

HOUSE BILL NO. 155

INTRODUCED BY SPAETH, SAUNDERS, SCHYE

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

IN THE HOUSE

January 11, 1983	Introduced and referred to Committee on State Administration.
January 18, 1983	Committee recommend bill do pass as amended. Report adopted.  Bill printed and placed on members' desks.
January 20, 1983	Second reading, do pass.  Considered correctly engrossed.
January 22, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 24, 1983	Introduced and referred to Committee on Natural Resources.
February 7, 1983	Committee recommend bill be concurred in. Report adopted.
February 10, 1983	Second reading, concurred in.
February 12, 1983	Third reading, concurred in. Ayes, 47; Noes, 1.

IN THE HOUSE

February 12, 1983	Returned to House.
February 14, 1983	Sent to enrolling.  Reported correctly enrolled.

1 House BILL NO. 155  
 2 INTRODUCED BY Smith, Samuel, Selge  
 3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR AN  
 6 ARBITRATION PROCESS WHENEVER A STATE LESSEE AND A PARTY  
 7 RECEIVING A RIGHT-OF-WAY EASEMENT ARE UNABLE TO AGREE ON THE  
 8 VALUE OF THE DAMAGES RESULTING FROM SUCH EASEMENT; AMENDING  
 9 SECTION 77-2-107, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 77-2-107, MCA, is amended to read:

13 "77-2-107. Involvement of lessee when land subject to  
 14 prior lease. (1) Whenever any kind of right-of-way easement  
 15 has been granted under this part and the state land in which  
 16 it is granted is under lease, the party receiving such grant  
 17 shall give due and timely notice to the lessee and shall  
 18 make just settlement with him for any damages resulting to  
 19 his improvements or crops or leasehold interests.

20 (2) Upon such settlement being made, the lessee shall  
 21 open or move any fences that may obstruct the right-of-way  
 22 over the lands under his lease and otherwise cooperate in  
 23 the opening of the right-of-way. Proof shall be filed with  
 24 the board that such settlement has been made before the deed  
 25 to the easement is issued.

1 ~~(3) (a) If the lessee and the party receiving the~~  
 2 ~~right-of-way easement are unable to agree on the value of~~  
 3 ~~the damages resulting from the easement, the value of the~~  
 4 ~~damages must be ascertained and fixed by three arbitrators,~~  
 5 ~~one of whom must be appointed by the lessee, one by the~~  
 6 ~~party receiving the easement, and the third by the two~~  
 7 ~~appointed arbitrators.~~

8 ~~(b) If any party refuses to appoint an arbitrator~~  
 9 ~~within 15 days of being requested to do so by the~~  
 10 ~~commissioner, the commissioner may appoint an arbitrator for~~  
 11 ~~that party. An arbitrator appointed by the commissioner has~~  
 12 ~~the same duties and powers as if appointed by one of the~~  
 13 ~~parties.~~

14 ~~(c) The arbitrators may fix reasonable compensation~~  
 15 ~~for their services, which must be paid in equal shares by~~  
 16 ~~the owner of the easement and the lessee.~~

17 ~~(d) The value of the damages as ascertained and fixed~~  
 18 ~~by the arbitrators is binding on both parties; however, if~~  
 19 ~~either party is dissatisfied with the valuation, he may,~~  
 20 ~~within 10 days, appeal from their decision to the~~  
 21 ~~department. The department shall examine the easements, and~~  
 22 ~~its decision on the appeal is final. The department shall~~  
 23 ~~collect the actual cost of the reexamination from the owner~~  
 24 ~~of the easement and the lessee in such proportion as, in its~~  
 25 ~~judgment, justice may demand."~~

INTRODUCED BILL

Approved by Committee  
on State Administration

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~~(b) If any party refuses to appoint an arbitrator  
within 15 days of being requested to do so by the  
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H.P. 155

1 may demand.

2 (P) IF EITHER PARTY IS DISSATISFIED WITH THE VALUATION  
3 FIXED BY THE DEPARTMENT, HE MAY WITHIN 30 DAYS AFTER RECEIPT  
4 OF THE DEPARTMENT'S DECISION PETITION THE DISTRICT COURT IN  
5 THE COUNTY IN WHICH THE MAJORITY OF THE STATE LAND IS  
6 LOCATED OR THE DISTRICT COURT IN LEWIS AND CLARK COUNTY FOR  
7 JUDICIAL REVIEW OF THE DECISION."

-End-

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~~(3) (a) If the lessee and the party receiving the right-of-way easement are unable to agree on the value of the damages resulting from the easement, the value of the damages must be ascertained and fixed by three arbitrators, one of whom must be appointed by the lessee, one by the party receiving the easement, and the third by the two appointed arbitrators.~~

~~(b) If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the commissioner, the commissioner may appoint an arbitrator for that party. An arbitrator appointed by the commissioner has the same duties and powers as if appointed by one of the parties.~~

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