public corporation bound by judgment.**

7 ~~In the event that any~~If a property is being acquired by ~~any~~a public corporation through  
8 condemnation proceedings, ~~such~~the public corporation ~~shall be~~is bound by the judgment  
9 rendered ~~therein~~in the condemnation proceedings and within six months after the entry of ~~such~~  
10 a judgment shall pay ~~into~~the court the full amount of the judgment on account of damages. If the  
11 public corporation ~~shall dismiss~~dismisses the action ~~prior to~~before the entry of judgment  
12 ~~thereon~~, the court shall award ~~to~~ the defendant reasonable actual or statutory costs, or both,  
13 which ~~shall include~~includes reasonable attorney's fees and the costs incurred for retaining an  
14 expert witness for use during the condemnation proceeding.

15 **SECTION 2. AMENDMENT.** Section 32-15-32 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **32-15-32. Costs.**

18 1. The court may ~~in its discretion~~ award to the defendant reasonable actual or statutory  
19 costs or both, which ~~may include~~includes interest from the time of taking except  
20 interest on the amount of a deposit which is available for withdrawal without prejudice  
21 to right of appeal, costs on appeal, the costs incurred for retaining an expert witness  
22 for use during the condemnation proceeding. and reasonable attorney's fees for all  
23 judicial proceedings.

1        2. If the defendant appeals and does not prevail, the costs on appeal may be taxed  
2            against the defendant. ~~In all cases when~~ if a new trial has been is granted upon the  
3            application of the defendant and the defendant ~~has failed upon such trial~~ fails to obtain  
4            greater compensation than was allowed ~~the defendant upon~~ at the first trial, the costs  
5            of ~~such~~ the new trial shall must be taxed against the defendant.

6            **SECTION 3. AMENDMENT.** Section 32-15-35 of the North Dakota Century Code is  
7            amended and reenacted as follows:

8            **32-15-35. Eminent domain proceedings - Costs of defendant to be paid whenif**  
9            **proceedings withdrawn or dismissed by party bringing the proceedings.**

10          ~~Whenever~~ if the state acting by and through its officers, departments, or agencies, or any  
11          municipality or political subdivision of this state acting by and through its officers, departments,  
12          or agencies, or any public utility, corporation, limited liability company, association, or other  
13          entity which has been granted organization with the power of eminent domain by the state, shall  
14          ~~commence~~ commences eminent domain proceedings against any land within ~~this~~ the state and  
15          ~~thereafter~~ subsequently withdraws or ~~has such~~ the proceedings are dismissed without agreement  
16          of the defendant, the state, municipality, political subdivision, public utility, corporation, limited  
17          liability company, association, or entity, party commencing such eminent domain the proceedings  
18          shall ~~be~~ is liable for and pay ~~to~~ to pay the owner of ~~such~~ the land all court costs, expenses, and  
19          fees, including reasonable attorney's fees, and the costs incurred for retaining an expert witness  
20          for use during the condemnation proceeding as shall be determined by the court in which the  
21          proceedings were filed.