

SOLAR ACCESS CONFERENCE COMMITTEE

Submitted to the General Assembly

January, 1980

F I N A L R E P O R T

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The conference committee appointed to consider the differences between the House and the Senate on Senate File 344 relating to rights of access to solar energy was authorized and held three meetings during the 1979 interim. Several changes occurred in the original membership of the conference committee which is now as follows:

Senator Richard Ramsey, Senate Chairperson
Senator A. R. "Bud" Kudart
Senator David Readinger
Senator John Scott
Senator James Gallagher
Representative Virginia Poffenberger, House Chairperson
Representative Darrell Hanson
Representative Sue Mullins
Representative Rollin Howell
Representative Arlo Hullinger

Senate File 344 as passed by the Senate provides for the creation and recording of voluntary easements to assure access to solar energy for a solar energy system. It also incorporates access to solar energy as a valid public purpose for zoning decisions and allows a city council to require by ordinance that new subdivisions incorporate restrictive covenants in deeds to protect solar access.

The House retained all of Senate File 344 but the House amendment S-3561 further declares that the right to use solar energy is a property right subject to state regulation. The amendment specifies beneficial use as the basis for acquisition of the right and provides for a system of recording the right, contesting the recording and for compensation when interference with a recorded right occurs.

The conference committee received comments from the following persons and organizations regarding Senate File 344 and S-3561: the Iowa State Bar Association, the Iowa Energy Policy Council, the League of Iowa Municipalities in general and representatives of planning and zoning commissions and boards of adjustment in particular, the Iowa State Association of Counties, the Iowa Land Title Association, Citizens United for Responsible Energy, Mr. Rich Ballard of Ballard Solar Heating and Mr. Alan Miller, National Energy Project, American Bar Association. All comments were submitted in writing and are on file in the Legislative Service Bureau.

Problems in both versions were pointed out. Criticisms of S-3561 included the following:

1. There is no need for such comprehensive access legislation at the present time and mandating such a complex system may actually discourage rather than encourage solar development.

2. S-3561 places a burden on local units of government which they are neither financially or technically able to bear.

3. S-3561 in effect allows eminent domain by private parties and without compensation.

4. The compensation provisions of the House amendment raised several concerns.

5. The constitutionality of a mandatory restriction of property rights is a question.

Problems identified in Senate File 344 included:

1. A "legal" description of the benefitted and burdened properties should be required.

2. The exemption of recorded solar easements from sections 614.17 and 614.24 of the Code which are essentially statutes of limitations is inappropriate.

3. Solar easements for passive applications should be included in the bill.

4. Technical assistance to local governments is preferable to either version as the mechanisms provided in Senate File 344 are available without enabling legislation.

5. Provisions of Senate File 344 relating to local zoning may be misconstrued and used as the basis for challenging other land use controls.

The conference committee report which is attached includes the easement, zoning and restrictive covenant provisions of both Senate File 344 and S-3561 with several modifications in response to concerns that were raised regarding misinterpretation of zoning provisions. The statute of limitations exemption has been removed and a "legal" description of the affected property required for recorded easements. Language from the House bill including passive applications and greenhouses in the definition of solar energy and requiring the Energy Policy Council to provide information on solar access statutes is included. Those voting aye on the report were Senators Ramsey, Kudart and Scott and Representatives Poffenberger, Mullins and Hansen. Representatives Hullinger and Howell voted no.

REPORT OF THE FIRST CONFERENCE COMMITTEE
ON SENATE FILE 344

To the President of the Senate and the Speaker of the House.

We, the undersigned members of the Conference Committee appointed to consider the differences between the House and the Senate on Senate File 344 a bill for An Act relating to access to and use of solar energy respectfully make the following report:

1. That the House recede from its amendment S-3561 to Senate File 344 as passed by the Senate.
2. That Senate File 344 as passed by the Senate be amended as follows:
 1. Page 1, by striking lines 13 through 18 and inserting in lieu thereof the following:
 - "1. "Solar energy system" means any of the following:
 - a. A system of equipment capable of collecting and converting incident solar energy into heat, mechanical or electrical energy and transforming those forms of energy by a separate apparatus to a point of storage or end use.
 - b. Structural and operable components of a structure that are designed to heat or cool the structure by using solar energy by means of conduction, convection, radiation or evaporation.
 - c. A greenhouse."
 2. Page 1, by striking lines 27 and 28 and inserting in lieu thereof the words "conveyance requirements as other

easements. A solar easement shall".

3. Page 1, line 26, by striking the number "1."

4. Page 1, line 31, by striking the letter "a." and inserting in lieu thereof the number "1."

5. Page 1, by striking lines 33 and 34 and inserting in lieu thereof the following:

"2. A legal description of the space which must remain unobstructed expressed in terms of the degrees of the vertical and horizontal angles through which the solar easement extends over the burdened property and the points from which these angles are measured."

6. Page 1, line 35, by striking the letter "c." and inserting in lieu thereof the number "3."

7. Page 2, line 3, by striking the letter "d." and inserting in lieu thereof the number "4."

8. Page 2, line 5, by striking the letter "e." and inserting in lieu thereof the number "5."

9. Page 2, by striking lines 10 through 21.

10. Page 3, line 1, by striking the word "and" and inserting in lieu thereof the words "and which is".

11. Page 3, line 6, by inserting after the word "system;" the words "to promote the conservation of energy resources;"

12. Page 3, by striking lines 22 through 25 and inserting in lieu thereof the word "decisions."

13. Page 4, line 29, by striking the word "A".

14. Page 4, by striking lines 30 through 33.

15. Page 5, line 2, by striking the word "and" and inserting in lieu thereof the words "and which is".

16. Page 5, line 7, by inserting after the word "system;" the words "to promote the conservation of energy resources;".

17. Page 5, by inserting after line 16 the following new section:

"Sec. ____ . NEW SECTION. ASSISTANCE TO LOCAL GOVERNMENT BODIES AND THE PUBLIC. The energy policy council shall make available information and guidelines to assist local government

bodies and the public to understand and use the provisions of this Act. The information and guidelines shall include model easements, model restrictive covenants, and instructions and aids for preparing and recording solar easements."

18. By renumbering and correcting internal references in accordance with this amendment.

ON THE PART OF THE SENATE:

ON THE PART OF THE HOUSE:

RICHARD R. RAMSEY, Chairperson

VIRGINIA POFFENBERGER, Chairperson

A. R. (BUD) KUDART

DARRELL HANSON

DAVID M. READINGER

SUE MULLINS

JOHN R. SCOTT

ARLO HULLINGER

JAMES GALLACHER

ROLLIN HOWELL