

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

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

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

18 **32-15-32. Costs.**

19 1. The court may in its discretion award to the defendant reasonable actual or statutory  
20 costs and disbursements under chapter 28-26, or both, which ~~may include~~includes

1 interest from the time of taking except interest on the amount of a deposit which is  
2 available for withdrawal without prejudice to right of appeal, costs on appeal, ~~the costs~~  
3 ~~incurred for retaining an expert witness for use during the condemnation proceeding,~~  
4 and reasonable attorney's fees for all judicial proceedings.

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

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

12 **32-15-35. Eminent domain proceedings - Costs of defendant to be paid when if**  
13 **proceedings withdrawn or dismissed by party bringing the proceedings.**

14 ~~Whenever~~ If the state acting by and through its officers, departments, or agencies, or any  
15 municipality or political subdivision of this state acting by and through its officers, departments,  
16 or agencies, or any public utility, corporation, limited liability company, association, or other  
17 entity which has been granted organization with the power of eminent domain by the state, shall  
18 commence ~~commence~~ commences eminent domain proceedings against any land within this the state and  
19 thereafter subsequently withdraws or has such the proceedings are dismissed without agreement  
20 of the defendant, the state, municipality, political subdivision, public utility, corporation, limited  
21 liability company, association, or entity party commencing such eminent domain the proceedings  
22 shall be liable for and pay to pay the owner of such the land all court costs and disbursements  
23 under chapter 28-26, expenses, and fees, including reasonable attorney's fees, ~~and the costs~~  
24 ~~incurred for retaining an expert witness for use during the condemnation proceeding~~ as shall be  
25 determined by the court in which the proceedings were filed.