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SENATE FILE 2046

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and LAMBERTI

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to eminent domain authority and condemnation and
2 including effective date and applicability date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

JUDICIARY

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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.27~~ 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 pursuant to chapter 455H.

4 (5) The acquisition of property in that portion of an
5 urban renewal area designated as a slum or blighted area if
6 each parcel, or any improvements thereon, for which
7 condemnation is sought is determined by the governing body of
8 the municipality to be presently suffering from one or more of
9 the following:

10 (a) Dilapidated, deteriorated, or deteriorating structures
11 located on the parcel.

12 (b) Unsafe conditions or inadequate provision for
13 sanitation.

14 (c) Existence of conditions which endanger life or
15 property by fire and other causes.

16 (d) Substantial deterioration of site.

17 (e) Tax or special assessment delinquency exceeding the
18 fair value of the land.

19 (f) Defective or unusual conditions of title.

20 (g) Use of the property that is detrimental to the public
21 health, safety, or welfare.

22 In any action contesting a determination made pursuant to
23 this subparagraph (5), the burden of proof is on the acquiring
24 agency to prove by clear and convincing evidence that it did
25 not abuse its discretion in making such a determination.

26 b. Except as specifically included in the definition in
27 paragraph "a", "public use", "public purpose", or "public
28 improvement" does not mean economic development activities
29 resulting in increased tax revenues, increased employment
30 opportunities, privately owned or privately funded housing and
31 residential development, privately owned or privately funded
32 commercial or industrial development, the lease of publicly
33 owned property to a private party, or recreational development
34 paid for primarily with private funds.

35 3. In any action contesting whether eminent domain

1 authority is being exercised for a public use, public purpose,
2 or public improvement, the burden of proof is on the acquiring
3 agency to prove by clear and convincing evidence that the
4 proposed use of the property meets the definition of public
5 use, public purpose, or public improvement in subsection 2.

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

8 6B.1 DEFINITIONS.

9 1. As used in this chapter, unless the context otherwise
10 requires, "book", "list", "record", or "schedule" kept by a
11 county auditor, assessor, treasurer, recorder, sheriff, or
12 other county officer means the county system as defined in
13 section 445.1.

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

18 Sec. 4. Section 6B.2A, subsection 1, unnumbered paragraph
19 1, Code 2005, is amended to read as follows:

20 An acquiring agency shall provide written notice of a
21 public hearing to each owner and any contract purchaser of
22 record of ~~agricultural-land~~ private property that may be the
23 subject of condemnation. The authority under this chapter is
24 not conferred and condemnation proceedings shall not begin
25 unless a good faith effort is made to mail and publish the
26 notice as provided in this section on the owner and any
27 contract purchaser of record of the property subject to
28 condemnation. The notice shall be mailed by ordinary mail,
29 not less than thirty days before the date the hearing is held,
30 to the owner and any contract purchaser of record of each
31 property or property interest at the owner's and contract
32 purchaser's last known address as shown in the records of the
33 county auditor not less than seven days nor more than fourteen
34 days prior to the date of mailing. A change in ownership of
35 any such property which is not reflected in the records of the

1 county auditor during the period those records are searched as
2 above provided shall not affect the validity of the notice or
3 any condemnation proceeding commenced on the basis of such
4 notice. The notice shall be given and the public hearing held
5 before adoption of the ordinance, resolution, motion, or other
6 declaration of intent to fund the final site-specific design
7 for the public improvement, to make the final selection of the
8 route or site location for the public improvement, or to
9 acquire or condemn, if necessary, all or a portion of the
10 property or an interest in the property for the public
11 improvement. If the location of the public improvement is
12 changed or expanded after the decision has been made to
13 proceed with the public improvement, a notice shall be mailed
14 by ordinary mail no less than thirty days before the adoption
15 of the ordinance, resolution, motion, or other declaration of
16 intent to proceed with a change in the location of the public
17 improvement to the owner and any contract purchaser of record
18 of the ~~land~~ property to be acquired or condemned, if
19 necessary, in the new location of the public improvement
20 affected by the change. The mailed notice shall, at a
21 minimum, include the following information:

22 Sec. 5. Section 6B.2A, subsection 2, unnumbered paragraph
23 1, Code 2005, is amended to read as follows:

24 The acquiring agency shall cause a notice to be published
25 once in a newspaper of general circulation in the county or
26 city where the ~~agricultural-land~~ property to be acquired or
27 condemned is located. The notice shall be published at least
28 four but no more than twenty days before the public hearing is
29 held as referred to in subsection 1. The published notice
30 shall, at a minimum, include the following information:

31 Sec. 6. Section 6B.2B, Code 2005, is amended to read as
32 follows:

33 6B.2B ACQUISITION NEGOTIATION STATEMENT-OF-RIGHTS.

34 The acquiring agency shall make a good faith effort to
35 negotiate with the owner to purchase the private property or

1 property interest before filing an application for
2 condemnation or otherwise proceeding with the condemnation
3 process. An acquiring agency shall not make an offer to
4 purchase the property or property interest that is less than
5 the fair market value the acquiring agency has established for
6 the property or property interest pursuant to the appraisal
7 required in section 6B.45 plus expenses listed in section
8 6B.54, subsection 10, or less than the value determined under
9 the acquiring agency's waiver procedure established pursuant
10 to section 6B.54, subsection 2, for acquisition of property
11 with a low fair market value plus expenses listed in section
12 6B.54, subsection 10. However, an acquiring agency need not
13 make an offer in excess of that amount in order to satisfy the
14 requirement to negotiate in good faith. ~~An-acquiring-agency~~
15 ~~is-deemed-to-have-met-the-requirements-of-this-section-if-the~~
16 ~~acquiring-agency-complies-with-section-6B.54.~~

17 Sec. 7. Section 6B.3, subsection 1, paragraph d, Code
18 2005, is amended to read as follows:

19 d. The purpose for which condemnation is sought. For
20 ~~purposes-of-section-6B.4A, if condemnation of agricultural~~
21 ~~land is sought by a city or county, or an agency of a city or~~
22 ~~county, for location of an industry as that term is defined in~~
23 ~~section 260E.2, the application shall so state. --However, the~~
24 ~~city or county shall not be required to disclose information~~
25 ~~on an industrial prospect with which the city or county is~~
26 ~~currently negotiating.~~

27 Sec. 8. Section 6B.3, subsection 3, unnumbered paragraph
28 2, Code 2006, is amended to read as follows:

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

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

6 Sec. 9. NEW SECTION. 6B.3A CHALLENGE BY OWNER.

7 An owner of property described in an application for
8 condemnation may bring an action to challenge the exercise of
9 eminent domain authority or the condemnation proceedings in
10 the district court of the county in which the private property
11 is situated at any time up until the deadline for filing a
12 notice of appeal of appraisal of damages under section
13 6B.18, subsection 1. The condemnation proceedings against
14 such property shall be stayed while court action is pending.

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

17 6B.8 NOTICE OF ASSESSMENT.

18 The applicant, or the owner or any lienholder or
19 encumbrancer of any land described in the application, may, at
20 any time after the appointment of the commissioners, have the
21 damages to the lands of any such owner assessed by giving the
22 other party, if a resident of this state, thirty days' notice,
23 in writing. The notice shall specify the day and the hour
24 when the compensation commission will meet, view the premises,
25 and assess the damages. The notice shall be personally served
26 upon all necessary parties in the same manner provided by the
27 Iowa rules of civil procedure for the personal service of
28 original notice. ~~If a city or county, or an agency of a city~~
29 ~~or county, is seeking to condemn agricultural land for an~~
30 ~~industry as that term is defined in section 260E.2, the notice~~
31 ~~shall inform the landowner that the landowner may request that~~
32 ~~the compensation commission review the application as provided~~
33 ~~in section 6B.4A.~~

34 Sec. 11. Section 6B.14, unnumbered paragraph 2, Code 2005,
35 is amended to read as follows:

1 Prior to the meeting of the commission, the commission or a
2 commissioner shall not communicate with the applicant,
3 property owner, or tenant, or their agents, regarding the
4 condemnation proceedings. The commissioners shall meet in
5 open session to view the property and to receive evidence, but
6 may deliberate in closed session. If the commission chooses
7 to deliberate in closed session, the meeting is closed to all
8 persons who are not commissioners. After deliberations
9 commence, the commission and each commissioner is prohibited
10 from communicating with any party to the proceeding, unless
11 such communication occurs in the presence of or with the
12 consent of the property owner and the other parties who
13 appeared before the commission. The commission shall keep
14 minutes of all its meetings showing the date, time, and place,
15 the members present, and the action taken at each meeting.
16 The minutes shall show the results of each vote taken and
17 information sufficient to indicate the vote of each member
18 present. The vote of each member present shall be made public
19 at the open session. The minutes shall be public records open
20 to public inspection.

21 Sec. 12. Section 6B.42, subsection 1, Code 2005, is
22 amended to read as follows:

23 1. a. The If condemnation of property will result in the
24 displacement of a person, the acquiring agency shall provide
25 to the person, in addition to any other sums of money in
26 payment of just compensation and upon proper application to
27 the acquiring agency, the-payments-and-assistance-required-by
28 law-in-accordance-with-chapter-316 payment for actual
29 reasonable and necessary expenses incurred in moving the
30 person, the person's family, business, farm operation, or
31 other personal property. The payment may also provide for
32 actual direct losses of tangible personal property, purchase
33 of substitute personal property, business reestablishment
34 expenses, storage expenses, and expenses incurred in searching
35 for a replacement business or farm operation.

1 b. A person aggrieved by a determination made as to
2 eligibility for relocation assistance, a payment, or the
3 amount of the payment, ~~upon application,~~ may apply to have the
4 matter reviewed by the appropriate acquiring agency.

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

10 Sec. 13. Section 6B.54, unnumbered paragraph 1, Code 2005,
11 is amended to read as follows:

12 For any ~~project or displacing activity that has received or~~
13 ~~will receive federal financial assistance as defined in~~
14 ~~section 316.17 for any state-funded projects, or for any other~~
15 public use, public purpose, or public improvement for which
16 condemnation is sought, an acquiring agency shall, at a
17 minimum, satisfy the following policies:

18 Sec. 14. Section 6B.54, subsection 1, Code 2005, is
19 amended to read as follows:

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

23 Sec. 15. Section 6B.54, subsection 3, Code 2005, is
24 amended to read as follows:

25 3. Before the initiation of negotiations for real
26 property, the acquiring agency shall establish an amount which
27 it believes to be just compensation for the real property, and
28 shall make a prompt offer to acquire the property for the full
29 amount established by the agency. In no event shall the
30 amount be less than the ~~lowest appraisal of the~~ fair market
31 value ~~of the~~ of the acquiring agency has established for the property
32 or property interest pursuant to the appraisal required in
33 section 6B.45 plus expenses listed in subsection 10, or less
34 than the value determined under the acquiring agency's waiver
35 procedure established pursuant to subsection 2, plus expenses

1 listed in subsection 10. In the case of a utility or person
2 under the jurisdiction of the utilities board of the
3 department of commerce, or any other utility conferred the
4 right by statute to condemn private property, the amount shall
5 not be less than the amount indicated by the methods and
6 factors used in arriving at an offered price for a voluntary
7 easement.

8 Sec. 16. Section 6B.54, subsection 10, unnumbered
9 paragraph 3, Code 2005, is amended to read as follows:

10 A person aggrieved by a determination as to the eligibility
11 for or amount of a reimbursement may have the matter reviewed
12 by the acquiring agency or in accordance with section 316.9 if
13 applicable.

14 Sec. 17. Section 6B.55, unnumbered paragraph 1, Code 2005,
15 is amended to read as follows:

16 For any ~~program-or-project-that-has-received-or-will~~
17 ~~receive-federal-financial-assistance-as-defined-in-section~~
18 ~~316.17-for-any-state-funded-projects,-or-for-any-other public~~
19 use, public purpose, or public improvement for which
20 condemnation is sought, an acquiring agency shall at a minimum
21 satisfy the following policies:

22 Sec. 18. Section 28F.11, Code 2005, is amended to read as
23 follows:

24 28F.11 EMINENT DOMAIN.

25 Any public agency participating in an agreement authorizing
26 the joint exercise of governmental powers pursuant to this
27 chapter may exercise its power of eminent domain to acquire
28 interests in property, under provisions of law then in effect
29 and applicable to the public agency, for the use of the entity
30 created to carry out the agreement, provided that the power of
31 eminent domain is not used to acquire interests in property
32 which is part of a system of facilities in existence, under
33 construction, or planned, for the generation, transmission or
34 sale of electric power. In the exercise of the power of
35 eminent domain, the public agency shall proceed in the manner

1 provided by chapter 6B. Any interests in property acquired
2 are acquired for a public purpose, as defined in chapter 6A,
3 of the condemning public agency, and the payment of the costs
4 of the acquisition may be made pursuant to the agreement or to
5 any separate agreement between the public agency and the
6 entity or the other public agencies participating in the
7 entity or any of them. Upon payment of costs, any property
8 acquired is the property of the entity.

9 Sec. 19. Section 327I.7, subsection 4, Code 2005, is
10 amended to read as follows:

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

13 Sec. 20. Section 346.27, subsection 9, paragraph b, Code
14 2005, is amended to read as follows:

15 b. To acquire in the corporate name of the authority the
16 fee simple title to the real property located within the area
17 by purchase, gift, devise, or by the exercise of the power of
18 eminent domain consistent with the provisions of chapters 6A
19 and 6B, or to take possession of real estate by lease.

20 Sec. 21. Section 389.3, unnumbered paragraph 2, Code 2005,
21 is amended to read as follows:

22 A joint water utility is a political subdivision and an
23 instrumentality of municipal government. The statutory
24 powers, duties, and limitations conferred upon a city utility
25 apply to a joint water utility, except that title to property
26 of a joint water utility may be held in the name of the joint
27 water utility. The joint water utility board shall have all
28 powers and authority of a city with respect to property which
29 is held by the joint water utility. A joint water utility
30 shall have the power of eminent domain, including the powers,
31 duties, and limitations conferred upon a city in chapters 6A
32 and 6B, for the purposes of constructing and operating a joint
33 water utility.

34 Sec. 22. Section 403.2, subsection 4, Code 2005, is
35 amended to read as follows:

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

8 Sec. 23. Section 403.5, subsection 4, paragraph b,
9 subparagraph (2), Code 2005, is amended to read as follows:

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

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

29 Sec. 24. Section 403.5, subsection 4, unnumbered paragraph
30 2, Code 2005, is amended by striking the unnumbered paragraph.

31 Sec. 25. Section 403.6, subsection 3, Code 2005, is
32 amended to read as follows:

33 3. Within its area of operation, to enter into any
34 building or property in any urban renewal area in order to
35 make inspections, surveys, appraisals, soundings or test

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

28 Sec. 26. Section 403.7, Code 2005, is amended to read as
29 follows:

30 403.7 CONDEMNATION OF PROPERTY.

31 1. A municipality shall have the right to acquire by
32 condemnation any interest in real property, including a fee
33 simple title thereto, which it may deem necessary for or in
34 connection with an urban renewal project under this chapter,
35 subject to the limitations on eminent domain authority in

1 chapter 6A. However, a municipality shall not condemn
2 agricultural land included within an economic development area
3 for any use unless the owner of the agricultural land consents
4 to condemnation or unless ~~the agricultural land is to be~~
5 ~~acquired for industry as that term is defined in section~~
6 260E-2 the municipality determines that the land is necessary
7 or useful for any of the following:

8 a. The operation of a city utility as defined in section
9 362.2.

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

12 c. The operation of a combined utility system as defined
13 in section 384.80.

14 2. A municipality ~~may~~ shall exercise the power of eminent
15 domain in the manner provided in chapter 6B~~7~~ and Acts
16 ~~amendatory to that chapter or supplementary to that chapter,~~
17 ~~or it may exercise the power of eminent domain in the manner~~
18 ~~now or which may be hereafter provided by any other statutory~~
19 ~~provisions for the exercise of the power of eminent domain.~~
20 Property already devoted to a public use may be acquired in
21 like manner. However, real property belonging to the state,
22 or any political subdivision of this state, shall not be
23 acquired without its consent, and real property or any right
24 or interest in the property owned by any public utility
25 company, pipeline company, railway or transportation company
26 vested with the right of eminent domain under the laws of this
27 state, shall not be acquired without the consent of the
28 company, or without first securing, after due notice to the
29 company and after hearing, a certificate authorizing
30 condemnation of the property from the board, commission, or
31 body having the authority to grant a certificate authorizing
32 condemnation.

33 3. In a condemnation proceeding, if a municipality
34 proposes to take a part of a lot or parcel of real property,
35 the municipality shall also take the remaining part of the lot

1 or parcel if requested by the owner.

2 Sec. 27. Section 403A.3, subsection 4, Code 2005, is
3 amended to read as follows:

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

23 Sec. 28. Section 403A.20, Code 2005, is amended to read as
24 follows:

25 403A.20 CONDEMNATION OF PROPERTY.

26 A municipality shall have the right to acquire by
27 condemnation any interest in real property, including a fee
28 simple title thereto, which it may deem necessary for or in
29 connection with a municipal housing project under this
30 chapter, subject to the limitations on eminent domain
31 authority in chapter 6A. A municipality may shall exercise
32 the power of eminent domain in the manner provided in chapter
33 ~~6B, and acts amendatory thereof or supplementary thereto, or~~
34 ~~it may exercise the power of eminent domain in the manner now~~
35 ~~or which may be hereafter provided by any other statutory~~

1 ~~provisions-for-the-exercise-of-the-power-of-eminent-domain.~~
2 Property already devoted to a public use may be acquired in
3 like manner:--~~Provided, that no.~~ However, real property
4 belonging to the state, or any political subdivision thereof,
5 may shall not be acquired without its consent, provided
6 ~~further-that-no~~ and real property or any right or interest
7 therein in the property owned by any public utility company,
8 pipeline company, railway or transportation company vested
9 with the right of eminent domain under the laws of this state,
10 shall not be acquired without the consent of ~~such~~ the company,
11 or without first securing, after due notice to ~~such~~ the
12 company and after hearing, a certificate authorizing
13 condemnation of such property from the board, commission, or
14 body having the authority to grant a certificate authorizing
15 condemnation.

16 In a condemnation proceeding, if a municipality proposes to
17 take a part of a lot or parcel of real property, the
18 municipality shall also take the remaining part of the lot or
19 parcel if requested by the owner.

20 Sec. 29. Section 468.128, Code 2005, is amended to read as
21 follows:

22 468.128 IMPOUNDING AREAS AND EROSION CONTROL DEVICES.

23 Levee and drainage districts are empowered to construct
24 impounding areas and other flood and erosion control devices
25 to protect lands of the district and drainage structures and
26 may provide ways for access to improvements for the operation
27 or protection thereof, where the cost is not excessive in
28 consideration of the value to the district. Necessary lands
29 or easements may be acquired within or without the district by
30 purchase, lease or agreement, or by exercise of the right of
31 eminent domain as provided for in chapter 6B and may be
32 procured and construction undertaken either independently or
33 in co-operation with other districts, individuals, or any
34 federal or state agency or political subdivision.

35 Sec. 30. Section 468.146, subsection 1, Code 2005, is

1 amended to read as follows:

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

17 Sec. 31. Section 468.366, Code 2005, is amended to read as
18 follows:

19 468.366 SETTLING BASIN -- CONDEMNATION.

20 If, before a district operating a pumping plant is
21 completed and accepted, it appears that portions of the lands
22 within said district are wet or nonproductive by reason of the
23 floods or overflow waters from one or more streams running
24 into, through, or along said district and that said district
25 or some other district of which such district shall have
26 formed a part, shall have provided a settling basin to care
27 for the said floods and overflow waters of said stream or
28 watercourse, but no channel to said settling basin has been
29 provided, said board or boards are hereby empowered to lease,
30 buy, or condemn the necessary lands within or without the
31 district for such channel. Proceedings to condemn shall be as
32 provided in chapter 6B for the exercise of the right of
33 eminent domain.

34 Sec. 32. Sections 6B.4A and 6B.58, Code 2005, are
35 repealed.

1 Code section 6B.4A that gave a compensation commission the
2 authority to review an application by a city or county for
3 condemnation of agricultural land for industry.

4 The bill provides that when engaging in negotiations with a
5 landowner, the acquiring agency shall offer a price for the
6 property that is not less than the acquiring agency's
7 appraisal plus certain specified expenses that may be incurred
8 by the property owner or less than the value determined under
9 the acquiring agency's waiver procedure for property with a
10 low fair market value plus such expenses. Code section 6B.54
11 currently allows an acquiring agency to establish a waiver
12 procedure for property with a low fair market value.

13 The bill provides that a challenge to the exercise of
14 eminent domain authority or to the condemnation proceedings
15 may be brought by the owner of the property at any time up
16 until the deadline for filing the notice of appeal of
17 appraisal of the damages determined by the compensation
18 commission. The condemnation proceedings against such
19 property shall be stayed while court action is pending.

20 The bill provides that if a compensation commission chooses
21 to deliberate in closed session, the meeting is closed to all
22 persons except commissioners.

23 The bill specifies that payments for relocating persons
24 displaced by condemnation, including expenses incurred in
25 moving the person's family, business, or farm operation, shall
26 be paid for any condemnation that displaces a person, not just
27 those that are for projects or programs receiving federal
28 financial assistance.

29 The bill specifies that Code sections 6B.54 and 6B.55,
30 relating to requirements imposed on acquiring agencies, apply
31 to condemnation for a public use, public purpose, or public
32 improvement.

33 The bill makes changes to various provisions of the Code
34 where eminent domain authority is extended to an entity other
35 than those listed in Code chapter 6A to specify that those

1 entities, when condemning property, are subject to the
2 provisions of Code chapters 6A and 6B.

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

16 The bill takes effect upon enactment and applies to
17 condemnation actions initiated on or after the effective date
18 of the bill.

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