1 HOUSE OF REPRESENTATIVES - FLOOR VERSION 2 STATE OF OKLAHOMA 3 2nd Session of the 55th Legislature (2016) HOUSE BILL 2486 4 By: Park of the House 5 and Simpson of the Senate 6 7 8 9 AS INTRODUCED 10 An Act relating to railroads; amending 66 O.S. 2011, Section 53, which relates to acquisition of land by 11 eminent domain; updating language; requiring comparable sales to be included in fair market value 12 calculation; and providing an effective date. 1.3 14 15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA: 16 SECTION 1. 66 O.S. 2011, Section 53, is AMENDATORY 17 amended to read as follows: 18 Section 53. A. If the owner of any real property or interest 19 therein, over which any railroad corporation, incorporated under the 20 laws of this state, may desire to locate its road, shall refuse to 21 grant the right-of-way through and over his premises, the district 22 judge of the county in which said real property may be situated 23 shall, upon the application or petition of either party, and after 24 ten (10) days' notice to the opposite party, direct the sheriff of

- said county to summon three disinterested freeholders, to be selected by said judge as commissioners, and who shall not be interested in a like question.
- The condemnor shall give notice to a condemnee by personal В. service or by leaving a copy of the notice at the condemnee's place of residence with some member of his family over fifteen (15) years of age, or by publication in the case of a condemnee who resides out of this state or a resident of this state who has departed herefrom with intent to avoid service of notice, or whose whereabouts or identity the condemnor, or his attorney, upon diligent inquiry is unable to ascertain, or an unknown heir, successor or assign of one in whom some right, title or interest in the property concerned was possessed, by publishing such notice once a week for two (2) consecutive weeks in a newspaper authorized by law to publish legal notices in the county where the petition is filed, the ten-day period provided in subsection A of this section to begin with the first publication. A copy of such notice and a copy of the petition shall be mailed to such opposite party's last-known mailing address within five (5) days of the first publication thereof. procedure for service by publication as authorized herein shall in all other respects be as provided by law for service by publication in civil actions, except summons need not first be issued.
 - C. The commissioners shall be sworn to perform:

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- 1. Perform their duties impartially and justly; and they shall inspect said
 - 2. Inspect the real property and consider the injury which said the owner may sustain by reason of the condemnation and they shall assess;
 - 3. Assess the just compensation to which said the owner is entitled; and they shall forthwith make
 - 4. Make report in writing to the clerk of the court, setting forth the quantity, boundaries, and just compensation for the property taken, and amount of injury done to the property, either directly or indirectly, which they assess to the owner; which. The report must be filed and recorded by the clerk. A certified copy of the report may be transmitted to the county clerk of the county where the land lies, to be by him filed and recorded, without further acknowledgment or proof, in the manner and with like force and effect as is provided for the recording of deeds. And if said If the corporation shall, at any time before it enters upon said the real property for the purpose of constructing said the road, pay to said the clerk for the use of said the owner the sum so assessed and reported to him the owner as aforesaid, it shall thereby be authorized to construct and maintain its road over and across said the premises.
 - D. "Just compensation", as used in subsection C of this section, shall mean the value of the property taken, and, in

1	addition, any injury to any part of the property not taken. Any
2	special and direct benefits to the part of the property not taken
3	may be offset only against any injury to the property not taken. If
4	only a part of a tract is taken, just compensation shall be
5	ascertained by determining the difference between the fair market
6	value of the whole tract immediately before the taking and the fair
7	market value of that portion left remaining immediately after the
8	taking. The fair market value calculation shall include comparable
9	sales used to value the interest taken and shall include the actual
10	amount paid or awarded for other tracts of any type.
11	SECTION 2. This act shall become effective November 1, 2016.
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13	COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND CIVIL PROCEDURE, dated 02/15/2016 - DO PASS, As Coauthored.
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