

FILED FEB 10 1988

SENATE FILE 2146
BY COMMITTEE ON TRANSPORTATION
Department of 312

Passed Senate, Date 2/22/88 (p. 430) Passed House, Date _____
Vote: Ayes 38 Nays 10 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to entering private land for highway construction
2 purposes.

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

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SENATE FILE 2146

H-6224

1 Amend Senate File 2146, as passed by the Senate, as
2 follows:

3 1. Title page, by striking line 3.
By MCKEAN of Jones

H-6224 FILED APRIL 5, 1988

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146

1 Section 1. Section 314.9, Code 1987, is amended to read as
2 follows:

3 314.9 ENTERING PRIVATE LAND.

4 The agency in control of any highway or highway system or
5 the engineer, or any other authorized person employed by said
6 the agency, may after thirty days' written notice by
7 ~~restricted~~ certified mail ~~addressed~~ to the owner and also to
8 the occupant, enter upon private land for the purpose of
9 making surveys, soundings, drillings, appraisals, and
10 examinations as it deems appropriate or necessary to determine
11 the advisability or practicability of locating and
12 constructing a highway ~~thereon~~ on the land or for ~~the purpose~~
13 ~~of determining whether gravel or other material exists on said~~
14 ~~the land of suitable quality and in sufficient quantity to~~
15 warrant the purchase or condemnation of ~~said~~ the land or part
16 ~~thereof~~ of the land. Such entry, after notice, shall not be
17 deemed a trespass, and the agency may be aided by injunction
18 to ~~insure~~ ensure peaceful entry. The agency shall pay actual
19 damages caused by ~~such~~ the entry, surveys, soundings,
20 drillings, appraisals, or examinations.

21 Any damage caused by ~~such~~ the entry, surveys, soundings,
22 drillings, appraisals, or examinations shall be determined by
23 agreement or in the manner provided for the award of damages
24 in condemnation of land for highway purposes. ~~No such~~
25 ~~soundings or drillings shall be done within twenty rods of the~~
26 ~~dwelling house or buildings on said land without written~~
27 ~~consent of owner.~~

28 EXPLANATION

29 This bill allows an agency in control of any highway or
30 highway system to enter anywhere on private land for the
31 purpose of making surveys, soundings, drillings, appraisals,
32 and examinations relevant to the location and construction of
33 a highway on the land. Under current law the tests cannot be
34 done within twenty rods (330 feet) of a dwelling house or
35 buildings without the written consent of the owner.

1 The bill also allows the required thirty days' written
2 notice to be sent by certified mail rather than restricted
3 certified mail.

4 SUCCESSOR TO SSB 2098 (LSB 7341DS)
5 COMPANION TO LSB 7342DH
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SENATE FILE 2146

H-5834

- 1 Amend Senate File 2146, as passed by the Senate, as
2 follows:
- 3 1. Page 1, line 6, by striking the word "thirty"
4 and inserting the following: "thirty sixty".
- 5 2. Page 1, line 7, by striking the word
6 "restricted" and inserting the following:
7 "restricted".
- 8 3. Page 1, line 7, by striking the word
9 "addressed" and inserting the following: "addressed".
- 10 4. Page 1, by striking lines 24 through 27 and
11 inserting the following: "in condemnation of land for
12 highway purposes. No such soundings or drillings
13 shall be done within twenty-rods seventy-five feet of
14 the dwelling house or buildings on said the land
15 without the written consent of the owner.
- 16 Sec. . NEW SECTION. 471.4A RIGHT OF ENTRY.
- 17 When the state or a political subdivision of the
18 state is granted the right to take private property
19 for a public use, the state or the political
20 subdivision or any authorized person employed by the
21 state or political subdivision, after sixty days'
22 written notice by restricted certified mail addressed
23 to the owner and the occupant, may enter upon the
24 private property. The only purpose for which the
25 state or a political subdivision of the state may
26 enter upon the private property is to conduct surveys,
27 soundings, drillings, appraisals, or examinations
28 deemed necessary to determine the advisability or
29 practicability of acquiring the property for the
30 public use for which it is intended to be acquired.
- 31 Any damage caused by the entry, surveys, soundings,
32 drillings, appraisals, or examinations shall be
33 determined by agreement or in the manner provided for
34 the award of damages in condemnation of land. No
35 soundings or drillings shall be conducted within
36 seventy-five feet of the dwelling house or buildings
37 on the property without the written consent of the
38 owner.
- 39 The entry, after notice, shall not be deemed a
40 trespass, and the state or a political subdivision of
41 the state may be aided by injunction to ensure
42 peaceful entry."
- 43 5. Title page, lines 1 and 2, by striking the
44 words "for highway construction purposes".

By COMMITTEE ON TRANSPORTATION
KOENIGS of Mitchell, Chairperson

H-5834 FILED MARCH 23, 1988

*Adopted as amended by 5892 & 5894
3/30 (p. 1205)*

SENATE FILE 2146

H-5892

1 Amend the Committee on Transportation amendment, H-
2 5834, to Senate File 2146, as passed by the Senate, as
3 follows:

4 1. Page 1, line 14, by striking the words "or
5 buildings" and inserting the following: "or
6 buildings".

7 2. Page 1, line 18, by striking the words "is
8 granted" and inserting the following: "seeks".

9 3. Page 1, line 36, by striking the words "or
10 buildings".

By KOENIGS of Mitchell

H-5892 FILED MARCH 25, 1988

Adopted 3/30 (p. 1205)

SENATE FILE 2146

H-5894

1 Amend the committee on transportation amendment, H-
2 5834, to Senate File 2146 as follows:

3 1. Page 1, by inserting after line 9 the
4 following:

5 "_____. Page 1, line 23, by striking the word
6 "agreement" and inserting the following: "agreement,
7 in a civil proceeding for damages, "."

8 2. Page 1, line 33, by striking the word
9 "agreement" and inserting the following: "agreement,
10 in a civil proceeding for damages, "."

By NEUHAUSER of Johnson

H-5894 FILED MARCH 25, 1988

Adopted 3/30 (p. 1205)

Amended on.

TRANSPORTATION Jensen Chair Priebe and Goodwin

Goodwin

TRANSPORTATION
New

SENATE FILE 2146

BY (PROPOSED STATE DEPARTMENT
OF TRANSPORTATION BILL)

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

A BILL FOR

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12 constructing a highway thereon on the land or for the purpose
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14 the land of suitable quality and in sufficient quantity to
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16 thereof of the land. Such entry, after notice, shall not be
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19 damages caused by such the entry, surveys, soundings,
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21 Any damage caused by such the entry, surveys, soundings,
22 drillings, appraisals, or examinations shall be determined by
23 agreement or in the manner provided for the award of damages
24 in condemnation of land for highway purposes. ~~No such~~
25 ~~soundings-or-drillings-shall-be-done-within-twenty-rods-of-the~~
26 ~~dwelling-house-or-buildings-on-said-land-without-written~~
27 ~~consent-of-owner.~~

28 EXPLANATION

29 This bill allows an agency in control of any highway or
30 highway system to enter anywhere on private land for the
31 purpose of making surveys, soundings, drillings, appraisals,
32 and examinations relevant to the location and construction of
33 a highway on the land. Under current law the tests cannot be
34 done within twenty rods (330 feet) of a dwelling house or
35 buildings without the written consent of the owner.

1 The bill also allows the required thirty days' written
2 notice to be sent by certified mail rather than restricted
3 certified mail.

4 BACKGROUND STATEMENT

5 SUBMITTED BY THE AGENCY

6 Occasionally a property owner will not give permission for
7 sounding and drilling tests within twenty rods (330 ft.) of a
8 building. In urban areas that prevents any testing on some
9 properties. Testing needs to be conducted prior to purchase
10 to determine if hazardous materials are in the soil.
11 Hazardous material cleanup is extremely expensive in both time
12 and money. Early sampling helps the department and property
13 owners more accurately gauge the scope of the problem and how
14 to deal with it.

15 COMPANION TO LSB 7342DH

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