

JAN 25 2006
ECONOMIC GROWTH

HOUSE FILE 2125
BY STRUYK

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act making changes to the law relating to eminent domain
2 authority and condemnation procedures, urban renewal, and
3 including effective and applicability date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2125

1 Section 1. Section 6A.21, subsection 2, Code 2005, is
2 amended to read as follows:

3 2. The limitation on the definition of public use, public
4 purpose, or public improvement does not apply to a slum area
5 or blighted area as ~~defined in section 403.177 or to~~
6 ~~agricultural land acquired for industry as that term is~~
7 ~~defined in section 260E.2,~~ provided in section 6A.22 or to the
8 establishment, relocation, or improvement of a road pursuant
9 to chapter 306, or to the establishment of a railway under the
10 supervision of the department of transportation as provided in
11 section 327C.2, or to an airport as defined in section 328.1,
12 or to land acquired in order to replace or mitigate land used
13 in a road project when federal law requires replacement or
14 mitigation. This limitation also does not apply to utilities
15 or persons under the jurisdiction of the Iowa utilities board
16 in the department of commerce or to any other utility
17 conferred the right by statute to condemn private property or
18 to otherwise exercise the power of eminent domain.

19 Sec. 2. NEW SECTION. 6A.22 ADDITIONAL LIMITATIONS ON
20 EXERCISE OF POWER -- DEFINITIONS.

21 1. In addition to the limitations in section 6A.21, the
22 authority of an acquiring agency to condemn any private
23 property through eminent domain may only be exercised for a
24 public purpose, public use, or public improvement. However,
25 if the owner of the property consents to the condemnation, the
26 property may be condemned for any purpose.

27 2. a. "Public use", "public purpose", or "public
28 improvement" means one or more of the following:

29 (1) The possession, occupation, and enjoyment of property
30 by the general public or governmental entities.

31 (2) The acquisition of any interest in property necessary
32 to the function of a public or private utility or common
33 carrier.

34 (3) Private use that is incidental to the public use of
35 the property, provided that no property shall be condemned

1 solely for the purpose of facilitating such incidental private
2 use.

3 (4) The acquisition of property in that portion of an
4 urban renewal area designated as a slum area or blighted area
5 as those terms are defined in section 403.17.

6 b. Except as specifically included in the definition in
7 paragraph "a", "public use" or "public purpose" or "public
8 improvement" does not mean economic development activities
9 resulting in increased tax revenues and employment
10 opportunities, privately owned or privately funded housing and
11 residential development, privately owned or privately funded
12 commercial or industrial development, or recreational
13 development paid for primarily with private funds.

14 c. Notwithstanding paragraph "a":

15 (1) Private property shall not be condemned for
16 development or creation of a lake as a surface drinking water
17 source or for recreational use, for construction of a
18 landfill, or for construction of sewer treatment facilities,
19 unless the acquiring agency demonstrates that no other
20 feasible alternative exists to accomplish its purpose.

21 (2) Private property shall not be condemned to develop or
22 create a park or recreational facility unless the acquiring
23 agency demonstrates that a good faith effort has been made to
24 purchase a feasible location from a willing seller for the
25 park or facility.

26 3. In any action contesting whether eminent domain
27 authority is being exercised for a public use, public purpose,
28 or public improvement, the burden of proof is on the acquiring
29 agency to prove by clear and convincing evidence that the
30 proposed use of the property meets the definition of public
31 use, public purpose, or public improvement in subsection 2 and
32 that there is no feasible alternative to condemnation of the
33 property.

34 Sec. 3. Section 6B.1, Code 2005, is amended to read as
35 follows:

1 6B.1 DEFINITIONS.

2 1. As used in this chapter, unless the context otherwise
3 requires, "book", "list", "record", or "schedule" kept by a
4 county auditor, assessor, treasurer, recorder, sheriff, or
5 other county officer means the county system as defined in
6 section 445.1.

7 2. For purposes of this chapter, "acquiring agency" means
8 the state of Iowa or any person or entity conferred the right
9 by statute to condemn private property or to otherwise
10 exercise the power of eminent domain.

11 Sec. 4. Section 6B.2B, Code 2005, is amended to read as
12 follows:

13 6B.2B ACQUISITION NEGOTIATION STATEMENT-OF-RIGHTS.

14 The acquiring agency shall make a good faith effort to
15 negotiate with the owner to purchase the private property or
16 property interest before filing an application for
17 condemnation or otherwise proceeding with the condemnation
18 process. An acquiring agency shall not make an offer to
19 purchase the property or property interest that is less than
20 the fair market value the acquiring agency has established for
21 the property or property interest pursuant to the appraisal
22 required in section 6B.45 plus expenses listed in section
23 6B.54, subsection 10, or less than the value determined under
24 the acquiring agency's waiver procedure established pursuant
25 to section 6B.54, subsection 2, for acquisition of property
26 with a low fair market value plus expenses listed in section
27 6B.54, subsection 10. However, an acquiring agency need not
28 make an offer in excess of that amount in order to satisfy the
29 requirement to negotiate in good faith. ~~An-acquiring-agency~~
30 ~~is-deemed-to-have-met-the-requirements-of-this-section-if-the~~
31 ~~acquiring-agency-complies-with-section-6B-54-~~

32 Sec. 5. Section 6B.3, subsection 1, paragraph d, Code
33 2005, is amended to read as follows:

34 d. The purpose for which condemnation is sought. For
35 ~~purposes-of-section-6B-4A, if condemnation of agricultural~~

~~1 land is sought by a city or county, or an agency of a city or
2 county, for location of an industry as that term is defined in
3 section 260E.2, the application shall so state. -- However, the
4 city or county shall not be required to disclose information
5 on an industrial prospect with which the city or county is
6 currently negotiating.~~

7 Sec. 6. Section 6B.3, subsection 2, Code 2005, is amended
8 to read as follows:

9 2. The applicant shall mail a copy of the application by
10 certified ordinary mail to the owner at the owner's last known
11 address and to any record lienholder or encumbrancer of the
12 property at the lienholder's or encumbrancer's last known
13 address. The applicant shall also cause the application to be
14 published once in a newspaper of general circulation in the
15 county, not less than four nor more than twenty days before
16 the meeting of the compensation commission to assess the
17 damages. Service of the application by publication shall be
18 deemed complete on the day of publication.

19 ~~In lieu of mailing and publishing the application, the
20 applicant may cause the application to be served upon the
21 owner, lienholders, and encumbrancers of the property in the
22 manner provided by the Iowa rules of civil procedure for the
23 personal service of original notice.~~ The application shall be
24 mailed and published ~~or served, as above provided,~~ prior to or
25 contemporaneously with the mailing and publication or service
26 of the list of compensation commissioners as provided in
27 section 6B.4.

28 Sec. 7. Section 6B.3, subsection 3, unnumbered paragraph
29 2, Code 2005, is amended to read as follows:

30 When indexed, the proceeding is considered pending so as to
31 charge all persons not having an interest in the property with
32 notice of its pendency, and while pending no interest can be
33 acquired by the third parties in the property against the
34 rights of the applicant. If the appraisal of damages
35 pursuant to section 6B.14 is not made within one hundred

1 twenty days, the proceedings instituted under this section are
2 terminated and all rights and interests of the applicant
3 arising out of the application for condemnation terminate.
4 The applicant may reinstitute a new condemnation proceeding at
5 any time. The reinstated proceedings are entirely new
6 proceedings and not a revival of the terminated proceeding.

7 Sec. 8. NEW SECTION. 6B.3A CHALLENGE BY OWNER.

8 An owner of property described in an application for
9 condemnation may bring an action to challenge the exercise of
10 eminent domain authority or the condemnation proceedings in
11 the district court of the county in which the private property
12 is situated at any time up until the deadline for filing a
13 notice of appeal of appraisal of damages under section
14 6B.18, subsection 1. Notice of the action shall be served, by
15 ordinary mail, on the adverse party, or the adverse party's
16 agent or attorney, and any lienholder and encumbrancer of the
17 property. The condemnation proceedings against such property
18 shall be stayed while court action is pending.

19 Sec. 9. Section 6B.4, unnumbered paragraph 2, Code 2005,
20 is amended to read as follows:

21 The chief judge of the judicial district or the chief
22 judge's designee shall select by lot six persons from the
23 list, two persons who are owner-operators of agricultural
24 property when the property to be condemned is agricultural
25 property; two persons who are owners of city property when the
26 property to be condemned is other than agricultural property;
27 and two persons from each of the remaining two representative
28 groups, who shall constitute a compensation commission to
29 assess the damages to all property to be taken by the
30 applicant and located in the county, and shall name a
31 chairperson from the persons selected. The chief judge or the
32 judge's designee may appoint such alternate members and
33 chairpersons to the commission as are deemed necessary and
34 appropriate under the circumstances. A person shall not be
35 selected as a member or alternate member of the compensation

1 commission if the person possesses any interest in the
2 proceeding which would cause the person to render a biased
3 decision. The applicant shall mail a copy of the list of
4 commissioners and alternates appointed by the chief judge by
5 certified ordinary mail to the property owner at the owner's
6 last known address. The applicant shall also cause the list
7 of commissioners and alternates to be published once in a
8 newspaper of general circulation in the county, not less than
9 four nor more than twenty days before the meeting of the
10 compensation commission to assess the damages. Service of the
11 list of commissioners and alternates by publication shall be
12 deemed complete on the day of publication. ~~In-lieu-of-mailing~~
13 ~~and-publishing-the-list-of-commissioners-and-alternates, the~~
14 ~~applicant-may-cause-the-list-to-be-served-upon-the-owner-of~~
15 ~~the-property-in-the-manner-provided-by-the-Iowa-rules-of-civil~~
16 ~~procedure-for-the-personal-service-of-original-notice.~~ The
17 list of commissioners and alternates shall be mailed and
18 published ~~or-served, as-above-provided,~~ prior to or
19 contemporaneously with service of the notice of assessment as
20 provided in section 6B.8.

21 Sec. 10. Section 6B.8, Code 2005, is amended to read as
22 follows:

23 6B.8 NOTICE OF ASSESSMENT.

24 The applicant, or the owner or any lienholder or
25 encumbrancer of any land described in the application, may, at
26 any time after the appointment of the commissioners, have the
27 damages to the lands of any such owner assessed by giving the
28 other party, if a resident of this state, thirty days' notice,
29 in writing. The notice shall specify the day and the hour
30 when the compensation commission will meet, view the premises,
31 and assess the damages. The notice shall be personally
32 served, by ordinary mail, upon all necessary parties ~~in-the~~
33 ~~same-manner-provided-by-the-Iowa-rules-of-civil-procedure-for~~
34 ~~the-personal-service-of-original-notice.~~ ~~If-a-city-or-county,~~
35 ~~or-an-agency-of-a-city-or-county, is-seeking-to-condemn~~

~~1 agricultural land for an industry as that term is defined in
2 section 260E.2, the notice shall inform the landowner that the
3 landowner may request that the compensation commission review
4 the application as provided in section 6B.4A.~~

5 Sec. 11. Section 6B.11, Code 2005, is amended to read as
6 follows:

7 6B.11 FILING OF NOTICES AND RETURN OF SERVICE.

8 Notices, immediately after the service mailing thereof,
9 shall, with ~~proper return of service~~ the date of mailing
10 endorsed thereon or attached thereto, be filed with the
11 sheriff. The sheriff shall at once cause the commissioners to
12 be notified of the day and hour when they will be required to
13 proceed with the appraisal. The notice to the
14 commissioners shall also be published by the sheriff pursuant
15 to section 331.305.

16 Sec. 12. Section 6B.14, unnumbered paragraph 2, Code 2005,
17 is amended to read as follows:

18 Prior to the meeting of the commission, the commission or a
19 commissioner shall not communicate with the applicant,
20 property owner, or tenant, or their agents, regarding the
21 condemnation proceedings. The commissioners shall meet in
22 open session to view the property and to receive evidence, but
23 may shall deliberate in closed session. When deliberating in
24 closed session, the meeting is closed to all persons who are
25 not commissioners. After deliberations commence, the
26 commission and each commissioner is prohibited from
27 communicating with any party to the proceeding, unless such
28 communication occurs in the presence of or with the consent of
29 the property owner and the other parties who appeared before
30 the commission. ~~The commission shall keep minutes of all its
31 meetings showing the date, time, and place, the members
32 present, and the action taken at each meeting. The minutes
33 shall show the results of each vote taken and information
34 sufficient to indicate the vote of each member present. The
35 vote of each member present shall be made public at the open~~

1 ~~session.--The minutes shall be public records open to public~~
2 ~~inspection.~~

3 Sec. 13. Section 6B.18, subsections 2 and 3, Code 2005,
4 are amended to read as follows:

5 2. An appeal of appraisal of damages is deemed to be
6 perfected upon filing of a notice of appeal with the district
7 court within thirty days from the date of mailing the notice
8 of appraisal of damages. The notice of appeal shall be
9 served, by ordinary mail, on the adverse party, or the adverse
10 party's agent or attorney, and any lienholder and encumbrancer
11 of the property ~~in the same manner as an original notice~~
12 within thirty days from the date of filing the notice of
13 appeal unless, for good cause shown, the court grants more
14 than thirty days. ~~If after reasonable diligence, the notice~~
15 ~~cannot be personally served, the court may prescribe an~~
16 ~~alternative method of service consistent with due process of~~
17 ~~law.~~

18 3. In case of condemnation proceedings instituted by the
19 state department of transportation, when the owner appeals
20 from the assessment made, such notice of appeal shall be
21 served, by ordinary mail, upon the attorney general, or the
22 department general counsel to the state department of
23 transportation, or the chief highway engineer for the
24 department.

25 Sec. 14. Section 6B.26, Code 2005, is amended to read as
26 follows:

27 6B.26 DISPOSSESSION OF OWNER.

28 A landowner shall not be dispossessed under condemnation
29 proceedings of the landowner's residence, dwelling house,
30 outbuildings if the residence or dwelling house is also
31 acquired, orchard, or garden, until the damages thereto have
32 been finally determined and paid, and rent for such premises
33 shall not be charged and shall not accrue against the
34 landowner until such damages have been finally determined and
35 paid and all court challenges related to the condemnation have

1 been finally adjudicated. However, if the property described
2 in this section is condemned for highway purposes by the state
3 department of transportation, the condemning authority may
4 take possession of the property either after the damages have
5 been finally determined and paid or one hundred eighty days
6 after the compensation commission has determined and filed its
7 award, in which event all of the appraisement of damages shall
8 be paid to the property owner before the dispossession can
9 take place. This section shall not apply to condemnation
10 proceedings for drainage or levee improvements, or for public
11 school purposes. For the purposes of this section,
12 "outbuildings" means structures and improvements located in
13 proximity to the landowner's residence.

14 Sec. 15. Section 6B.42, subsection 1, Code 2005, is
15 amended to read as follows:

16 1. a. The If condemnation of property will result in the
17 displacement of a person, the acquiring agency shall provide
18 to the person, in addition to any other sums of money in
19 payment of just compensation and upon proper application to
20 the acquiring agency, the-payments-and-assistance-required-by
21 law,--in-accordance-with-chapter-316 payment for actual
22 reasonable and necessary expenses incurred in moving the
23 person, the person's family, business, farm operation, or
24 other personal property. The payment may also provide for
25 actual direct losses of tangible personal property, purchase
26 of substitute personal property, business reestablishment
27 expenses, storage expenses, and expenses incurred in searching
28 for a replacement business or farm operation. If relocation
29 of a business or farm operation is not economically feasible,
30 the displaced person may also apply for payment of the loss of
31 existing business relationships because of the inability to
32 relocate the business or farm operation to a location similar
33 in economic advantage to the location from which the business
34 or farm operation was moved.

35 b. A person aggrieved by a determination made as to

1 eligibility for relocation assistance, a payment, or the
2 amount of the payment, ~~upon application,~~ may apply to have the
3 matter reviewed by the appropriate acquiring agency.

4 c. An acquiring agency ~~subject to this section~~ that
5 proposes to displace a person shall inform the person of the
6 person's right to receive relocation assistance and payments,
7 and of an aggrieved person's right to appeal a determination
8 as to assistance and payments.

9 Sec. 16. Section 6B.45, Code 2005, is amended to read as
10 follows:

11 6B.45 MAILING COPY OF APPRAISAL.

12 When any real property or interest in real property is to
13 be purchased, or in lieu thereof to be condemned, the
14 acquiring agency or its agent shall submit to the person,
15 corporation, or entity whose property or interest in the
16 property is to be taken, by ordinary mail, at least ten days
17 prior to the date upon which the acquiring agency or its agent
18 contacts the property owner to commence negotiations, a copy
19 of the appraisal in its entirety upon such real property or
20 interest in such real property prepared for the acquiring
21 agency or its agent, which shall include, at a minimum, an
22 itemization of the appraised value of the real property or
23 interest in the property, any buildings on the property, all
24 other improvements including fences, severance damages, and
25 loss of access. The appraisal sent to the condemnee shall be
26 that appraisal upon which the condemnor will rely to establish
27 an amount which the condemnor believes to be just compensation
28 for the real property. All other appraisals made on the
29 property as a result of the condemnation proceeding shall be
30 made available to the condemnee upon request. In lieu of an
31 appraisal, a utility or person under the jurisdiction of the
32 utilities board of the department of commerce, or any other
33 utility conferred the right by statute to condemn private
34 property, shall provide in writing by certified ordinary mail
35 to the owner of record thirty days prior to negotiations, the

1 methods and factors used in arriving at an offered price for
2 voluntary easements including the range of cash amount of each
3 component. An acquiring agency may obtain a signed written
4 waiver from the landowner to allow negotiations to commence
5 prior to the expiration of the applicable waiting period for
6 the commencement of negotiations.

7 Sec. 17. Section 6B.49, Code 2005, is amended to read as
8 follows:

9 6B.49 NOTICE -- SERVICE.

10 Persons not voluntarily appearing, but having any right,
11 title, or interest in or to the property which is the subject
12 of condemnation, or any part thereof, including all
13 leaseholders, mortgagees and trustees of bondholders, who are
14 to be made parties to the proceedings shall be served, by
15 ordinary mail, with notice of the proceedings and the time and
16 place of meeting of the court ~~in the same manner and for the~~
17 ~~same length of time as for the service of original notice,~~
18 ~~either by personal service, or by service by publication, the~~
19 The time so set being in the notice shall be the time at which
20 the parties so served are required to appear, ~~and actual~~
21 ~~personal service of the notice within or without the state~~
22 ~~shall supersede the necessity for publication.~~

23 Sec. 18. Section 6B.54, Code 2005, is amended to read as
24 follows:

25 6B.54 ~~FEDERALLY-ASSISTED-PROJECT-AND-DISPLACING-ACTIVITIES~~
26 ~~-- ACQUISITION POLICIES~~ FOR ACQUIRING AGENCIES.

27 For any ~~project or displacing activity that has received or~~
28 ~~will receive federal financial assistance as defined in~~
29 ~~section 316.1, for any state-funded projects, or for any other~~
30 public use, public purpose, or public improvement for which
31 condemnation is sought, an acquiring agency shall, at a
32 minimum, satisfy the following policies:

33 1. Every reasonable and good faith effort shall be made to
34 acquire expeditiously real property by negotiation as provided
35 in section 6B.2B.

1 2. Real property shall be appraised as required by section
2 6B.45 before the initiation of negotiations, and the owner or
3 the owner's designated representative shall be given an
4 opportunity to accompany at least one appraiser of the
5 acquiring agency during an inspection of the property, except
6 that an acquiring agency may prescribe a procedure to waive
7 the appraisal in cases involving the acquisition of property
8 with a low fair market value. In lieu of an appraisal, a
9 utility or person under the jurisdiction of the utilities
10 board of the department of commerce, or any other utility
11 conferred the right by statute to condemn private property,
12 shall provide in writing by certified ordinary mail to the
13 owner of record thirty days before negotiations, the methods
14 and factors used in arriving at an offered price for voluntary
15 easements including the range of cash amount of each
16 component.

17 3. Before the initiation of negotiations for real
18 property, the acquiring agency shall establish an amount which
19 it believes to be just compensation for the real property, and
20 shall make a prompt offer to acquire the property for the full
21 amount established by the agency. In no event shall the
22 amount be less than the ~~lowest-appraisal-of-the~~ fair market
23 value of the acquiring agency has established for the property
24 or property interest pursuant to the appraisal required in
25 section 6B.45 plus expenses listed in subsection 10, or less
26 than the value determined under the acquiring agency's waiver
27 procedure established pursuant to subsection 2, plus expenses
28 listed in subsection 10. In the case of a utility or person
29 under the jurisdiction of the utilities board of the
30 department of commerce, or any other utility conferred the
31 right by statute to condemn private property, the amount shall
32 not be less than the amount indicated by the methods and
33 factors used in arriving at an offered price for a voluntary
34 easement.

35 4. The construction or development of a public improvement

1 shall be so scheduled that, to the greatest extent
2 practicable, no person lawfully occupying real property shall
3 be required to move from a dwelling or to move the person's
4 business or farm operation without at least ninety days'
5 written notice of the date by which the move is required.

6 5. If after damages have been finally determined and paid,
7 an owner or tenant is permitted to occupy the real property
8 acquired on a rental basis for a short term or for a period
9 subject to termination on short notice, the amount of rent
10 required shall not exceed the fair rental value of the
11 property to a short-term occupier.

12 6. In no event shall the time of condemnation be advanced,
13 or negotiations or condemnation and the deposit of funds in
14 court for the use of the owner be deferred, or any other
15 coercive action be taken to compel an agreement on the price
16 to be paid for the property.

17 7. If an interest in real property is to be acquired by
18 exercise of the power of eminent domain, formal condemnation
19 proceedings shall be instituted. The acquiring agency shall
20 not intentionally make it necessary for an owner to institute
21 legal proceedings to prove the fact of the taking of the
22 owner's real property.

23 8. If the acquisition of only a portion of property would
24 leave the owner with an uneconomical remnant, the acquiring
25 agency shall offer to acquire that remnant. For the purposes
26 of this chapter, an "uneconomical remnant" is a parcel of real
27 property in which the owner is left with an interest after the
28 partial acquisition of the owner's property, where the
29 acquiring agency determines that the parcel has little or no
30 value or utility to the owner.

31 9. A person whose real property is being acquired in
32 accordance with this chapter, after the person has been fully
33 informed of the person's right to receive just compensation
34 for the property, may donate the property, any part of the
35 property, any interest in the property, or any compensation

1 paid for it as the person may determine.

2 10. As soon as practicable after the date of payment of
3 the purchase price or the date of deposit in court of funds to
4 satisfy the award of compensation in a condemnation proceeding
5 to acquire real property, whichever is earlier, the acquiring
6 agency shall reimburse the owner, to the extent the acquiring
7 agency deems fair and reasonable, for expenses the owner
8 necessarily incurred for all of the following:

9 a. Recording fees, transfer taxes, and similar expenses
10 incidental to conveying the real property to the acquiring
11 agency.

12 b. Penalty costs for full or partial prepayment of any
13 preexisting recorded mortgage entered into in good faith
14 encumbering the real property.

15 Payments and expenditures under this subsection are
16 incident to and arise out of the program or project for which
17 the acquisition activity takes place. Such payments and
18 expenditures may be made from the funds made available for the
19 program or project.

20 A person aggrieved by a determination as to the eligibility
21 for or amount of a reimbursement may apply to have the matter
22 reviewed by the acquiring agency or in accordance with section
23 316.9 if applicable.

24 11. An owner shall not be required to surrender possession
25 of real property before the acquiring agency concerned pays
26 the agreed purchase price.

27 Sec. 19. Section 6B.55, unnumbered paragraph 1, Code 2005,
28 is amended to read as follows:

29 ~~For any program-or-project-that-has-received-or-will~~
30 ~~receive-federal-financial-assistance-as-defined-in-section~~
31 ~~316-17-for-any-state-funded-projects,-or-for-any-other~~ public
32 use, public purpose, or public improvement for which

33 condemnation is sought, an acquiring agency shall at a minimum
34 satisfy the following policies:

35 Sec. 20. Section 6B.56, subsection 2, Code 2005, is

1 amended to read as follows:

2 2. Before the real property may be offered for sale to the
3 general public, the condemner shall notify the prior owner of
4 the real property condemned in writing of the condemner's
5 intent to dispose of the real property, of the current
6 appraised value of the real property, and of the prior owner's
7 right to purchase the real property within sixty days from the
8 date the notice is served at a price equal to the current
9 appraised value of the real property or the fair market value
10 of the property at the time it was acquired by the prior owner
11 plus interest calculated on that portion of the damages
12 awarded to the prior owner that reflected such fair market
13 value, whichever is less. The notice sent by the condemner as
14 provided in this subsection shall be filed with the office of
15 the recorder in the county in which the real property is
16 located.

17 Sec. 21. Section 6B.59, Code 2005, is amended to read as
18 follows:

19 6B.59 SALE OF ACQUIRED PROPERTY -- REIMBURSEMENT TO
20 LANDOWNER.

21 If an acquiring agency acquires property by condemnation,
22 or by otherwise exercising the power of eminent domain, and
23 that property is later sold by the acquiring agency for more
24 than the acquisition price paid to the landowner, the
25 acquiring agency shall pay to the landowner from whom the
26 property was acquired the difference between the price at
27 which it was acquired and the price at which it was sold by
28 the acquiring agency less the cost of any improvements made to
29 or benefiting the land by the acquiring agency. ~~This section~~
30 ~~does-not-apply-to-property-acquired-by-the-state-department-of~~
31 ~~transportation.~~

32 Sec. 22. Section 28F.11, Code 2005, is amended to read as
33 follows:

34 28F.11 EMINENT DOMAIN.

35 Any public agency participating in an agreement authorizing

1 the joint exercise of governmental powers pursuant to this
2 chapter may exercise its power of eminent domain to acquire
3 interests in property, under provisions of law then in effect
4 and applicable to the public agency, for the use of the entity
5 created to carry out the agreement, provided that the power of
6 eminent domain is not used to acquire interests in property
7 which is part of a system of facilities in existence, under
8 construction, or planned, for the generation, transmission or
9 sale of electric power. In the exercise of the power of
10 eminent domain, the public agency shall proceed in the manner
11 provided by chapter 6B. Any interests in property acquired
12 are acquired for a public purpose, as defined in chapter 6A,
13 of the condemning public agency, and the payment of the costs
14 of the acquisition may be made pursuant to the agreement or to
15 any separate agreement between the public agency and the
16 entity or the other public agencies participating in the
17 entity or any of them. Upon payment of costs, any property
18 acquired is the property of the entity.

19 Sec. 23. Section 316.4, subsection 1, Code 2005, is
20 amended to read as follows:

21 1. If a program or project undertaken by a displacing
22 agency will result in the displacement of a person, the
23 displacing agency shall make a payment to the displaced
24 person, upon proper application as approved by the displacing
25 agency, for actual reasonable and necessary expenses incurred
26 in moving the person, the person's family, business, farm
27 operation, or other personal property subject to rules and
28 limits established by the department. The payment may also
29 provide for actual direct losses of tangible personal
30 property, purchase of substitute personal property, business
31 reestablishment expenses, storage expenses, and expenses
32 incurred in searching for a replacement business or farm. If
33 relocation of a business or farm operation is not economically
34 feasible, the displaced person may also apply for payment of
35 the loss of existing business relationships because of the

1 inability to relocate the business or farm operation to a
2 location similar in economic advantage to the location from
3 which the business or farm operation was moved.

4 Sec. 24. Section 327I.7, subsection 4, Code 2005, is
5 amended to read as follows:

6 4. Exercise the power of eminent domain consistent with
7 the provisions of chapters 6A and 6B.

8 Sec. 25. Section 330A.8, subsection 11, Code 2005, is
9 amended to read as follows:

10 11. To have the power of eminent domain, ~~such-power-to-be~~
11 ~~exercised-in-the-manner-provided-by-law-for-municipal~~
12 ~~corporations-of-this-state~~ but only as provided in section
13 330A.13.

14 Sec. 26. Section 330A.13, Code 2005, is amended to read as
15 follows:

16 330A.13 ACQUISITION OF LANDS AND PROPERTY.

17 1. An authority shall have the power to acquire by
18 purchase, within or without the geographical boundaries of the
19 member municipalities, ~~by-purchase-or-eminent-domain~~
20 ~~proceedings~~, either the fees or such rights, title, interest,
21 or easement in such ~~lands-and~~ property, including but not
22 limited to air rights and ~~avigation~~ navigation easements, as
23 the authority may deem necessary for any of the purposes of
24 this chapter. ~~The-right-of-eminent-domain-herein-conferred~~
25 ~~shall-be-exercised-by-the-authority-in-the-manner-provided-by~~
26 ~~law,-as-though-the-authority-were-a-municipal-corporation-~~

27 2. An authority shall have the power to acquire by eminent
28 domain, and only within the geographical boundaries of the
29 member municipalities, either the fees or such rights, title,
30 interest, or easement in such property, including but not
31 limited to air rights and navigation easements, as the
32 authority may deem necessary for any of the purposes of this
33 chapter. However, the right of eminent domain may only be
34 exercised by the authority if the governing body of each
35 member municipality approves, by resolution, the proposal to

1 acquire property by eminent domain. The right of eminent
2 domain conferred by this subsection shall be exercised by the
3 authority in the manner provided by law, as though the
4 authority were a municipality located in this state.

5 3. In lieu of subsection 2, any member municipality may
6 exercise its power of eminent domain to acquire on behalf of
7 the authority either the fees or such rights, title, interest,
8 or easement in such property located within the boundaries of
9 the member municipality, including but not limited to air
10 rights and navigation easements, as the authority may deem
11 necessary for any of the purposes of this chapter. The
12 condemnation procedure shall be in accordance with the eminent
13 domain statutes of the state in which the affected property is
14 located. The payment of the costs of the acquisition shall be
15 made by the authority or by any or all of the member
16 municipalities.

17 Sec. 27. Section 346.27, subsection 9, paragraph b, Code
18 2005, is amended to read as follows:

19 b. (1) To acquire in the corporate name of the authority
20 the fee simple title to the real property located within the
21 area by purchase, gift, devise, or by the exercise of the
22 power of eminent domain, or to take possession of real estate
23 by lease.

24 (2) The right of eminent domain may only be exercised by
25 the authority if the governing body of each incorporating unit
26 approves, by resolution, the proposal to acquire property by
27 eminent domain. The right of eminent domain shall be
28 exercised by the authority in the manner provided by chapters
29 6A and 6B.

30 (3) In lieu of subparagraph (2), an incorporating unit may
31 exercise its power of eminent domain to acquire property on
32 behalf of the authority in order to aid the authority to
33 effectuate its purposes. The condemnation procedure shall be
34 in accordance with chapters 6A and 6B. The payment of the
35 costs of the acquisition shall be made by the authority or by

1 any or all of the incorporating units.

2 Sec. 28. Section 364.4, subsection 1, Code 2005, is
3 amended to read as follows:

4 1. Acquire, hold, and dispose of property outside the city
5 in the same manner as within. However, a city shall not
6 acquire property outside the city by eminent domain, except
7 for the purposes of obtaining a surface drinking water source,
8 constructing a landfill, or constructing sewer treatment
9 facilities and only if the city demonstrates that no other
10 feasible alternative exists to accomplish these purposes.

11 Sec. 29. Section 389.3, unnumbered paragraph 2, Code 2005,
12 is amended to read as follows:

13 A joint water utility is a political subdivision and an
14 instrumentality of municipal government. The statutory
15 powers, duties, and limitations conferred upon a city utility
16 apply to a joint water utility, except that title to property
17 of a joint water utility may be held in the name of the joint
18 water utility. The joint water utility board shall have all
19 powers and authority of a city with respect to property which
20 is held by the joint water utility. ~~A joint-water-utility~~
21 ~~shall-have-the-power-of-eminent-domain,-including-the-powers~~
22 ~~conferred-upon-a-city-in-chapters-6A-and-6B,-for-the-purposes~~
23 ~~of-constructing-and-operating-a-joint-water-utility.~~ A joint
24 water utility may acquire property by eminent domain if, for
25 each instance for which the right of eminent domain is sought
26 to be exercised by the joint water utility board, the city
27 council of each member city approves, by resolution, exercise
28 of that right. If approval is granted, the right of eminent
29 domain shall be exercised by the joint water utility board as
30 if the joint water utility was a city. However, a member city
31 may exercise its power of eminent domain to acquire property
32 on behalf of the joint water utility board, and the payment of
33 the costs of the acquisition shall be made by the joint water
34 utility board or by any or all of the member cities.

35 Sec. 30. Section 403.2, subsection 4, Code 2005, is

1 amended to read as follows:

2 4. It is further found and declared that the powers
3 conferred by this chapter are for public uses and purposes for
4 which public money may be expended and for which the power of
5 eminent domain, to the extent authorized, and police power
6 exercised; and that the necessity in the public interest for
7 the provisions herein enacted is hereby declared as a matter
8 of legislative determination.

9 Sec. 31. Section 403.5, subsection 4, paragraph b,
10 subparagraph (2), Code 2005, is amended to read as follows:

11 (2) If it is to be developed for nonresidential uses, the
12 local governing body shall determine that such nonresidential
13 uses are necessary and appropriate to facilitate the proper
14 growth and development of the community in accordance with
15 sound planning standards and local community objectives.

16 PARAGRAPH DIVIDED. The acquisition of open land authorized
17 in subparagraphs (1) and (2) may require the exercise of
18 governmental action, as provided in this chapter, because of
19 defective or unusual conditions of title, diversity of
20 ownership, tax delinquency, improper subdivisions, outmoded
21 street patterns, deterioration of site, economic disuse,
22 unsuitable topography or faulty lot layouts, or because of the
23 need for the correlation of the area with other areas of a
24 municipality by streets and modern traffic requirements, or
25 any combination of such factors or other conditions which
26 retard development of the area. If such governmental action
27 involves the exercise of eminent domain authority, the
28 municipality is subject to the limitations of this chapter and
29 chapters 6A and 6B.

30 Sec. 32. Section 403.5, subsection 4, paragraph b,
31 unnumbered paragraph 2, Code 2005, is amended by striking the
32 unnumbered paragraph.

33 Sec. 33. Section 403.6, subsection 3, Code 2005, is
34 amended to read as follows:

35 3. Within its area of operation, to enter into any

1 building or property in any urban renewal area in order to
2 make inspections, surveys, appraisals, soundings or test
3 borings, and to obtain an order for this purpose from a court
4 of competent jurisdiction in the event entry is denied or
5 resisted; to acquire by purchase, lease, option, gift, grant,
6 bequest, devise, eminent domain or otherwise, any real
7 property, or personal property for administrative purposes,
8 together with any improvements thereon; to hold, improve,
9 clear or prepare for redevelopment any such property; to
10 mortgage, pledge, hypothecate or otherwise encumber or dispose
11 of any real property; to insure or provide for the insurance
12 of any real or personal property or operations of the
13 municipality against any risks or hazards, including the power
14 to pay premiums on any such insurance; and to enter into any
15 contracts necessary to effectuate the purposes of this
16 ~~chapter;--Provided, however, that no statutory provision with~~
17 ~~respect to the acquisition, clearance or disposition of~~
18 ~~property by public bodies shall restrict a municipality or~~
19 ~~other public body exercising powers hereunder in the exercise~~
20 ~~of such functions with respect to an urban renewal project,~~
21 ~~unless the legislature shall specifically so state. A~~
22 municipality or other public body exercising powers under this
23 chapter with respect to the acquisition, clearance, or
24 disposition of property shall not be restricted by any other
25 statutory provision in the exercise of such powers unless such
26 statutory provision specifically states its application to
27 this chapter or unless this chapter specifically applies
28 restrictions contained in another statutory provision to the
29 powers that may be exercised under this chapter.

30 Sec. 34. Section 403.7, Code 2005, is amended to read as
31 follows:

32 403.7 CONDEMNATION OF PROPERTY.

33 1. A municipality shall have the right to acquire by
34 condemnation any interest in real property, including a fee
35 simple title thereto, which it may deem necessary for or in

1 connection with an urban renewal project under this chapter,
2 subject to the limitations on eminent domain authority in
3 chapter 6A. However, a municipality shall not condemn
4 agricultural land included within an economic development area
5 for any use unless the owner of the agricultural land consents
6 to condemnation or unless ~~the agricultural land is to be~~
7 ~~acquired for industry as that term is defined in section~~
8 260E-2 the municipality determines that the land is necessary
9 or useful for any of the following:

10 a. The operation of a city utility as defined in section
11 362.2.

12 b. The operation of a city franchise conferred the
13 authority to condemn private property under section 364.2.

14 c. The operation of a combined utility system as defined
15 in section 384.80.

16 2. A municipality ~~may~~ shall exercise the power of eminent
17 domain in the manner provided in chapter 6B, ~~and Acts~~
18 ~~amendatory to that chapter or supplementary to that chapter,~~
19 ~~or it may exercise the power of eminent domain in the manner~~
20 ~~now or which may be hereafter provided by any other statutory~~
21 ~~provisions for the exercise of the power of eminent domain.~~
22 Property already devoted to a public use may be acquired in
23 like manner. However, real property belonging to the state,
24 or any political subdivision of this state, shall not be
25 acquired without its consent, and real property or any right
26 or interest in the property owned by any public utility
27 company, pipeline company, railway or transportation company
28 vested with the right of eminent domain under the laws of this
29 state, shall not be acquired without the consent of the
30 company, or without first securing, after due notice to the
31 company and after hearing, a certificate authorizing
32 condemnation of the property from the board, commission, or
33 body having the authority to grant a certificate authorizing
34 condemnation.

35 3. In a condemnation proceeding, if a municipality

1 proposes to take a part of a lot or parcel of real property,
2 the municipality shall also take the remaining part of the lot
3 or parcel if requested by the owner.

4 Sec. 35. Section 403.17, subsection 5, Code 2005, is
5 amended to read as follows:

6 5. "Blighted area" means an area of a municipality within
7 which the local governing body of the municipality determines
8 that the presence of a substantial number of slum,
9 deteriorated, or deteriorating structures; ~~defective-or~~
10 ~~inadequate-street-lay-out~~; faulty lot layout in relation to
11 size, adequacy, or accessibility, ~~or-usefulness~~; insanitary or
12 unsafe conditions; excessive and uncorrected deterioration of
13 site or other improvements; ~~diversity-of-ownership~~; tax or
14 special assessment delinquency exceeding the fair value of the
15 land; defective or unusual conditions of title; or the
16 existence of conditions which endanger life or property by
17 fire and other causes; or ~~any-combination-of-these-factors~~;
18 ~~substantially-impairs-or-arrests-the-sound-growth-of-a~~
19 ~~municipality~~; retards the existence of conditions which retard
20 the provision of housing accommodations for low or moderate
21 income families, or-constitutes-an-economic-or-social
22 ~~liability~~ and is a menace to the public health, and safety, ~~or~~
23 ~~welfare~~ in its present condition and use. A disaster area
24 referred to in section 403.5, subsection 7, constitutes a
25 "blighted area". "Blighted area" does not include real
26 property assessed as agricultural property for purposes of
27 property taxation.

28 Sec. 36. Section 403.17, subsection 22, Code 2005, is
29 amended to read as follows:

30 22. "Slum area" shall mean an area in which there is a
31 predominance of buildings or improvements, whether residential
32 or nonresidential, which: by reason of dilapidation,
33 deterioration that is excessive and uncorrected, age or
34 obsolescence; by reason of inadequate provision for
35 ventilation, light, air, sanitation, or open spaces; by reason

1 of high density of population and overcrowding; by reason of
2 the existence of conditions which endanger life or property by
3 fire and other causes; or which by any combination of such
4 factors, is conducive to ill health, transmission of disease,
5 infant mortality, juvenile delinquency, or crime, and which is
6 detrimental to the public health, and safety, ~~morals, or~~
7 ~~welfare~~. "Slum area" does not include real property assessed
8 as agricultural property for purposes of property taxation.

9 Sec. 37. Section 403A.3, subsection 4, Code 2005, is
10 amended to read as follows:

11 4. To lease or rent any dwellings, accommodations, lands,
12 buildings, structures or facilities embraced in any project
13 and (subject to the limitations contained in this chapter with
14 respect to the rental of dwellings in housing projects) to
15 establish and revise the rents or charges therefor; to own,
16 hold and improve real or personal property; to purchase,
17 lease, obtain options upon, acquire by gift, grant, bequest,
18 devise or otherwise any real or personal property or any
19 interest therein; to acquire by the exercise of the power of
20 eminent domain any real property subject to section 403A.20;
21 to sell, lease, exchange, transfer, assign, pledge or dispose
22 of any real or personal property or any interest therein; to
23 insure or provide for the insurance, in any stock or mutual
24 company of any real or personal property or operations of the
25 municipality against any risks or hazards; to procure or agree
26 to the procurement of federal or state government insurance or
27 guarantees of the payment of any bonds or parts thereof issued
28 by a municipality, including the power to pay premiums on any
29 such insurance.

30 Sec. 38. Section 403A.20, Code 2005, is amended to read as
31 follows:

32 403A.20 CONDEMNATION OF PROPERTY.

33 A municipality shall have the right to acquire by
34 condemnation any interest in real property, including a fee
35 simple title thereto, which it may deem necessary for or in

1 connection with a municipal housing project under this
2 chapter, subject to the limitations on eminent domain
3 authority in chapter 6A. A municipality ~~may~~ shall exercise
4 the power of eminent domain in the manner provided in chapter
5 ~~6B,--and-acts-amendatory-thereof-or-supplementary-thereto,--or~~
6 ~~it-may-exercise-the-power-of-eminent-domain-in-the-manner-now~~
7 ~~or-which-may-be-hereafter-provided-by-any-other-statutory~~
8 ~~provisions-for-the-exercise-of-the-power-of-eminent-domain.~~
9 Property already devoted to a public use may be acquired in
10 like manner:--Provided,--that-no. However, real property
11 belonging to the state, or any political subdivision thereof,
12 ~~may~~ shall not be acquired without its consent, provided
13 ~~further-that-no~~ and real property or any right or interest
14 ~~therein in the property~~ owned by any public utility company,
15 pipeline company, railway or transportation company vested
16 with the right of eminent domain under the laws of this state,
17 shall not be acquired without the consent of ~~such~~ the company,
18 or without first securing, after due notice to ~~such~~ the
19 company and after hearing, a certificate authorizing
20 condemnation of such property from the board, commission, or
21 body having the authority to grant a certificate authorizing
22 condemnation.

23 In a condemnation proceeding, if a municipality proposes to
24 take a part of a lot or parcel of real property, the
25 municipality shall also take the remaining part of the lot or
26 parcel if requested by the owner.

27 Sec. 39. Section 468.128, Code 2005, is amended to read as
28 follows:

29 468.128 IMPOUNDING AREAS AND EROSION CONTROL DEVICES.

30 Levee and drainage districts are empowered to construct
31 impounding areas and other flood and erosion control devices
32 to protect lands of the district and drainage structures and
33 may provide ways for access to improvements for the operation
34 or protection thereof, where the cost is not excessive in
35 consideration of the value to the district. Necessary lands

1 or easements may be acquired within or without the district by
2 purchase, lease or agreement, or by exercise of the right of
3 eminent domain as provided for in chapter 6B and may be
4 procured and construction undertaken either independently or
5 in co-operation with other districts, individuals, or any
6 federal or state agency or political subdivision.

7 Sec. 40. Section 468.146, subsection 1, Code 2005, is
8 amended to read as follows:

9 1. When a drainage district is established and a
10 satisfactory outlet cannot be obtained except through lands in
11 an adjoining county, or when an improved outlet cannot be
12 obtained except through lands downstream from the district
13 boundary, the board shall have the power to purchase a right
14 of way, to construct and maintain such outlets, and to pay all
15 necessary costs and expenses out of the district funds. The
16 board shall have similar authority relative to the
17 construction and maintenance of silt basins upstream from the
18 district boundary. In case the board and the owners of the
19 land required for such outlet or silt basin cannot agree upon
20 the price to be paid as compensation for the land taken or
21 used, the board is hereby empowered to exercise the right of
22 eminent domain as provided for in chapter 6B in order to
23 procure such necessary right of way.

24 Sec. 41. Section 468.366, Code 2005, is amended to read as
25 follows:

26 468.366 **SETTLING BASIN -- CONDEMNATION.**

27 If, before a district operating a pumping plant is
28 completed and accepted, it appears that portions of the lands
29 within said district are wet or nonproductive by reason of the
30 floods or overflow waters from one or more streams running
31 into, through, or along said district and that said district
32 or some other district of which such district shall have
33 formed a part, shall have provided a settling basin to care
34 for the said floods and overflow waters of said stream or
35 watercourse, but no channel to said settling basin has been

1 provided, said board or boards are hereby empowered to lease,
2 buy, or condemn the necessary lands within or without the
3 district for such channel. Proceedings to condemn shall be as
4 provided in chapter 6B for the exercise of the right of
5 eminent domain.

6 Sec. 42. Sections 6B.4A and 6B.58, Code 2005, are
7 repealed.

8 Sec. 43. EFFECTIVE AND APPLICABILITY DATES. This Act,
9 being deemed of immediate importance, takes effect upon
10 enactment and applies to condemnation actions initiated on or
11 after the effective date of this Act.

12 EXPLANATION

13 This bill makes changes to the law relating to eminent
14 domain authority and the procedure by which eminent domain
15 authority is exercised (condemnation). Related urban renewal
16 law changes are also made.

17 The bill provides limitations on the exercise of eminent
18 domain authority for all private property by defining "public
19 use", "public purpose", and "public improvement" to mean use
20 of property by the general public, governmental entities,
21 public or private utilities, or common carriers. "Public
22 use", "public purpose", and "public improvement" are also
23 defined in the bill to include private use of property that is
24 incidental to its public use, and the acquisition of property
25 in urban renewal areas designated as a slum area or as a
26 blighted area. The bill further provides that "public use",
27 "public purpose", and "public improvement" do not mean
28 economic development activities or privately funded activities
29 unless such activities are specifically included in the
30 definition of these terms. The bill also provides that
31 private property shall not be condemned for creation of a
32 lake, construction of a landfill, or construction of sewer
33 treatment facilities unless the acquiring agency demonstrates
34 that no other feasible alternative exists to accomplish its
35 purpose. The bill further provides that private property

1 shall not be condemned for a park or recreational facility
2 unless a good faith effort has been made to purchase a
3 feasible location from a willing seller.

4 The bill provides that, in an action contesting
5 condemnation of property, the burden of proof is on the
6 acquiring agency to demonstrate by clear and convincing
7 evidence that the proposed use of the property meets the
8 definition of "public use", "public purpose", and "public
9 improvement" and that there is no feasible alternative to
10 condemnation of the property.

11 The bill strikes the exception for condemnation of
12 agricultural land for industry and, correspondingly, repeals
13 Code section 6B.4A that gave a compensation commission the
14 authority to review an application by a city or county for
15 condemnation of agricultural land for industry.

16 The bill provides that when engaging in negotiations with a
17 landowner, the acquiring agency shall offer a price for the
18 property that is not less than the acquiring agency's
19 appraisal plus certain specified expenses that may be incurred
20 by the property owner or less than the value determined under
21 the acquiring agency's waiver procedure for property with a
22 low fair market value plus such expenses. Code section 6B.54
23 currently allows an acquiring agency to establish a waiver
24 procedure for property with a low fair market value.

25 The bill provides that a challenge to the exercise of
26 eminent domain authority or to the condemnation proceedings
27 may be brought by the owner of the property at any time up
28 until the deadline for filing the notice of appeal of
29 appraisal of the damages determined by the compensation
30 commission. The condemnation proceedings against such
31 property shall be stayed while court action is pending. The
32 bill requires that notice of the challenge be served by
33 ordinary mail on the adverse party and other parties in
34 interest.

35 The bill provides that a compensation commission shall

1 deliberate in closed session and such session is closed to all
2 persons who are not commissioners.

3 The bill provides that the following be served by ordinary
4 mail:

5 1. The application for condemnation, served by the
6 acquiring agency (Code section 6B.3).

7 2. The list of compensation commissioners and alternates,
8 served by the acquiring agency on the landowner (Code section
9 6B.4).

10 3. The notice of assessment, served by the party seeking
11 an assessment of damages to be performed by the compensation
12 commission (Code section 6B.8).

13 4. The notice of appeal of appraisal of damages, served
14 by the party appealing the appraisal (Code section 6B.18).

15 5. The methods and factors used by a utility in valuing
16 voluntary easements (Code sections 6B.45 and 6B.54).

17 6. The notice of special proceeding to condemn an existing
18 utility, served by a city (Code section 6B.49).

19 The bill provides that a property owner being dispossessed
20 of the owner's residence shall not be charged rent nor shall
21 rent accrue until the damages for the property have been
22 finally determined and paid and all court challenges related
23 to the condemnation have been finally adjudicated.

24 The bill specifies that payments for relocating persons
25 displaced by condemnation, including expenses incurred in
26 moving the person's family, business, or farm operation, shall
27 be paid for any condemnation that displaces a person, not just
28 those that are for projects or programs receiving federal
29 financial assistance. For all condemnations, including those
30 receiving federal financial assistance, the bill provides that
31 if relocation of a business or farm operation is not
32 economically feasible, the displaced person may also apply for
33 payment of the loss of existing business relationships because
34 of the inability to relocate the business or farm operation to
35 a location similar in economic advantage to the location from

1 which the business or farm operation was moved.

2 The bill specifies that Code sections 6B.54 and 6B.55,
3 relating to requirements imposed on acquiring agencies, apply
4 to condemnations for a public use, public purpose, or public
5 improvement.

6 Current law provides that property obtained by condemnation
7 that is later sold by the acquiring agency must be offered for
8 sale first to the previous owner at a price equal to the
9 current appraised value. The bill provides that it must be
10 offered for sale to the previous owner at the current
11 appraised value or the fair market value at the time it was
12 acquired by condemnation plus interest calculated on that
13 portion of the damages that reflected the fair market value,
14 whichever is less.

15 Current law provides that the Iowa department of
16 transportation is exempt from the requirement, if condemned
17 property is later sold by the acquiring agency, to pay the
18 difference between the price at which it was acquired from the
19 previous owner and the price at which it was sold. The bill
20 removes this exemption.

21 The bill makes changes to various provisions of the Code
22 where eminent domain authority is extended to an entity other
23 than those listed in Code chapter 6A to specify that those
24 entities, when condemning property, are subject to the
25 provisions of Code chapters 6A and 6B. The bill further
26 provides that an aviation authority (Code chapter 330A), a
27 joint public building authority (Code section 346.27), and a
28 joint water utility board (Code chapter 389) shall not
29 exercise the right of eminent domain until such exercise is
30 approved by the governing bodies of the cities or counties
31 which created the authority or board. In lieu of seeking such
32 approval, a member city or county, as applicable, may exercise
33 its power of eminent domain on behalf of the authority or
34 board.

35 The bill provides that the power of a city to acquire

1 property outside the city does not include the power to
2 acquire such property by eminent domain unless acquisition of
3 such property is for the purposes of obtaining a surface
4 drinking water source, constructing a landfill, or
5 constructing sewer treatment facilities and no feasible
6 alternative exists to accomplish these purposes.

7 The bill provides that the authority to exercise the power
8 of eminent domain under the urban renewal Code chapter and the
9 Code chapter authorizing municipal housing projects is subject
10 to the limitations on eminent domain authority in Code chapter
11 6A, "Eminent Domain Law (condemnation)", and the general
12 procedure for condemnation of property set out in Code chapter
13 6B, "Procedure Under Eminent Domain". Also, relating to
14 municipal housing projects, the bill provides that if a
15 municipality proposes to take a part of a lot or parcel of
16 real property, the municipality shall also take the remaining
17 part of the lot or parcel if requested by the owner. The same
18 requirement currently applies to condemnation of property for
19 urban renewal purposes.

20 The bill also makes changes to the definitions of "slum
21 area" and "blighted area" in the urban renewal chapter.

22 The bill takes effect upon enactment and applies to
23 condemnation actions initiated on or after the effective date
24 of the bill.

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