

House File 2664

H-8259

1 Amend the amendment, H-8229, to House File 2664, as follows:

2 1. Page 1, by striking lines 1 through 31 and inserting:

3 <Amend House File 2664 as follows:

4 1. By striking everything after the enacting clause and
5 inserting:

6 <Section 1. NEW SECTION. **479B.9A** Judicial review prior to
7 final board action.

8 1. *a.* Notwithstanding the Iowa administrative procedure
9 Act, chapter 17A, prior to final board action, an applicant
10 before the board under this chapter or a person whose real
11 property is subject to an eminent domain taking arising
12 from an application before the board may petition the district
13 court for an eminent domain declaratory review.

14 *b.* The district court for Polk county shall have exclusive
15 venue for the judicial review under this subsection.

16 *c.* Relief under this subsection is limited to a declaration
17 of the parties' rights, status, and other legal matters
18 relating to the constitutional and statutory provisions
19 governing eminent domain takings.

20 *d.* The court may combine several substantially similar
21 petitions into one review or relief order at its own discretion
22 or upon the application of any party.

23 *e.* All orders or judgments under this subsection may be
24 reviewed as other judgments, orders, or decrees.

25 *f.* This subsection does not limit the authority of the board
26 to proceed with an application under consideration at the time
27 of the petition.

28 2. *a.* A person whose real property is subject to an eminent
29 domain taking claim arising from an application before the
30 board may commence a new action under subsection 1 if any of
31 the following conditions apply:

32 (1) More than eighteen months have passed after the
33 commencement of an action described in subsection 1 involving
34 the person.

35 (2) The facts and circumstances as presented in a previous

1 proceeding under subsection 1 materially differ from the facts
2 and circumstances at the time of the commencement of the new
3 action.

4 *b.* Notwithstanding subsection 1, paragraph "b", the new
5 proceeding must be in a district court of a county other than
6 Polk county, and the district judge assigned to the matter
7 must be a district judge other than the judge who presided in
8 the previous action under subsection 1. The court shall make
9 all determinations of fact and law in the new action de novo,
10 giving no precedential value to determinations in the earlier
11 action.

12 3. Commencement of a declaratory action under this section
13 must be accompanied by a fee of ten dollars, payable to the
14 clerk of the district court of the county in which the action
15 is commenced. Fees collected under this subsection shall be
16 deposited in the general fund of the state.

17 4. A bond shall not be required for an appeal of any
18 order entered in an action arising from this section, or for
19 any injunction to enforce an order entered pursuant to this
20 section.

21 Sec. 2. NEW SECTION. **479B.9B Judicial review of final**
22 **order.**

23 Any person or entity admitted as a party to the hearing may
24 seek judicial review of the final order issued by the board
25 pursuant to section 479B.9, as provided in section 17A.19. The
26 party seeking judicial review shall not be required to post a
27 bond to stay action on the permit.>

28 2. Title page, by striking lines 1 and 2 and inserting <An
29 Act relating to actions involving hazardous liquid pipelines,
30 and providing fees.>>

THOMSON of Floyd