

H. 3/20/97 Transportation
H. 3/2/97 Referred Local Govt

FILED MAR 12 1997

H. 4/2/97 Amend/Do Pass w/ H-1536
H. 4/10/97 Unfinished Business Calendar

SENATE FILE **432**
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SF 113)

Passed Senate, Date ^(P.680) 3/18/97 Passed House, Date ^(P.1259) 4-16-97
Vote: Ayes 48 Nays 1 Vote: Ayes 95 Nays 3
Re-passed Approved May 19, 1997
47-0
4/23/97 (p.1360)

A BILL FOR

- 1 An Act relating to the disposition of private property condemned
- 2 under eminent domain.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4

SENATE FILE 432

H-1536

1 Amend Senate File 432, as passed by the Senate, as
2 follows:
3 1. Page 1, line 15, by striking the word
4 "assessed" and inserting the following: "appraised".
5 2. Page 1, line 18, by striking the word
6 "assessed" and inserting the following: "appraised".
7 3. Page 2, line 17, by striking the word
8 "assessed" and inserting the following: "appraised".
9 4. Page 2, by striking lines 18 through 21 and
10 inserting the follow: "parcel, or piece of land.
11 ~~Neglect-or-failure-for-any-reasons, to-comply-with-the~~
12 ~~notice, does-not-prevent-the-giving-of-a-clear-title~~
13 ~~to-the-purchaser-of-the-tract, parcel, or-piece-of~~
14 ~~land."~~

WITHDRAWN 4/16/97 By COMMITTEE ON LOCAL GOVERNMENT
(P.1257) VANDE HOEF of Osceola, Chairperson
H-1536 FILED APRIL 2, 1997

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1 Section 1. NEW SECTION. 6B.56 DISPOSITION OF CONDEMNED
2 PROPERTY.

3 1. If real property condemned pursuant to this chapter is
4 not used for the purpose stated in the application filed
5 pursuant to section 6B.3 and the condemner seeks to dispose of
6 the real property, the condemner shall first offer the
7 property for sale to the prior owner of the condemned property
8 as provided in this section. For purposes of this section,
9 the prior owner of the real property includes the successor in
10 interest of the real property.

11 2. Before the real property may be offered for sale to the
12 general public, the condemner shall notify the prior owner of
13 the real property condemned in writing of the condemner's
14 intent to dispose of the real property, of the current
15 assessed value of the real property, and of the prior owner's
16 right to purchase the real property within sixty days from the
17 date the notice is served at a price equal to the current
18 assessed value of the real property. The notice sent by the
19 condemner as provided in this subsection shall be filed with
20 the office of the recorder in the county in which the real
21 property is located.

22 3. If the prior owner elects to purchase the real property
23 at the price established in subsection 2, before the
24 expiration of the sixty-day period, the prior owner shall
25 notify the condemner in writing of this intention and file a
26 copy of this notice with the office of the recorder in the
27 county in which the real property is located.

28 4. The provisions of this section do not apply to the sale
29 of unused right-of-way property as provided in chapter 306.

30 Sec. 2. Section 306.23, Code 1997, is amended to read as
31 follows:

32 306.23 NOTICE -- PREFERENCE OF SALE.

33 For the sale of unused right-of-way notice of intention to
34 sell the tract, parcel, or piece of land, or part thereof,
35 must be sent, not less than ten days prior to the sale, by

1 certified mail, by the agency in control of the land, to the
2 last known address of the present owner of adjacent land from
3 which the tract, parcel, piece of land, or part thereof, was
4 originally bought or condemned for highway purposes, and if
5 located in a city, to the mayor. The If the tract, parcel, or
6 piece of land was acquired by purchase and not through
7 condemnation, the notice shall give an opportunity to the
8 present owner of adjacent property to be heard and make offers
9 for the tract, parcel, or piece of land to be sold, and if the
10 offer is equal to or exceeds in amount any other offer
11 received, it shall be given preference by the agency in
12 control of the land. If the tract, parcel, or piece of land
13 was acquired through condemnation, the notice shall also
14 provide that the present owner of adjacent property from which
15 the tract, parcel, or piece of land was condemned may purchase
16 the tract, parcel, or piece of land, prior to the sale, for an
17 amount equal to the current assessed value for the tract,
18 parcel, or piece of land. Neglect or failure for any reason,
19 to comply with the notice, does not prevent the giving of a
20 clear title to the purchaser of the tract, parcel, or piece of
21 land.

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EXPLANATION

23 This bill provides that a prior owner of condemned real
24 property shall be given 60 days to reacquire that property if
25 the condemner has not used the property for the purpose of the
26 condemnation and if the entity that condemned the real
27 property seeks to otherwise dispose of the property to the
28 public. The bill provides that the prior owner can reacquire
29 the property at a price equal to the current assessed value of
30 the property.

31 The bill also provides that the adjacent owner of unused
32 right-of-way property condemned as provided in Code chapter
33 306 shall have the opportunity to acquire the property at the
34 current assessed value of the unused property prior to
35 offering the property to the public.

LSB 2035SV 77

SENATE FILE 432

H-1687

1 Amend Senate File 432, as passed by the Senate, as
2 follows:

3 1. Page 1, line 15, by striking the word
4 "assessed" and inserting the following: "appraised".

5 2. Page 1, line 18, by striking the word
6 "assessed" and inserting the following: "appraised".

7 3. By striking page 1, line 32, through page 2,
8 line 21, and inserting the following:

9 "306.23 NOTICE -- PREFERENCE OF SALE.

10 1. ~~For the sale of unused right-of-way notice of~~
11 ~~intention to sell the tract, parcel, or piece of land,~~
12 ~~or part thereof, must be sent, not less than ten days~~
13 ~~prior to the sale, by certified mail, by the~~ The
14 agency in control of the land, a tract, parcel, or
15 piece of land, or part thereof, which is unused right-
16 of-way shall send by certified mail to the last known
17 address of the present owner of adjacent land from
18 which the tract, parcel, piece of land, or part
19 thereof, was originally bought purchased or condemned
20 for highway purposes, and if located in a city, to the
21 mayor to the person who owned the land at the time it
22 was purchased or condemned for highway purposes,
23 notice of the agency's intent to sell the land, the
24 name and address of any other person to whom a notice
25 was sent, and the fair market value of the real
26 property based upon an appraisal by an independent
27 appraiser.

28 2. The notice shall give an opportunity to the
29 present owner of adjacent property and to the person
30 who owned the land at the time it was purchased or
31 condemned for highway purposes to be heard and make
32 offers within sixty days of the date the notice is
33 mailed for the tract, parcel, or piece of land to be
34 sold, and if the offer is equal to. An offer which
35 equals or exceeds in amount any other offer received,
36 it and which equals or exceeds the fair market value
37 of the property shall be given preference by the
38 agency in control of the land. ~~Neglect or failure for~~
39 ~~any reason, to comply with the notice, does not~~
40 ~~prevent the giving of a clear title to the purchaser~~
41 ~~of the tract, parcel, or piece of land. If no offers~~
42 are received within sixty days or if no offer equals
43 or exceeds the fair market value of the land, the
44 agency shall transfer the land for a public purpose or
45 proceed with the sale of the property.

46 3. For the purposes of this section, "public
47 purpose" means the transfer to a state agency or a
48 city, county, or other political subdivision for a
49 public purpose.

50 Sec. ____ . APPLICABILITY DATE. Section 2 of this

H-1687

H-1687

Page 2

1 Act applies only to decisions to dispose of unused
2 right-of-way made on or after July 1, 1997."

3 4. Title page, line 2, by inserting after the
4 word "domain" the following: "or condemned or
5 purchased as highway right-of-way property and
6 providing an applicability date".

7 5. By renumbering as necessary.

By VANDE HOEF of Osceola

H-1687 FILED APRIL 10, 1997

*Adapted
4-16-97
(p.1259)*

HOUSE AMENDMENT TO
SENATE FILE 432

S-3540

1 Amend Senate File 432, as passed by the Senate, as
2 follows:

3 1. Page 1, line 15, by striking the word
4 "assessed" and inserting the following: "appraised".

5 2. Page 1, line 18, by striking the word
6 "assessed" and inserting the following: "appraised".

7 3. By striking page 1, line 32, through page 2,
8 line 21, and inserting the following:

9 "306.23 NOTICE -- PREFERENCE OF SALE.

10 1. ~~For the sale of unused right-of-way notice of~~
11 ~~intention to sell the tract, parcel, or piece of land,~~
12 ~~or part thereof, must be sent, not less than ten days~~
13 ~~prior to the sale, by certified mail, by the~~ The
14 agency in control of the land, a tract, parcel, or
15 piece of land, or part thereof, which is unused right-
16 of-way shall send by certified mail to the last known
17 address of the present owner of adjacent land from
18 which the tract, parcel, piece of land, or part
19 thereof, was originally bought purchased or condemned
20 for highway purposes, and if located in a city, to the
21 mayor to the person who owned the land at the time it
22 was purchased or condemned for highway purposes,
23 notice of the agency's intent to sell the land, the
24 name and address of any other person to whom a notice
25 was sent, and the fair market value of the real
26 property based upon an appraisal by an independent
27 appraiser.

28 2. The notice shall give an opportunity to the
29 present owner of adjacent property and to the person
30 who owned the land at the time it was purchased or
31 condemned for highway purposes to be heard and make
32 offers within sixty days of the date the notice is
33 mailed for the tract, parcel, or piece of land to be
34 sold, and if the offer is equal to. An offer which
35 equals or exceeds in amount any other offer received,
36 it and which equals or exceeds the fair market value
37 of the property shall be given preference by the
38 agency in control of the land. Neglect or failure for
39 any reason, to comply with the notice, does not
40 prevent the giving of a clear title to the purchaser
41 of the tract, parcel, or piece of land. If no offers
42 are received within sixty days or if no offer equals
43 or exceeds the fair market value of the land, the
44 agency shall transfer the land for a public purpose or
45 proceed with the sale of the property.

46 3. For the purposes of this section, "public
47 purpose" means the transfer to a state agency or a
48 city, county, or other political subdivision for a
49 public purpose.

50 Sec. ____ . APPLICABILITY DATE. Section 2 of this

S-3540

S-3540

Page 2

- 1 Act applies only to decisions to dispose of unused
- 2 right-of-way made on or after July 1, 1997."
- 3 4. Title page, line 2, by inserting after the
- 4 word "domain" the following: "or condemned or
- 5 purchased as highway right-of-way property and
- 6 providing an applicability date".
- 7 5. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3540 FILED APRIL 16, 1997

Senate concurred 4/23/97 (p. 1360)

SENATE FILE 432

AN ACT
RELATING TO THE DISPOSITION OF PRIVATE PROPERTY CONDEMNED
UNDER EMINENT DOMAIN OR CONDEMNED OR PURCHASED AS
HIGHWAY RIGHT-OF-WAY PROPERTY AND PROVIDING AN
APPLICABILITY DATE.

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

Section 1. NEW SECTION. 6B.56 DISPOSITION OF CONDEMNED
PROPERTY.

1. If real property condemned pursuant to this chapter is not used for the purpose stated in the application filed pursuant to section 6B.3 and the condemner seeks to dispose of the real property, the condemner shall first offer the property for sale to the prior owner of the condemned property as provided in this section. For purposes of this section, the prior owner of the real property includes the successor in interest of the real property.

2. Before the real property may be offered for sale to the general public, the condemner shall notify the prior owner of the real property condemned in writing of the condemner's intent to dispose of the real property, of the current appraised value of the real property, and of the prior owner's right to purchase the real property within sixty days from the date the notice is served at a price equal to the current appraised value of the real property. The notice sent by the condemner as provided in this subsection shall be filed with the office of the recorder in the county in which the real property is located.

3. If the prior owner elects to purchase the real property at the price established in subsection 2, before the expiration of the sixty-day period, the prior owner shall notify the condemner in writing of this intention and file a

copy of this notice with the office of the recorder in the county in which the real property is located.

4. The provisions of this section do not apply to the sale of unused right-of-way property as provided in chapter 306.

Sec. 2. Section 306.23, Code 1997, is amended to read as follows:

306.23 NOTICE -- PREFERENCE OF SALE.

1. For the sale of unused right-of-way notice of intention to sell the tract, parcel, or piece of land, or part thereof, must be sent, not less than ten days prior to the sale, by certified mail, by the The agency in control of the land, a tract, parcel, or piece of land, or part thereof, which is unused right-of-way shall send by certified mail to the last known address of the present owner of adjacent land from which the tract, parcel, piece of land, or part thereof, was originally bought purchased or condemned for highway purposes, and if located in a city, to the mayor to the person who owned the land at the time it was purchased or condemned for highway purposes, notice of the agency's intent to sell the land, the name and address of any other person to whom a notice was sent, and the fair market value of the real property based upon an appraisal by an independent appraiser.

2. The notice shall give an opportunity to the present owner of adjacent property and to the person who owned the land at the time it was purchased or condemned for highway purposes to be heard and make offers within sixty days of the date the notice is mailed for the tract, parcel, or piece of land to be sold, and if the offer is equal to. An offer which equals or exceeds in amount any other offer received, it and which equals or exceeds the fair market value of the property shall be given preference by the agency in control of the land. Neglect or failure for any reason, to comply with the notice, does not prevent the giving of a clear title to the purchaser of the tract, parcel, or piece of land. If no offers are received within sixty days or if no offer equals or

exceeds the fair market value of the land, the agency shall transfer the land for a public purpose or proceed with the sale of the property.

3. For the purposes of this section, "public purpose" means the transfer to a state agency or a city, county, or other political subdivision for a public purpose.

Sec. 3. APPLICABILITY DATE. Section 2 of this Act applies only to decisions to dispose of unused right-of-way made on or after July 1, 1997.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 432, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 19, 1997

TERRY E. BRANSTAD
Governor