CONSTITUTIONAL LAW; ELECTIONS: Durational limitations on political signs. U.S. amend. XIV; Iowa Code § 56.14(2)(a) (1997). Iowa Code section 56.14(2)(a) (1997), which imposes time limitations upon the placement of political signs on property, violates the federal constitutional guarantee of free speech as interpreted by the Court in Whitton v. City of Gladstone, 54 F.3d 1400 (8th Cir. 1995). (Kempkes to Williams, Executive Director, Iowa Campaign and Ethics Disclosure Board, 2-18-97) #97-2-3

February 18, 1997

Ms. Kay Williams
Executive Director
Iowa Ethics and Campaign Disclosure Board
LOCAL

Dear Ms. Williams:

In light of a decision by the Eighth Circuit Court of Appeals, you have requested an opinion on the constitutionality of a state law prohibiting the placement of political signs on property adjoining a public roadway no sooner than forty-five days before an election and requiring their removal no later than seven days after an election. The Court in Whitton v. City of Gladstone, 54 F.3d 1400, 1403-09 (8th Cir. 1995), held that a city ordinance prohibiting the placement of political signs on property no sooner than thirty days before an election and requiring their removal no later than seven days after the election violated the First Amendment to the United States Constitution.

The Iowa Ethics and Campaign Disclosure Board has noted the "relatively close" similarity between the city ordinance examined in Whitton v. City of Gladstone and the state law, Iowa Code

section 56.14(2)(a) (1997). It has, therefore, suspended administrative enforcement of section 56.14(2)(a) until receipt of this opinion. We agree that Whitton v. City of Gladstone leads to the conclusion that section 56.14(2)(a) offends the federal constitutional guarantee of free speech to the extent it limits the time political signs may be placed on property adjoining a public roadway.

I.

Chapter 56 governs political campaigns. Section 56.14(2)(a) limits the period of time that "yard signs" may be placed on property adjoining public roadways. It provides in part:

> Yard signs shall not be placed on any property which adjoins a city, county, or state roadway sooner than forty-five days preceding a primary or general election and shall be removed within seven days after the primary or general election, in which the name of the particular candidate or ballot issue described on the yard sign appears on the ballot.

See generally Iowa Code § 4.1(30)(a) (word "shall" in statutes normally imposes a duty). The Iowa Ethics and Campaign Disclosure Board, charged with administering chapter 56, has promulgated a rule construing "yard signs" to mean "political signs" having certain dimensions. 351 IAC 4.5(5). See generally Iowa Code § 4.1(38) (words and phrases in statutes shall be construed according to context), § 4.6(6) (statutory construction may take into account administrative construction of statute).

II.

In Whitton v. City of Gladstone, the Court of Appeals for this circuit considered a city ordinance prohibiting the placement on property of political signs no sooner than thirty days before an election and requiring their removal no later than seven days after the election. See 54 F.3d at 1402 n. 2. The city argued that these durational limitations did not regulate free speech on the basis of its content and that they did not unreasonably restrict free speech in view of the city's strong interests in maintaining its appearance and promoting traffic safety. Id. at 1403.

The Court noted that signs pose distinct problems for city regulation, because, among other things, they may obstruct views or

distract motorists. Id. at 1402-03. The Court added, however, that the First Amendment protects signs as a form of free speech and "has its fullest and most urgent application to speech uttered during a campaign for political office." Id. at 1402-03.

The Court determined that the ordinance directed toward political signs amounted to a "content-based restriction," because "it makes impermissible distinctions based solely on the content or message conveyed by the sign." Id. at 1404. In supporting this determination, the Court also noted that the ordinance granted certain forms of commercial speech a greater degree of protection than political speech. Id. at 1404-05. Such commercial speech -- which included construction, advertising, and real-estate signs -- did not have the durational limitations imposed upon political signs. Id.

A content-based restriction implicates the most exacting level of judicial review commonly known as "strict scrutiny." Id. at 1408. According to the United States Supreme Court, "it is the rare case in which . . . a law survives strict scrutiny." Burson v. Freeman, 504 U.S. 191, 211, 112 S. Ct. 1846, 119 L. Ed. 2d 5 (1992). Accord Whitton v. City of Gladstone, 54 F.3d at 1408. "With rare exceptions, content discrimination in regulations of speech of private citizens on private property or in a traditional public forum is presumptively impermissible, and this presumption is a very strong one." City of Ladue v. Gilleo, 512 U.S. ___, 114 S. Ct. 2038, 129 L. Ed. 2d 36, 50 (1994) (O'Connor, J., concurring). Accord Whitton v. City of Gladstone, 54 F.3d at 1408. To survive strict scrutiny, content-based restrictions must serve a "compelling governmental interest" and must represent "the least restrictive alternative" available. Whitton v. City of Gladstone, 54 F.3d at 1408.

Applying these principles to the city ordinance under consideration, the Court in Whitton v. City of Gladstone determined that the durational limitations neither served a compelling governmental interest nor represented the least restrictive alternative available to the city. Id. at 1408-09. First, a city's interests in its aesthetic appearance and traffic safety, "while significant, have never been held to be compelling." Id. at 1408. Second, other ordinances regulating political signs within the city adequately furthered these interests. Id. Third, the city failed to present sufficient evidence that political signs required treatment different from that it had afforded other types of signs. Id. In view of these three factors, the Court held that the city ordinance's durational limitations unconstitutionally restrained free speech. Id. at 1409.

We do not perceive any significant difference between the durational limitations in the city ordinance under consideration in Whitton v. City of Gladstone and those limitations in section 56.14(2)(a). Compare Whitton v. City of Gladstone, 54 F.3d at 1402 n. 2 (city ordinance: political signs may be placed on property not sooner than thirty days before election and must be removed no later than seven days after election) with Iowa Code § 56.14(2)(a) (yard signs, administratively construed to mean political signs, 351 IAC 4.5(5), may be placed on any property adjoining public roadway not sooner than forty-five days before election and must be removed no later than seven days after election).

We also do not perceive any governmental interests underlying sections 56.14(2)(a), not advanced by the city in Whitton v. City of Gladstone, which could be considered compelling in nature. See generally 7 E. McQuillin, The Law of Municipal Corporations §§ 24.380-.384.50 (1989). Moreover, we note that section 56.14(2)(b) permits the placement of a political sign on certain designated properties without imposing any time limitations at all. Under such circumstances, we must conclude that the time limitations in section 56.14(2)(a) offend the First Amendment as interpreted by the Court in Whitton v. City of Gladstone.

We make one final comment. You mention that the Iowa Ethics and Campaign Disclosure Board has suspended administrative enforcement of section 56.14(2)(a). Given the "relatively close" similarity between the city ordinance examined in Whitton v. City of Gladstone and section 56.14(2)(a), we believe that this administrative action appears proper. See 1984 Op. Att'y Gen. 66, 69 (under unusual and limited circumstances involving a recent decision by the United States Supreme Court on a statute essentially similar to one in Iowa, state agency charged with enforcing the Iowa statute should proceed in accordance with that decision); see also Iowa Auto Dealers Ass'n v. Iowa State Appeal Bd., 420 N.W.2d 460, 461-62 (Iowa 1988).

III.

Iowa Code section 56.14(2)(a), which imposes time limitations upon the placement of political signs on property, violates the

federal constitutional guarantee of free speech as interpreted by the Court in Whitton v. City of Gladstone.[1]

Sincerely,

Bruce Kempkes
Assistant Attorney General

---

[1] Your request also notes that chapter 306C restricts the use of billboards and signs and provides a statewide system for controlling such advertising devices along the state's roadways. See 1992 Op. Att'y Gen. 8 (#91-3-1(L)). Section 306C.22 provides:

> It shall be lawful to place political signs on private property . . . at any time during the period beginning forty-five days before the date of the election to which the signs pertain and ending on the day of the election . . . . The exemption from the provisions of this chapter granted by this section for political signs shall expire on the seventh day following the date of the election to which the signs pertain. . . .

See generally Iowa Code § 306C.10(13) ("political sign" defined); 761 IAC ch. 117. Section 306C.22, like section 56.14(2)(a), limits the time that political signs may be placed on property. We have limited our opinion, however, to the specific issue posed by your opinion request. See generally 61 IAC 1.5. In doing so, we take into account that section 306C.22, by granting a temporary exemption for political signs from otherwise generally applicable provisions, may pose a different issue than the one addressed in this opinion.

COUNTY HOSPITALS: Authority of hospital trustees to pledge anticipated revenues as security for loan. Iowa Code §§ 331.402, 331.464, 347.7, 347.13, 347.14 (1997). The board of trustees for a county public hospital established under Iowa Code chapter 347 lacks unilateral authority to pledge as security anticipated hospital revenues over a number of years in order to obtain a bank loan for constructing or renovating hospital facilities. Iowa Code sections 331.402(3)(e) and 331.464 require approval by the county board of supervisors for a loan agreement secured by hospital revenues from future years. (Kempkes to Oeth, Boone County Attorney, 3-6-97) #97-3-2

March 6, 1997

Mr. Steven J. Oeth
Boone County Attorney
Courthouse
Boone, IA 50036

Dear Mr. Oeth:

Nearly forty years ago, the Supreme Court of Iowa observed that "[a] modern hospital will always need improvements and more or new equipment." Willesen v. Davidson, 249 Iowa 1104, 90 N.W.2d 737, 738 (1958). You have requested an opinion about the financing of improvements and more or new equipment for the Boone County Hospital and, specifically, about the authority of its board of trustees to pledge anticipated hospital revenues in exchange for a bank loan to construct or renovate its facilities. See generally 1980 Op. Att'y Gen. 388, 394 (county hospital revenues ordinarily generated by fees and charges for services and not by taxes). We understand that those anticipated revenues constitute the sole security for the loan, which would total several million dollars and would require payments by the county hospital to the bank over the course of fifteen years.

Pointing to Iowa Code chapters 331 and 347 (1997), you ask whether the hospital trustees have authority to pledge those revenues without approval from the county board of supervisors. We conclude that the hospital trustees do not have such unilateral authority to do so.

I.

County supervisors shall, upon a petition to or with voter approval, establish a county hospital under chapter 347. Iowa Code § 331.361(5)(c). A county hospital may be established under chapter 347A as well. See Wickey v. City of Muscatine, 242 Iowa 272, 46 N.W.2d 32, 33-34 (1951); 1996 Op. Att'y Gen. ___ (#96-5-1(L)); 1988 Op. Att'y Gen. 10, 13. Your question, however, only concerns a county hospital established under chapter 347.

Neither county supervisors nor hospital trustees possess complete authority over such a county hospital. See generally 1988 Op. Att'y Gen. 10, 13-14; 1980 Op. Att'y Gen. 388, 390. They share that authority; however, bright lines do not always divide the powers and duties of county supervisors from those of hospital trustees.

Chapter 331 is entitled "County Home Rule Implementation." Section 331.301(2) generally provides that a power of a county "is vested in [its] board" and that a duty of a county "shall be performed by or under the direction of the board except as otherwise provided by law." See generally Iowa Const. amend. 39A (1978); Iowa Code § 331.301(1) (counties "may, except as expressly limited by the Constitution, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function" they deem appropriate to further the public interest).

Section 331.402(3) provides that "[a] county may enter into loan agreements to borrow money for any public purpose . . . ." Section 331.402(3)(e) specifically provides that "[t]he governing body may authorize a loan agreement payable from the net revenues of a county enterprise . . . by following the authorization procedures of section 331.464," which provides in part that "[t]he board may issue revenue bonds." See generally Iowa Code § 331.462(1). Under section 331.461(2)(d), a "county enterprise" includes "[t]he equipment, enlargement, and improvement of a county public hospital previously established and operating under chapter 347 . . . ."

Chapter 347 is entitled "County Hospitals." Section 347.14(11) provides that hospital trustees may "[d]o all things necessary for the management, control and government of [the county] hospital and exercise all the rights and duties pertaining to hospital trustees generally, unless such rights of hospital trustees generally are specifically denied by this chapter, or unless such duties are expressly charged by this chapter." See generally 1988 Op. Att'y Gen. 10, 14 (county hospitals, acting through their boards of hospital trustees, "do not exercise home rule powers"); 1980 Op. Att'y Gen. 388, 390.

II.

You have asked whether county hospital trustees have unilateral authority to pledge as security anticipated hospital revenues over a period of years in order to obtain a bank loan for constructing or renovating hospital facilities. Our task in answering your question is to ascertain and give effect to the legislative intent underlying the provisions in chapters 331 and 347. See Farmers Co-op Co. v. DeCoster, 528 N.W.2d 536, 537-38 (Iowa 1995); 1996 Op. Att'y Gen. ___ (#96-5-1(L)). In performing this task, we recognize that operating a county hospital "is a proprietary function of government, and as such, is fraught with inherent problems under local budget law." 1980 Op. Att'y Gen. 388, 394.

Section 331.402(3)(e) provides specific authority for a county hospital to enter into a loan agreement, subject to the authorization procedure in section 331.464. Among other things, that procedure requires county supervisors to adopt a resolution and to comply with certain notice and hearing provisions. See Iowa Code § 331.464(1)-(2). The statutory process thus involves action by both the hospital trustees and the county supervisors; it does not give the hospital trustees unilateral authority to enter into a loan agreement. Cf. Commonwealth v. Sutley, 378 A.2d 780, 788 (Pa. 1977) ("specificity in defining the limitations of the express grant of [power to one branch of government] would negate an inference [of an intent] to confer an implied power . . . free of any restrictions in another branch of government"); 2B Sutherland's Statutory Construction § 55.04, at 283-84 (1992) ("[i]f an implied power would be repugnant to another statute it will be rejected").

Issues of public finance normally involve policy considerations of the greatest importance for the General Assembly. 1996 Op. Att'y Gen. ___ (#95-3-1). We believe that the General Assembly would have used clearer statutory language if it had actually intended to provide hospital trustees with unilateral authority to pledge as security anticipated hospital revenues over a period of years in order to obtain a bank loan for constructing or renovating hospital facilities. See id. See generally 15 E. McQuillin, The Law of Municipal Corporations § 39.07, at 16 (1995).

III.

In summary: The board of trustees for a county public hospital established pursuant to Iowa Code chapter 347 do not have unilateral authority to pledge as security anticipated hospital revenues over a period of years in order to obtain a bank loan for

constructing or renovating hospital facilities. The county board of supervisors must approve such an agreement.[1]

Sincerely,

Bruce Kempkes
Assistant Attorney General

[1] In reaching this conclusion, we point out that your opinion request did not indicate whether any bylaw of the county hospital actually permits the making of such a pledge, and, accordingly, we did not consider the effect of such a bylaw in our analysis.

HIGHWAYS; EMINENT DOMAIN; STATE OFFICERS AND DEPARTMENTS: Sale of unneeded right-of-way. Iowa Code § 306.23 (1997); 1997 Iowa Acts, ch. __; S.F. 432, 77th G.A., 2d Sess. (1997). When the DOT seeks to dispose of right-of-way unneeded for constructing or improving a primary road, Senate File 432 (1997) requires the DOT to offer a last previous owner the opportunity to buy back just the particular piece of land it acquired from that owner through condemnation or purchase, less that portion of the land, if any, retained for right-of-way. Senate File 432 takes precedence over any inconsistent administrative rule. (Kempkes to Murphy, State Representative, **11-4-97) #97-11-1**

November 4, 1997

The Honorable Pat Murphy
State Representative
1770 Hale St.
Dubuque, IA 52001

Dear Representative Murphy:

You have requested an opinion on the meaning of a recent act -- Senate File 432, 77th G.A., 2d Sess. (1997) -- which provides new procedures for disposing of certain property acquired by governmental bodies through condemnation or purchase. You ask whether the act requires the Iowa Department of Transportation (DOT) to offer land acquired as right-of-way, but not actually needed in constructing or improving a primary road, back to its last previous owner for purchase when the DOT seeks to dispose of such land. You also ask whether the act supersedes administrative rules promulgated by the DOT. Last, you ask whether a last previous owner has any remedies under the act -- which is silent on the subject -- if the DOT does not comply with the act's requirements.

We conclude that when the DOT seeks to dispose of right-of-way unneeded for a primary road, the act requires the DOT to offer a last previous owner the opportunity to buy back just the particular piece of land it acquired from that owner through condemnation or purchase, less that portion of the land, if any, retained for right-of-way. We also conclude that the act takes precedence over any inconsistent administrative rule. We offer no opinion on whether a last previous owner has any judicial remedies if the DOT does not comply with the act's requirements.

I.

According to its title, the act relates to "the disposition of private property condemned under eminent domain or condemned or purchased as highway right-of-way property and providing an applicable date." S.F. 432. Among other things, the act amends Iowa Code section 306.23 (1997), which previously provided a preference to qualifying offers made by present owners of adjacent property to buy unneeded right-of-way, but not to qualifying offers made by prior owners, of the property condemned or purchased by the DOT and other public entities for use as right-of-way. The amendment only applies to "decisions to dispose of unused right-of-way made on or after July 1, 1997." S.F. 432, § 3. See generally Iowa Code §§ 306.22-23.

II.

(A)

You have asked whether the act requires the DOT to offer land acquired as right-of-way, but not actually needed in constructing or improving a primary road, back to its last previous owner for purchase when the DOT seeks to dispose of such land.

The act provides that the DOT "shall" send notice of intended sale and "shall" give an opportunity to the last previous owner to make a purchase offer and that such an offer "shall" receive a preference if it equals or exceeds other offers in excess of the fair market value. S.F. 432, § 2. Under Iowa law, "[u]nless otherwise specifically provided by the general assembly . . . [t]he word 'shall' imposes a duty." Iowa Code § 4.1(30)(a). Accord State v. Rodgers, 560 N.W.2d 585, 586 (Iowa 1997); State v. Terry, 541 N.W.2d 882, 887 (Iowa 1995); 1970 Op. Att'y Gen. 725, 728.

We do not believe that the act's language on these matters "is susceptible to more than one meaning." State v. Rodgers, 560 N.W.2d at 586. Rather, the act imposes upon the DOT a duty to notify last previous owners about an intended sale of unneeded right-of-way and to prefer their qualifying offers to buy it back. Cf. 1980 Op. Att'y Gen. 748 (#80-7-3(L)) (under section 306.22, county supervisors "must provide [notice to adjoining landowners] and give preference" to their qualifying offers). The act's language imposing such duties is plain, clear, and unambiguous. See State v. Kidd, 562 N.W.2d 764, 766 (Iowa 1977); see also Iowa Code § 4.6. As the Supreme Court explained in State v. Rodenburg, 562 N.W.2d 186, 189 (Iowa 1997), "[W]hen statutory language is not ambiguous, or when a statute is plain and its meaning clear, this court need not search for legislative intent or a meaning beyond the expressed language."

A question may exist, however, whether the DOT can comply with the act's requirements by aggregating or otherwise configuring all or part of a primary road's unneeded right-of-way and offering that land for sale to a group of last previous owners. See generally S.F. 432; Iowa Code §§ 306.22-.26. Any argument that the act contemplates such action would appear to rest upon two provisions with similar language. First, the act requires the DOT to notify a last previous owner about its intended sale of "a tract, parcel, or piece of land, or part thereof." S.F. 432, § 2(1). Second, the act requires the DOT to give a preference to the qualifying offer made by a last previous owner for "the tract, parcel, or piece of land to be sold." S.F. 432, § 2(2).

The word "the" in legal parlance normally "particularizes the subject spoken of." Black's Law Dictionary 1324 (1979). Similarly, the word "the" in common parlance normally indicates "that a following noun or noun equivalent is definite or has been previously specified by context or by circumstance." Webster's Ninth New Collegiate Dictionary 1199 (1979). Accord The Oxford Guide to the English Language 537 (1985). See generally Iowa Code § 4.1(38).

The phrases "tract, parcel, or piece of land, or part thereof" and "tract, parcel, or piece of land" must be read as part of section 306.23 in its entirety and not in isolation. See Conkel v. Ankeny Civil Serv. Comm'n, 444 N.W.2d 92, 94 (Iowa 1989); State v. Conner, 292 N.W.2d 682, 684 (Iowa 1980). In adhering to that principle of statutory construction, we note section 306.23 previously refers to unneeded right-of-way as the "land from which the tract, parcel, or piece of land, or part thereof, was originally bought or condemned for highway purposes." Iowa Code § 306.23 (1997) (emphasis added). This explanatory language dispels any support for the argument that the act's two provisions permit the DOT to fulfill its duties by aggregating or otherwise configuring unneeded right-of-way for sale to a group of last previous owners. Those new provisions simply reflect the idea already espoused in section 306.23 that the land of a last previous owner, condemned or purchased for right-of-way, may come in various sizes -- such as tracts, parcels, pieces, or parts. See generally Black's, supra, at 1002, 1338 ("parcel," which may be synonymous with "lot," means a part or portion of land; and "tract" means a lot, piece, or parcel of land, of greater or less size, the term not importing, in itself, any precise dimension, though [it] generally refers to a large piece of land).

We therefore believe that when the DOT seeks to dispose of right-of-way unneeded for constructing or improving a primary road, the act requires the DOT to offer a last previous owner the opportunity to buy back just the particular piece of land it acquired from that owner through condemnation or purchase, less that portion of the land, if any, retained by the DOT for right-of-

way. Compare S.F. 432 with Iowa Code § 306.15 ("[i]f as to any one or more properties affected by the proposed vacation and closing of a secondary road, it appears to the board of supervisors to be in the interest of economy or public welfare, the board may purchase or condemn . . . the entire properties," and after vacation or closing of the road, the board "shall sell the properties at the best attainable price"). See generally Quaker Oats Co. v. Cedar Rapids Human Rights Comm'n, 268 N.W.2d 862, 868 (Iowa 1978) (administrative agencies possess only express powers or those powers necessary implied from such express powers); Iowa Dep't of Social Serv. v. Blair, 294 N.W.2d 567, 569-70 (Iowa 1980); 1980 Op. Att'y Gen. 515, 517.

(B)

You have asked whether the act supersedes administrative rules promulgated by the DOT.

The General Assembly has provided the DOT with rule-making authority. See, e.g., Iowa Code § 306.10. A fundamental principle of government prohibits an administrative body such as the DOT from promulgating rules extending beyond the legislative grant of authority (known as "ultra vires rules") or rules conflicting with statutory provisions. See Iowa Power & Light Co. v. Iowa State Commerce Comm'n, 410 N.W.2d 236, 240 (Iowa 1987); Hiserote Homes, Inc. v. Riedemann, 277 N.W.2d 911, 913 (Iowa 1979); see also Olson v. Prosoco, Inc., 522 N.W.2d 284, 293 (Iowa 1994); 1992 Op. Att'y Gen. 123, 124-25. Thus, to the extent that an administrative rule conflicts with the act, it would have no legal effect. Nevertheless, we have discovered no such rule promulgated by the DOT. See generally 761 IAC 1.1 et seq.

We point out, however, that last previous owners buying back their land pursuant to the act's requirements will not necessarily enjoy all the rights they formerly enjoyed before its condemnation or purchase. For example, laws may prohibit or restrict access to and from this land as a result of the new highway construction or improvement. See Iowa Code ch. 306; 761 IAC ch. 112; see also Iowa Code chs. 306B, 306C. Regarding highway access, the DOT has explained:

> The efficiency and safety of a highway depend to a large extent upon the amount and character of interruptions to the movement of traffic. The primary cause of these interruptions is vehicular movements to and from businesses, residences, and other developments along the highway. Regulation and overall control of highway access are necessary to provide efficient and safe

highway operation and to utilize the full potential of the highway investment.

761 IAC 112.1. See generally Curtis v. Clinton County Bd. of Supervisors, 270 N.W.2d 447, 449 (Iowa 1978); A & S, Inc. v. Iowa State Highway Comm'n, 253 Iowa 1377, 116 N.W.2d 496, 503 (Iowa 1962).

(C)

You have asked whether a last previous owner has any remedies if the DOT does not comply with the act's requirements.

This office does not render opinions "describing theories of liability or recovery in litigation." 1990 Op. Att'y Gen. 52 (#89-11-4(L)). Accord 1988 Op. Att'y Gen. 66 (#88-1-4(L)). See generally 61 IAC 1.5. "The attorneys who regularly advise [public] bodies and who would defend any suits should provide advice on this question." 1986 Op. Att'y Gen. 128 (#86-12-2(L)).

We can only point out that the act imposes new duties upon an agency such as the DOT: providing notice to previous owners, giving them an opportunity to be heard and to make offers, and assigning their qualifying offers a preference. The DOT must make "a good-faith effort to achieve substantial compliance" with those duties. 1998 Op. Att'y Gen. ___ (#97-7-1(L)).

III.

In conclusion: When the DOT seeks to dispose of right-of-way unneeded for constructing or improving a primary road, Senate File 432 (1997) requires the DOT to offer a last previous owner the opportunity to buy back just the particular piece of land it acquired from that owner through condemnation or purchase, less that portion of the land, if any, retained for right-of-way. Senate File 432 takes precedence over any inconsistent administrative rule.

Sincerely,

Bruce Kempkes

Bruce Kempkes
Assistant Attorney General