

Sixty-ninth
Legislative Assembly
of North Dakota

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, without
agreement of the defendant ~~thereon~~, the court shall award ~~to~~ the defendant reasonable actual or
statutory costs and disbursements, as defined in chapter 28-26, or both, which ~~shall~~
~~include~~includes reasonable attorney's fees ~~and the costs incurred for retaining an expert witness~~
~~for use during the condemnation proceeding.~~

12 **SECTION 2. AMENDMENT.** Section 32-15-32 of the North Dakota Century Code is
13 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 and disbursements, as defined in chapter 28-26, or both, which ~~may~~
~~include~~includes interest from the time of taking except interest on the amount of a
deposit which is available for withdrawal without prejudice to right of appeal, costs on
appeal, ~~the costs incurred for retaining an expert witness for use during the~~
~~condemnation proceeding,~~ and reasonable attorney's fees for all 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~~ pay the owner of ~~such~~ the land all court costs and disbursements, as defined in chapter 28-26, expenses, and fees, including reasonable attorney's fees, ~~and the~~
~~costs incurred for retaining an expert witness for use during the condemnation proceeding~~ as
shall be determined by the court in which the proceedings were filed.