

MAR 31 1978  
Place On Calendar

HOUSE FILE 2386  
By COMMITTEE ON TRANSPORTATION

(Formerly Study Bill 438)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to railroad right-of-way retention for future  
2 rail transportation purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. LEGISLATIVE INTENTS AND PURPOSES.  
2 The general assembly recognizes that an emergency situation  
3 exists in the state because of the economic and physical  
4 deterioration of many of the railroad corporations serving  
5 the state.

6 The general assembly determines that it is in the public  
7 interest to preserve rail corridors for future rail  
8 transportation service to various points within the state.

9 The general assembly finds that the potential future energy,  
10 industrial and agricultural needs of the people of the state  
11 are served by establishing a program to preserve rail  
12 transportation easements as established by this Act.

13 Sec. 2. NEW SECTION. SHORT TITLE. This Act shall be  
14 known and may be cited as the "Iowa Rail Bank Law".

15 Sec. 3. NEW SECTION. DEFINITIONS. As used in this Act,  
16 unless the context otherwise requires:

17 1. "Right-of-way" means the real property in which a  
18 railroad corporation is or has been authorized to conduct  
19 railroad operations, including but not limited to tracks,  
20 switchyards, adjacent terminal facilities and bridges.

21 2. "Abandoned right-of-way" means a right-of-way on which  
22 a railroad corporation has been authorized by a decision of  
23 the interstate commerce commission pursuant to Railroad  
24 Revitalization and Regulatory Reform Act 802, 49 U.S.C. 1  
25 (a) or by some other lawful procedure to terminate all railroad  
26 operations and to terminate its ownership and control.

27 3. "Affected political subdivision" means a city or county  
28 of this state within which jurisdiction the right-of-way is  
29 located.

30 4. "Notice to the public" means written communication  
31 to all affected shippers, the principal officer of affected  
32 political subdivisions, as well as notice published twice  
33 in a newspaper of general circulation in the counties in which  
34 the right-of-way subject to a reuse or abandonment proceeding  
35 is located.

1 5. "Department" means the state department of  
2 transportation.

3 6. "Railroad" means the terminal and facilities necessary  
4 in the transportation of persons or property and includes  
5 bridges, railroad right-of-way, trackage, switches and other  
6 appurtenances necessary for the operation of a railroad,  
7 whether owned, leased or operated under some other contractual  
8 agreement.

9 7. "Category one" means a railroad line subject to  
10 abandonment within three years but for which a petition for  
11 abandonment has not been filed with the interstate commerce  
12 commission.

13 8. "Category two" means a railroad line which is being  
14 considered by a railroad company as a possible line for future  
15 abandonment.

16 9. "Category three" means a railroad line which is being  
17 studied by the interstate commerce commission to determine  
18 if the present or future public convenience and necessity  
19 require or permit abandonment.

20 10. "Rail transportation easement" means an easement  
21 established by this Act preserving an easement for rail  
22 transportation purposes in railroad rights-of-way which are  
23 to be abandoned in order to preserve a rail transportation  
24 corridor for projected railroad transportation needs.

25 11. "Final certificate of abandonment" means a final order  
26 by the interstate commerce commission, or by some other lawful  
27 procedure, which authorizes the termination of all railroad  
28 operations and termination of ownership and control by the  
29 railroad corporation.

30 Sec. 4. NEW SECTION. RAILROAD PRESERVATION FORECAST.

31 The department shall have the following duties and  
32 responsibilities in the assessment of a "railroad forecast"  
33 to determine which railroad corridors should be preserved  
34 for future rail transportation purposes:

35 1. By January first of each year review the category one,

1 category two and category three rail lines and evaluate the  
2 railroad corridors subject to abandonment which may have an  
3 impact on the future agricultural, transportation, energy  
4 or economic needs of the state. The annual rail evaluation  
5 shall consider the immediate impact and the long term impact  
6 and the utility for the state and for political subdivisions  
7 for the preservation of such rights-of-way as rail  
8 transportation corridors. The department shall consult with  
9 the Iowa development commission and the Iowa department of  
10 agriculture in making the annual evaluation of railroad  
11 corridors to determine the future rail transportation needs  
12 in the state.

13 2. Provide an opportunity for the participation of affected  
14 political subdivisions, shippers and the public in the review  
15 and assessment of future rail transportation needs.

16 3. A copy of the annual railroad corridor review shall  
17 be included in the comprehensive transportation plan.

18 Sec. 5. NEW SECTION. LIFE OF RAIL TRANSPORTATION EASEMENT.  
19 A rail transportation easement created under this Act shall  
20 exist for a period of twenty years from the date of purchase  
21 from the servient estate owner unless sooner extinguished  
22 or extended as provided in this Act. Such easement shall  
23 be extended for any period during which the easement is  
24 exercised for transportation purposes and notice of such  
25 extension shall be filed with the county recorders of the  
26 affected counties by the easement owner.

27 Sec. 6. NEW SECTION. RAIL TRANSPORTATION EASEMENT  
28 ACQUISITION BY THE DEPARTMENT OR POLITICAL SUBDIVISION. The  
29 department for the state or as an agent for affected political  
30 subdivisions of the state, may apply to the interstate commerce  
31 commission pursuant to sections eight hundred nine (809) and  
32 eight hundred ten (810) of the Railroad Revitalization and  
33 Regulatory Reform Act of 1976, for advice and financial  
34 assistance for the planning, acquisition and development of  
35 the rail transportation easement from the railroad corporation

1 and may petition the interstate commerce commission for a  
2 determination that the right-of-way is suitable for other  
3 public purposes provided that other public purposes shall  
4 be limited to railroad transportation purposes. The department  
5 or the political subdivision may purchase the rail  
6 transportation easement from the underlying real property  
7 owner, or may acquire the rail transportation easement from  
8 the underlying property owner by eminent domain pursuant to  
9 the provisions of chapters four hundred seventy-one (471)  
10 and four hundred seventy-two (472) of the Code.

11 Sec. 7. NEW SECTION. ORDER OF PRECEDENCE. Upon being  
12 notified of the effective date of the final certificate of  
13 abandonment by the interstate commerce commission, the  
14 department shall decide whether or not to proceed with  
15 acquisition of a rail transportation easement. The department  
16 shall consider the railroad forecast made by the department.  
17 If the department has not initiated procedures to acquire  
18 the rail transportation easement within ninety days after  
19 the effective date of the final certificate of abandonment,  
20 the affected political subdivisions may acquire the rail  
21 transportation easement.

22 The affected political subdivisions shall have one hundred  
23 eighty days to initiate procedures to acquire the rail  
24 transportation easement from the date of the final certificate  
25 of abandonment.

26 A notarized record of the action by the department or an  
27 affected political subdivision to acquire an easement shall  
28 be filed with the county recorder in the affected county and  
29 with the department. If the rail transportation easement  
30 is not purchased within specified time limits such fact shall  
31 be noted by the county recorder.

32 The department and affected political subdivisions shall  
33 have one year from the date the record of decision is filed  
34 with the county recorder to either close negotiations and  
35 acquire the rail transportation easement or begin eminent

1 domain proceedings to acquire the rail transportation easement.  
2 When the department or the affected political subdivisions  
3 close negotiations and acquire the easement, or begin eminent  
4 domain proceedings to acquire the rail transportation easement,  
5 such fact shall be filed by notarized statement with the  
6 county recorder of the affected county and with the department  
7 within the time limits prescribed. If no filing is made  
8 within the time limits prescribed the rail transportation  
9 easement shall be extinguished and such fact shall be noted  
10 by the county recorder.

11 In the event of an eminent domain proceeding, the court  
12 of record shall direct that a filing of final disposition  
13 of the case be made with the department and with the county  
14 recorder of the affected county. The county recorder shall  
15 note the disposition. If the disposition is against the  
16 acquisition of the rail transportation easement, the rail  
17 transportation easement shall expire.

18 Sec. 8. NEW SECTION. EASEMENT EXTENSION. A rail  
19 transportation easement owned by the department or an affected  
20 political subdivision may be extended past the date on which  
21 it is scheduled to be extinguished for a period not to exceed  
22 five years upon application to and approval by the  
23 transportation regulation board. Such fact shall be filed  
24 by notarized statement with the department and with the county  
25 recorder of the affected county. The servient estate owner  
26 of the property subject to the rail transportation easement  
27 shall be compensated for any easement extension provided in  
28 this section or section five (5) of this Act. If the amount  
29 of compensation for an easement extension cannot be mutually  
30 agreed upon, the easement may be acquired for the length of  
31 the extension pursuant to the procedures of chapters four  
32 hundred seventy-one (471) and four hundred seventy-two (472)  
33 of the Code.

34 Sec. 9. NEW SECTION. USE OF THE RAIL TRANSPORTATION  
35 EASEMENT. A rail transportation easement may be utilized

1 for railroad transportation purposes approved by the  
2 transportation commission and the easement shall remain the  
3 property of the department or the political subdivision as  
4 an easement in gross. The department or the political  
5 subdivision may allow utilization of the rail transportation  
6 easement upon such terms as approved by the transportation  
7 commission.

8     Sec. 10. NEW SECTION. PROPERTY TAXES. No property taxes  
9 shall accrue for the real property over which a rail  
10 transportation easement runs if during the year for which  
11 the taxes are levied, the rail transportation easement acquired  
12 under the provisions of this Act is held by the department  
13 or political subdivision.

14     Sec. 11. Section four hundred seventy-one point four  
15 (471.4), subsection one (1), Code 1977, is amended to read  
16 as follows:

17     1. COUNTIES. Upon all counties for such lands as are  
18 reasonable and necessary for the erection of courthouses or  
19 jails or any other buildings or additions to buildings which  
20 the county has statutory power to erect, construct or make  
21 additions, for projects provided for in chapter 467B and the  
22 construction, improvement or maintenance of highways, for  
23 rail transportation easements as provided in sections six  
24 (6) and eight (8) of this Act, and for the carrying out of  
25 plans for the acquisition of land advanced by a county  
26 conservation board, and approved by the state conservation  
27 commission as provided in section 111A.4; providing further,  
28 it would not completely prevent development of the conservation  
29 project, this authority shall not apply to any improved private  
30 property used as a residence or living quarters for a period  
31 of one year, not to exceed two acres, or if jointly owned,  
32 not to exceed two acres per residential unit, unless  
33 subsequently abandoned for use for such purposes. Temporary  
34 unoccupancy shall not be construed as abandonment. Wherever  
35 the county has the right to take private property for public

1 use, it also has the right to contract for options for the  
2 purchase of said land.

3 Sec. 12. This Act, being deemed of immediate importance,  
4 shall take effect and be in force from and after its  
5 publication in The Cedar Rapids Gazette, a newspaper published  
6 in Cedar Rapids, Iowa, and in the Fort Dodge Messenger, a  
7 newspaper published in Fort Dodge, Iowa.

8 EXPLANATION

9 This bill provides for the creation of an easement in  
10 railroad rights-of-way for the purposes of preserving railroad  
11 corridors for future rail transportation purposes. The  
12 easement may be purchased by the state or a political  
13 subdivision and such purchase may be obtained pursuant to  
14 eminent domain procedures. The easement is created for a  
15 period of 20 years with an option for a five year extension,  
16 and an indefinite extension of the easement when used for  
17 rail transportation purposes. The owner of the property over  
18 which the rail transportation easement runs shall be  
19 compensated for the acquisition of and any extension of a  
20 rail transportation easement. This bill exempts from property  
21 taxation property which is subject to the rail transportation  
22 easement created by this Act.

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