

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Harriman

SENATE BILL 63

As engrossed 2-25-87

"AN ACT TO AUTHORIZE COUNTY COURTS TO VACATE UTILITY EASEMENTS LOCATED OUTSIDE INCORPORATED AREAS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. The owners of realty located outside the boundaries of any city or town, which realty is encumbered by a public utility easement, may petition the county court to vacate the public utility easement. The petition shall clearly describe the easement.

SECTION 2. Upon receipt of the petition, the county clerk shall promptly give notice by publication at least once a week for at least two consecutive weeks in some newspaper having a general circulation within the county. The notice shall state that the petition has been filed and that on a certain day therein named the county court will hear all persons desiring to be heard on the question of whether the public utility easement should be vacated. The notice shall give the names of property owners signing the petition and clearly describe the easement. Provided however, if the easement is in favor of a specific utility, the owners of the realty must give actual notice to that utility as a condition precedent to vacating the easement.

SECTION 3. At the hearing the county court shall hear all interested parties, and if the court determines that the easement has not been used by the public utility for a period of at least five years and that vacating the easement would not be against the interest of the public, the court shall enter an order vacating the easement and establishing the amount of just compensation therefor. The finding and order of the county court shall be conclusive on all parties having or claiming any rights or interest in the

easement. An appeal may be taken to the circuit court, within thirty days from the entry of the county court order, where a trial de novo without a jury shall be conducted by the judge of the circuit court. An appeal may be taken from the circuit court to the Supreme Court within thirty days from the entry of the of the county. The cost of the publication of the notice, the recording of the orders, and the court costs shall be paid by the petitioners, except that the court costs necessitated by an appeal shall be paid by the party or parties who unsuccessfully contest the petition.

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SECTION 4. When the county court issues an order vacating a public utility easement, the ownership of the real property through which the easement extends shall cease to be burdened with the easement. The public utilities shall remove their property located on or beneath the realty subject to the easement within 90 days after the issuance of the order vacating the easement or the property shall be forfeited to the owners of the realty.

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Harriman

