

House File 2351 - Enrolled

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HOUSE FILE 2351

AN ACT

RELATING TO GOVERNMENT AUTHORITY, INCLUDING EMINENT DOMAIN
AUTHORITY AND CONDEMNATION PROCEDURES, AND OTHER PROPERLY
RELATED MATTERS, AND INCLUDING EFFECTIVE AND APPLICABILITY
PROVISIONS.

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

Section 1. Section 6A.4, subsection 2, unnumbered
paragraph 1, Code 2005, is amended to read as follows:

Upon the owner or lessee of lands, which have no public or
private way to the lands, for the purpose of providing a
public way, ~~not exceeding forty feet in width~~, which will
connect with an existing public road. The condemned public
way shall not exceed forty feet in width when such lands are
agricultural or have a single residence located on them. For
all other uses, the condemned public way shall not exceed
sixty-six feet. The condemned public way shall be located on

a division, subdivision or "forty" line, or immediately
adjacent thereto, and along the line which is the nearest
feasible route to an existing public road, or along a route
established for a period of ten years or more by an easement
of record or by use and travel to and from the property by the
owner and the general public. The public way shall not
interfere with buildings, orchards, or cemeteries. When
passing through enclosed lands, the public way shall be fenced
on both sides by the condemner upon request of the owner of
the condemned land. The condemner or the condemner's
assignee, shall provide easement for access to the owner of
property severed by the condemnation. The public way shall be
maintained by the condemner or the condemner's assignee, and
shall not be considered any part of the primary or secondary
road systems.

Sec. 2. Section 6A.21, subsection 2, Code 2005, is amended
to read as follows:

2. The limitation on the definition of public use, public
purpose, or public improvement does not apply to ~~a slum area
or blighted area as defined in section 403.17, or to
agricultural land acquired for industry as that term is
defined in section 260E.2, or to the establishment,
relocation, or improvement of a road pursuant to chapter 306,
or to the establishment of a railway under the supervision of
the department of transportation as provided in section
327C.2, or to an airport as defined in section 328.1, or to
land acquired in order to replace or mitigate land used in a
road project when federal law requires replacement or
mitigation. This limitation also does not apply to utilities,
or persons, companies, or corporations~~ under the jurisdiction
of the Iowa utilities board in the department of commerce or
to any other utility conferred the right by statute to condemn
private property or to otherwise exercise the power of eminent
domain.

Sec. 3. NEW SECTION. 6A.22 ADDITIONAL LIMITATIONS ON
EXERCISE OF POWER == DEFINITIONS.

1. In addition to the limitations in section 6A.21, the
authority of an acquiring agency to condemn any private
property through eminent domain may only be exercised for a
public purpose, public use, or public improvement. However,
if the owner of the property consents to the condemnation, the
property may be condemned for any purpose.

2. a. "Public use", "public purpose", or "public
improvement" means one or more of the following:

(1) The possession, occupation, and enjoyment of property
by the general public or governmental entities.

(2) The acquisition of any interest in property necessary
to the function of a public or private utility, common
carrier, or airport or airport system.

(3) Private use that is incidental to the public use of
the property, provided that no property shall be condemned
solely for the purpose of facilitating such incidental private
use.

3 4 (4) The acquisition of property pursuant to chapter 455H.
3 5 (5) The acquisition of property for redevelopment purposes
3 6 and to eliminate slum or blighted conditions in that portion
3 7 of an urban renewal area designated as a slum or blighted area
3 8 if each parcel, or any improvements thereon, for which
3 9 condemnation is sought is determined by the governing body of
3 10 the municipality to be in a slum or blighted condition.
3 11 However, for a project or acquisition plan adopted by the
3 12 governing body of a municipality after due deliberation and
3 13 public input, if seventy-five percent or more of the area
3 14 included in the plan consists of property in a slum or
3 15 blighted condition at the time the plan was established, the
3 16 entire project or acquisition plan area is subject to
3 17 condemnation by the municipality. The project or acquisition
3 18 plan area shall only include the adjacent and contiguous
3 19 parcels necessary for the completion of planned activities for
3 20 a specific business or housing project. Before a municipality
3 21 exercises its eminent domain authority to acquire properties
3 22 in a project or acquisition plan area that are not in a slum
3 23 or blighted condition, the municipality shall be required to
3 24 adopt a resolution by a two-thirds majority to authorize the
3 25 acquisition of such property by eminent domain. The
3 26 resolution shall make a finding that includes at a minimum all
3 27 of the following:

3 28 (a) The taking of such property is necessary to achieve
3 29 the project or acquisition plan objectives.

3 30 (b) The taking of property for the project or acquisition
3 31 plan will eliminate or rehabilitate the slum and blighted
3 32 conditions in the area.

3 33 (c) If the specific project is for a business, the
3 34 proposed project or acquisition plan will confer economic
3 35 benefits upon the municipality.

4 1 For purposes of this subparagraph (5):

4 2 (a) "Blighted condition" means the presence of a
4 3 substantial number of slum or deteriorated structures;
4 4 insanitary or unsafe conditions; excessive and uncorrected
4 5 deterioration of site or other improvements; tax or special
4 6 assessment delinquency exceeding the fair value of the land;
4 7 defective or unusual conditions of title; or the existence of
4 8 conditions which endanger life or property by fire and other
4 9 causes; or the existence of conditions which retard the
4 10 provision of housing accommodations for low or moderate income
4 11 families, or is a menace to the public health and safety in
4 12 its present condition and use.

4 13 (b) "Slum condition" means a condition conducive to ill
4 14 health, transmission of disease, infant mortality, juvenile
4 15 delinquency, or crime, or detrimental to the public health and
4 16 safety due to a predominance of buildings or improvements,
4 17 whether residential or nonresidential, by reason of the
4 18 following: by reason of dilapidation, deterioration that is
4 19 excessive and uncorrected, age or obsolescence; by reason of
4 20 inadequate provision for sanitation; by reason of high density
4 21 of population and overcrowding; by reason of the existence of
4 22 conditions which endanger life or property by fire and other
4 23 causes; or by reason of any combination of such factors.

4 24 (c) In no case shall land that is agricultural land be
4 25 determined to be in a slum condition or blighted condition.

4 26 (d) "Project or acquisition plan" means the planned
4 27 activities of a municipality to rehabilitate or redevelop
4 28 specific property in that portion of an urban renewal area
4 29 designated as a slum or blighted area pursuant to chapter 403.
4 30 The planned activities may include the sale and acquisition of
4 31 property; demolition and removal of buildings and
4 32 improvements; construction, repair, and rehabilitation of
4 33 buildings or other improvements; and installation,
4 34 construction, or reconstruction of streets and utilities.

4 35 (e) "Economic benefits" means the creation of new
5 1 employment opportunities or the retention of employment
5 2 opportunities.

5 3 b. Except as specifically included in the definition in
5 4 paragraph "a", "public use" or "public purpose" or "public
5 5 improvement" does not mean economic development activities
5 6 resulting in increased tax revenues, increased employment
5 7 opportunities, privately owned or privately funded housing and
5 8 residential development, privately owned or privately funded
5 9 commercial or industrial development, or the lease of publicly
5 10 owned property to a private party.

5 11 c. Notwithstanding paragraph "a":

5 12 (1) If private property is to be condemned for development
5 13 or creation of a lake, only that number of acres justified as
5 14 necessary for a surface drinking water source, and not

5 15 otherwise acquired, may be condemned. In addition, the
5 16 acquiring agency shall conduct a review of prudent and
5 17 feasible alternatives to provision of a drinking water source
5 18 prior to making a determination that such lake development or
5 19 creation is reasonable and necessary. Development or creation
5 20 of a lake as a surface drinking water source includes all of
5 21 the following:

- 5 22 (a) Construction of the dam, including sites for suitable
5 23 borrow material and the auxiliary spillway.
- 5 24 (b) The water supply pool.
- 5 25 (c) The sediment pool.
- 5 26 (d) The flood control pool.
- 5 27 (e) The floodwater retarding pool.
- 5 28 (f) The surrounding area upstream of the dam no higher in
5 29 elevation than the top of the dam's elevation.
- 5 30 (g) The appropriate setback distance required by state or
5 31 federal laws and regulations to protect drinking water supply.

5 32 For purposes of this subparagraph (1), "number of acres
5 33 justified as necessary for a surface drinking water source"
5 34 means according to guidelines of the United States natural
5 35 resource conservation service and according to analyses of
6 1 surface drinking water capacity needs conducted by one or more
6 2 registered professional engineers.

6 3 (2) The use of eminent domain authority to acquire private
6 4 property in the unincorporated area of a county for use as an
6 5 airport, airport system, or aviation facilities is prohibited,
6 6 notwithstanding any provision of the law to the contrary, if
6 7 the property to be condemned is located outside the geographic
6 8 boundaries of the city or county operating the airport,
6 9 airport system, or aviation facilities or outside the
6 10 geographic boundaries of the member municipalities of the
6 11 commission or authority. However, an acquiring agency may
6 12 proceed with condemnation of property under these
6 13 circumstances if the board of supervisors of the county where
6 14 the property for which condemnation is sought is located holds
6 15 a public hearing on the matter and subsequent to the hearing
6 16 approves, by resolution, the condemnation action. This
6 17 subparagraph does not apply if any of the following conditions
6 18 is met:

6 19 (a) The property to be condemned is for an improvement to
6 20 an existing airport, airport system, or aviation facilities if
6 21 such improvement is required by federal law, regulation, or
6 22 order or if such improvement is included in an airport layout
6 23 plan approved by the federal aviation administration for the
6 24 existing site of the airport, airport system, or aviation
6 25 facilities.

6 26 (b) The property to be condemned has been zoned by a city
6 27 or county for use as an airport, airport system, or aviation
6 28 facilities.

6 29 (c) The property to be condemned is for a proposed
6 30 airport, airport system, or aviation facilities that as of
6 31 July 1, 2006, was designated in the federal aviation
6 32 administration national plan for integrated airport services,
6 33 and the property to be condemned is located within the county
6 34 where at least one of the cities that will participate in
6 35 operation of the proposed airport, airport system, or aviation
7 1 facilities is located.

7 2 Sec. 4. NEW SECTION. 6A.22A EXCEPTION FOR CERTAIN URBAN
7 3 RENEWAL AREAS.

7 4 1. The requirement in section 6A.22, subsection 2,
7 5 paragraph "a", subparagraph (5), that eminent domain authority
7 6 be exercised on a parcel-by-parcel basis and the exception in
7 7 that subparagraph (5) for project or acquisition plans with
7 8 seventy-five percent or more of the area consisting of
7 9 property in a slum or blighted condition, take effect October
7 10 1, 2006. However, if an acquiring agency adopts a resolution
7 11 after the date of enactment of this Act but before October 1,
7 12 2006, approving acquisition of property by eminent domain in
7 13 that portion of an urban renewal area designated as a slum or
7 14 blighted area, such requirement or exception shall not apply
7 15 to any condemnation application seeking to condemn that
7 16 property if the application is filed before October 1, 2007,
7 17 with the chief judge of the judicial district of the county in
7 18 which the property is located.

7 19 2. This section is repealed December 31, 2007.

7 20 Sec. 5. NEW SECTION. 6A.23 JUDICIAL REVIEW OF EMINENT
7 21 DOMAIN AUTHORITY.

7 22 1. An owner of property described in an application for
7 23 condemnation may bring an action challenging the exercise of
7 24 eminent domain authority or the condemnation proceedings.
7 25 Such action shall be commenced within thirty days after

7 26 service of notice of assessment pursuant to section 6B.8 by
7 27 the filing of a petition in district court. Service of the
7 28 original notice upon the acquiring agency shall be as required
7 29 in the rules of civil procedure. In addition to the owner of
7 30 the property, a contract purchaser of record of the property
7 31 or a tenant occupying the property under a recorded lease
7 32 shall also have standing to bring such action.

7 33 2. An acquiring agency that proposes to acquire property
7 34 by eminent domain may file a petition in district court
7 35 seeking a determination and declaration that its finding of
8 1 public use, public purpose, or public improvement necessary to
8 2 support the taking meets the definition of those terms. The
8 3 action shall be commenced by the filing of a petition
8 4 identifying all property owners whose property is proposed to
8 5 be acquired, any contract purchaser of record of the property,
8 6 and any tenant known to be occupying the property, and
8 7 including a description of the properties proposed to be
8 8 acquired and a statement of the public use, public purpose, or
8 9 public improvement supporting the acquisition of the property
8 10 by eminent domain. The original notice shall be served as
8 11 required by the rules of civil procedure on each property
8 12 owner named in the petition and on any contract purchaser of
8 13 record of the property and on any tenant occupying the
8 14 property under a recorded lease. Such action may be commenced
8 15 by an acquiring agency at any time prior to the filing of an
8 16 application for condemnation pursuant to section 6B.3.

8 17 3. For any action brought under this section, the burden
8 18 of proof shall be on the acquiring agency to prove by a
8 19 preponderance of the evidence that the finding of public use,
8 20 public purpose, or public improvement meets the definition of
8 21 those terms. If a property owner or a contract purchaser of
8 22 record or a tenant occupying the property under a recorded
8 23 lease prevails in an action brought under this section, the
8 24 acquiring agency shall be required to pay the costs, including
8 25 reasonable attorney fees, of the adverse party.

8 26 Sec. 6. Section 6B.2B, Code 2005, is amended to read as
8 27 follows:

8 28 6B.2B ACQUISITION NEGOTIATION ~~STATEMENT OF RIGHTS~~.

8 29 The acquiring agency shall make a good faith effort to
8 30 negotiate with the owner to purchase the private property or
8 31 property interest before filing an application for
8 32 condemnation or otherwise proceeding with the condemnation
8 33 process. An acquiring agency shall not make an offer to
8 34 purchase the property or property interest that is less than
8 35 the fair market value the acquiring agency has established for
9 1 the property or property interest pursuant to the appraisal
9 2 required in section 6B.45 or less than the value determined
9 3 under the acquiring agency's waiver procedure established
9 4 pursuant to section 6B.54, subsection 2, for acquisition of
9 5 property with a low fair market value. A purchase offer made
9 6 by an acquiring agency shall include provisions for payment to
9 7 the owner of expenses, including relocation expenses, expenses
9 8 listed in section 6B.54, subsection 10, and other expenses
9 9 required by law to be paid by an acquiring agency to a
9 10 condemnee. However, ~~an~~ in the alternative, the acquiring
9 11 agency may make, and the owner may accept, a purchase offer
9 12 from the acquiring agency that is an amount equal to one
9 13 hundred thirty percent of the appraisal amount plus payment to
9 14 the owner of expenses listed in section 6B.54, subsection 10,
9 15 once those expenses have been determined. If the owner
9 16 accepts such a purchase offer, the owner is barred from
9 17 claiming payment from the acquiring agency for any other
9 18 expenses allowed by law. An acquiring agency need not make an
9 19 offer in excess of ~~that amount~~ the amounts described in this
9 20 section in order to satisfy the requirement to negotiate in
9 21 good faith. An acquiring agency is deemed to have met the
9 22 requirements of this section if the acquiring agency complies
9 23 with section 6B.54. The option to make an alternative
9 24 purchase offer does not apply when property is being acquired
9 25 for street and highway projects undertaken by the state, a
9 26 county, or a city.

9 27 Sec. 7. NEW SECTION. 6B.2D NOTICE OF INTENT TO APPROVE
9 28 ACQUISITION OF PROPERTY BY EMINENT DOMAIN.

9 29 1. The acquiring agency shall send notice of a proposed
9 30 resolution, motion, or other document authorizing acquisition
9 31 of property by eminent domain to each property owner whose
9 32 property is proposed to be acquired by eminent domain, to any
9 33 contract purchaser of record of the property, and to any
9 34 tenant known to be occupying the property at least fourteen
9 35 days prior to the date of the meeting at which such proposed
10 1 authorization will be considered for adoption by the acquiring

10 2 agency. The notice shall include the date, time, and place of
10 3 the meeting and a statement that the persons receiving the
10 4 notice have a right to attend the meeting and to voice
10 5 objection to the proposed acquisition of the property. The
10 6 notice shall include a copy of the proposed resolution,
10 7 motion, or other document authorizing acquisition by eminent
10 8 domain. The notice shall also include the same statement of
10 9 individual rights that is required by section 6B.2A.

10 10 2. This section shall not apply to the following:

10 11 a. Street and highway projects undertaken by the state, a
10 12 county, or a city.

10 13 b. Projects undertaken by a municipal utility.

10 14 c. Projects undertaken by a city enterprise providing
10 15 services of sewer systems, storm water drainage systems,
10 16 sewage treatment, solid waste collection, or solid waste
10 17 disposal.

10 18 d. Projects undertaken by a county enterprise providing
10 19 services described in section 331.461, subsection 2,
10 20 paragraphs "b" and "f".

10 21 Sec. 8. Section 6B.3, subsection 1, paragraph d, Code
10 22 2005, is amended to read as follows:

10 23 d. The purpose for which condemnation is sought. ~~For~~
~~10 24 purposes of section 6B.4A, if condemnation of agricultural~~
~~10 25 land is sought by a city or county, or an agency of a city or~~
~~10 26 county, for location of an industry as that term is defined in~~
~~10 27 section 260E.2, the application shall so state. However, the~~
~~10 28 city or county shall not be required to disclose information~~
~~10 29 on an industrial prospect with which the city or county is~~
~~10 30 currently negotiating.~~

10 31 Sec. 9. Section 6B.3, subsection 2, Code 2005, is amended
10 32 to read as follows:

10 33 2. The applicant shall mail a copy of the application by
10 34 certified mail to the owner at the owner's last known address,
10 35 ~~to any contract purchaser of record of the property, to any~~

~~11 1 tenant known to be occupying the property, and to any record~~
11 2 lienholder or encumbrancer of the property at the lienholder's
11 3 or encumbrancer's last known address. The applicant shall
11 4 also cause the application to be published once in a newspaper
11 5 of general circulation in the county, not less than four nor
11 6 more than twenty days before the meeting of the compensation
11 7 commission to assess the damages. Service of the application
11 8 by publication shall be deemed complete on the day of
11 9 publication.

11 10 In lieu of mailing and publishing the application, the
11 11 applicant may cause the application to be served upon the
11 12 owner, ~~contract purchaser of record, tenant known to be~~
~~11 13 occupying the property, record~~ lienholders, and ~~record~~
11 14 encumbrancers of the property in the manner provided by the
11 15 Iowa rules of civil procedure for the personal service of
11 16 original notice. The application shall be mailed and
11 17 published or served, as above provided, prior to or
11 18 contemporaneously with the mailing and publication or service
11 19 of the list of compensation commissioners as provided in
11 20 section 6B.4.

11 21 Sec. 10. Section 6B.3, subsection 3, unnumbered paragraph
11 22 2, Code 2005, is amended to read as follows:

11 23 When indexed, the proceeding is considered pending so as to
11 24 charge all persons not having an interest in the property with
11 25 notice of its pendency, and while pending no interest can be
11 26 acquired by the third parties in the property against the
11 27 rights of the applicant. If the appraisal of damages ~~by~~
~~11 28 the commission pursuant to section 6B.14~~ is not made within
11 29 one hundred twenty days ~~of indexing~~, the proceedings
11 30 instituted under this section are terminated and all rights
11 31 and interests of the applicant arising out of the application
11 32 for condemnation terminate. The applicant may reinstitute a
11 33 new condemnation proceeding at any time. The reinstated
11 34 proceedings are entirely new proceedings and not a revival of
11 35 the terminated proceeding.

12 1 Sec. 11. NEW SECTION. 6B.3A CHALLENGE BY OWNER.

12 2 An owner of property described in an application for
12 3 condemnation may bring an action to challenge the exercise of
12 4 eminent domain authority or the condemnation proceedings in
12 5 the district court of the county in which the private property
12 6 is situated as provided in section 6A.23.

12 7 Sec. 12. Section 6B.8, Code 2005, is amended to read as
12 8 follows:

12 9 6B.8 NOTICE OF ASSESSMENT.

12 10 The applicant, or the owner or any lienholder or
12 11 encumbrancer of any land described in the application, may, at
12 12 any time after the appointment of the commissioners, have the

12 13 damages to the lands of any such owner assessed by giving the
12 14 other party, if a resident of this state, thirty days' notice,
12 15 in writing. The notice shall specify the day and the hour
12 16 when the compensation commission will meet, view the premises,
12 17 and assess the damages. The notice shall be personally served
12 18 upon all necessary parties in the same manner provided by the
12 19 Iowa rules of civil procedure for the personal service of
12 20 original notice. ~~If a city or county, or an agency of a city
12 21 or county, is seeking to condemn agricultural land for an
12 22 industry as that term is defined in section 260E.2, the notice
12 23 shall inform the landowner that the landowner may request that
12 24 the compensation commission review the application as provided
12 25 in section 6B.4A.~~

12 26 Sec. 13. Section 6B.14, unnumbered paragraph 2, Code 2005,
12 27 is amended to read as follows:

12 28 Prior to the meeting of the commission, the commission or a
12 29 commissioner shall not communicate with the applicant,
12 30 property owner, or tenant, or their agents, regarding the
12 31 condemnation proceedings. The commissioners shall meet in
12 32 open session to view the property and to receive evidence, ~~but~~
12 33 may deliberate in closed session. When deliberating in closed
12 34 session, the meeting is closed to all persons who are not

12 35 commissioners except for personnel from the sheriff's office
13 1 if such personnel is requested by the commission. After
13 2 deliberations commence, the commission and each commissioner
13 3 is prohibited from communicating with any party to the
13 4 proceeding, unless such communication occurs in the presence
13 5 of or with the consent of the property owner and the other
13 6 parties who appeared before the commission. However, if the
13 7 commission is deliberating in closed session, and after
13 8 deliberations commence the commission requires further
13 9 information from a party or a witness, the commission shall
13 10 notify the property owner and the acquiring agency that they
13 11 are allowed to attend the meeting at which such additional
13 12 information shall be provided but only for that period of time
13 13 during which the additional information is being provided.

13 14 The property owner and the acquiring agency shall be given a
13 15 reasonable opportunity to attend the meeting. The commission
13 16 shall keep minutes of all its meetings showing the date, time,
13 17 and place, the members present, and the action taken at each
13 18 meeting. The minutes shall show the results of each vote
13 19 taken and information sufficient to indicate the vote of each
13 20 member present. The vote of each member present shall be made
13 21 public at the open session. The minutes shall be public
13 22 records open to public inspection.

13 23 Sec. 14. Section 6B.14, Code 2005, is amended by adding
13 24 the following new unnumbered paragraph after unnumbered
13 25 paragraph 2:

13 26 NEW UNNUMBERED PARAGRAPH. In determining fair market value
13 27 of property, the commissioners shall not consider only the
13 28 assessed value assigned to such property for purposes of
13 29 property taxation.

13 30 Sec. 15. Section 6B.33, Code 2005, is amended to read as
13 31 follows:

13 32 6B.33 COSTS AND ATTORNEY FEES.

13 33 The ~~applicant~~ applicant acquiring agency shall pay all costs of the
13 34 assessment made by the commissioners and reasonable attorney
13 35 fees and costs, including the reasonable cost of one
14 1 appraisal, incurred by the condemnee as determined by the
14 2 commissioners if the award of the commissioners exceeds one
14 3 hundred ten percent of the final offer of the applicant prior
14 4 to condemnation. The condemnee shall submit an application
14 5 for fees and costs prior to adjournment of the final meeting
14 6 of the compensation commission held on the matter. The
14 7 ~~applicant~~ applicant acquiring agency shall file with the sheriff an
14 8 affidavit setting forth the most recent offer made to the
14 9 person whose property is sought to be condemned. Members of
14 10 such commissions shall receive a per diem of two hundred
14 11 dollars and actual and necessary expenses incurred in the
14 12 performance of their official duties. The ~~applicant~~ applicant acquiring
14 13 agency shall reimburse the county sheriff for the per diem and
14 14 expense amounts paid by the sheriff to the members. The
14 15 ~~applicant~~ applicant acquiring agency shall reimburse the owner for the
14 16 expenses the owner incurred for recording fees, penalty costs
14 17 for full or partial prepayment of any preexisting recorded
14 18 mortgage entered into in good faith encumbering the property,
14 19 and for similar expenses incidental to conveying the property
14 20 to the ~~applicant~~ applicant acquiring
14 21 agency shall also pay all costs occasioned by the appeal,
14 22 including reasonable attorney fees and the reasonable cost
14 23 incurred by the property owner for one appraisal to be taxed

14 24 by the court, unless on the trial thereof the same or a lesser
14 25 amount of damages is awarded than was allowed by the tribunal
14 26 from which the appeal was taken.

14 27 Sec. 16. Section 6B.42, subsection 1, paragraph a, Code
14 28 2005, is amended to read as follows:

14 29 a. The acquiring agency shall provide to the person, in
14 30 addition to any other sums of money in payment of just
14 31 compensation, the payments and assistance required by law, in
14 32 accordance with chapter 316, as if the acquiring agency were a
14 33 displacing agency under that chapter.

14 34 Sec. 17. Section 6B.45, Code 2005, is amended to read as
14 35 follows:

15 1 6B.45 MAILING COPY OF APPRAISAL.

15 2 When any real property or interest in real property is to
15 3 be purchased, or in lieu thereof to be condemned, the
15 4 acquiring agency or its agent shall submit to the person,
15 5 corporation, or entity whose property or interest in the
15 6 property is to be taken, by ordinary mail, at least ten days
15 7 prior to the date upon which the acquiring agency or its agent
15 8 contacts the property owner to commence negotiations, a copy
15 9 of the appraisal in its entirety upon such real property or
15 10 interest in such real property prepared for the acquiring
15 11 agency or its agent, which shall include, at a minimum, an
15 12 itemization of the appraised value of the real property or
15 13 interest in the property, any buildings on the property, all
15 14 other improvements including fences, severance damages, and
15 15 loss of access. In determining fair market value of property,
15 16 the acquiring agency shall not consider only the assessed
15 17 value assigned to such property for purposes of property

15 18 taxation. The appraisal sent to the condemnee shall be that
15 19 appraisal upon which the condemnor will rely to establish an
15 20 amount which the condemnor believes to be just compensation
15 21 for the real property. All other appraisals made on the
15 22 property as a result of the condemnation proceeding shall be
15 23 made available to the condemnee upon request. In lieu of an
15 24 appraisal, a utility or person under the jurisdiction of the
15 25 utilities board of the department of commerce, or any other
15 26 utility conferred the right by statute to condemn private
15 27 property, shall provide in writing by certified mail to the
15 28 owner of record thirty days prior to negotiations, the methods
15 29 and factors used in arriving at an offered price for voluntary
15 30 easements including the range of cash amount of each
15 31 component. An acquiring agency may obtain a signed written
15 32 waiver from the landowner to allow negotiations to commence
15 33 prior to the expiration of the applicable waiting period for
15 34 the commencement of negotiations.

15 35 Only the appraisal prepared under this section shall be
16 1 forwarded to the compensation commission by the acquiring
16 2 agency.

16 3 Sec. 18. Section 6B.54, Code 2005, is amended to read as
16 4 follows:

16 5 6B.54 ~~FEDERALLY ASSISTED PROJECT AND DISPLACING ACTIVITIES~~
16 6 ~~== ACQUISITION POLICIES FOR ACQUIRING AGENCIES.~~

16 7 For any ~~project or displacing activity that has received or~~
16 8 ~~will receive federal financial assistance as defined in~~
16 9 ~~section 316.1, for any state-funded projects, or for any other~~
16 10 public use, public purpose, or public improvement for which
16 11 condemnation is sought, an acquiring agency shall, at a
16 12 minimum, satisfy the following policies:

16 13 1. Every reasonable and good faith effort shall be made to
16 14 acquire expeditiously real property by negotiation as provided
16 15 in section 6B.2B.

16 16 2. Real property shall be appraised as required by section
16 17 6B.45 before the initiation of negotiations, and the owner or
16 18 the owner's designated representative shall be given an
16 19 opportunity to accompany at least one appraiser of the
16 20 acquiring agency during an inspection of the property, except
16 21 that an acquiring agency may prescribe a procedure to waive
16 22 the appraisal in cases involving the acquisition of property
16 23 with a low fair market value. In lieu of an appraisal, a
16 24 utility or person under the jurisdiction of the utilities
16 25 board of the department of commerce, or any other utility
16 26 conferred the right by statute to condemn private property,
16 27 shall provide in writing by certified mail to the owner of
16 28 record thirty days before negotiations, the methods and
16 29 factors used in arriving at an offered price for voluntary
16 30 easements including the range of cash amount of each
16 31 component.

16 32 3. Before the initiation of negotiations for real
16 33 property, the acquiring agency shall establish an amount which
16 34 it believes to be just compensation for the real property, and

16 35 shall make a prompt offer to acquire the property for the full
17 1 amount established by the agency. In no event shall the
17 2 amount be less than the ~~lowest appraisal of the~~ fair market
17 3 ~~value of the acquiring agency has established for the property~~
17 4 ~~or property interest pursuant to the appraisal required in~~
17 5 ~~section 6B.45 or less than the value determined under the~~
17 6 ~~acquiring agency's waiver procedure established pursuant to~~
17 7 ~~subsection 2. A purchase offer made by an acquiring agency~~
17 8 ~~shall include provisions for payment to the owner of expenses,~~
17 9 ~~including relocation expenses, expenses listed in subsection~~
17 10 ~~10, and other expenses required by law to be paid by an~~
17 11 ~~acquiring agency to a condemnee. However, in the alternative,~~
17 12 ~~the acquiring agency may make, and the owner may accept, a~~
17 13 ~~purchase offer from the acquiring agency that is an amount~~
17 14 ~~equal to one hundred thirty percent of the appraisal amount~~
17 15 ~~plus payment to the owner of expenses listed in subsection 10,~~
17 16 ~~once those expenses have been determined. If the owner~~
17 17 ~~accepts such a purchase offer, the owner is barred from~~
17 18 ~~claiming payment from the acquiring agency for any other~~
17 19 ~~expenses allowed by law. In the case of a utility or person~~
17 20 ~~under the jurisdiction of the utilities board of the~~
17 21 ~~department of commerce, or any other utility conferred the~~
17 22 ~~right by statute to condemn private property, the amount shall~~
17 23 ~~not be less than the amount indicated by the methods and~~
17 24 ~~factors used in arriving at an offered price for a voluntary~~
17 25 ~~easement. The option to make an alternative purchase offer~~
17 26 ~~does not apply when property is being acquired for street and~~
17 27 ~~highway projects undertaken by the state, a county, or a city.~~

17 28 4. The construction or development of a public improvement
17 29 shall be so scheduled that, to the greatest extent
17 30 practicable, no person lawfully occupying real property shall
17 31 be required to move from a dwelling or to move the person's
17 32 business or farm operation without at least ninety days'
17 33 written notice of the date by which the move is required.

17 34 5. ~~If after damages have been finally determined and paid,~~
18 35 an owner or tenant is permitted to occupy the real property
18 1 acquired on a rental basis for a short term or for a period
18 2 subject to termination on short notice, the amount of rent
18 3 required shall not exceed the fair rental value of the
18 4 property to a short-term occupier.

18 5 6. In no event shall the time of condemnation be advanced,
18 6 or negotiations or condemnation and the deposit of funds in
18 7 court for the use of the owner be deferred, or any other
18 8 coercive action be taken to compel an agreement on the price
18 9 to be paid for the property.

18 10 7. If an interest in real property is to be acquired by
18 11 exercise of the power of eminent domain, formal condemnation
18 12 proceedings shall be instituted. The acquiring agency shall
18 13 not intentionally make it necessary for an owner to institute
18 14 legal proceedings to prove the fact of the taking of the
18 15 owner's real property.

18 16 8. If the acquisition of only a portion of property would
18 17 leave the owner with an uneconomical remnant, the acquiring
18 18 agency shall offer to acquire that remnant. For the purposes
18 19 of this chapter, an "uneconomical remnant" is a parcel of real
18 20 property in which the owner is left with an interest after the
18 21 partial acquisition of the owner's property, where the
18 22 acquiring agency determines that the parcel has little or no
18 23 value or utility to the owner.

18 24 9. A person whose real property is being acquired in
18 25 accordance with this chapter, after the person has been fully
18 26 informed of the person's right to receive just compensation
18 27 for the property, may donate the property, any part of the
18 28 property, any interest in the property, or any compensation
18 29 paid for it as the person may determine.

18 30 10. As soon as practicable after the date of payment of
18 31 the purchase price or the date of deposit in court of funds to
18 32 satisfy the award of compensation in a condemnation proceeding
18 33 to acquire real property, whichever is earlier, the acquiring
18 34 agency shall reimburse the owner, to the extent the acquiring
18 35 agency deems fair and reasonable, for expenses the owner

19 1 necessarily incurred for all of the following:

19 2 a. Recording fees, transfer taxes, and similar expenses
19 3 incidental to conveying the real property to the acquiring
19 4 agency.

19 5 b. Penalty costs for full or partial prepayment of any
19 6 preexisting recorded mortgage entered into in good faith
19 7 encumbering the real property.

19 8 Payments and expenditures under this subsection are
19 9 incident to and arise out of the program or project for which
19 10 the acquisition activity takes place. Such payments and

19 11 expenditures may be made from the funds made available for the
19 12 program or project.

19 13 A person aggrieved by a determination as to the eligibility
19 14 for or amount of a reimbursement may apply to have the matter
19 15 reviewed by the acquiring agency or in accordance with section
19 16 316.9 if applicable.

19 17 11. An owner shall not be required to surrender possession
19 18 of real property before the acquiring agency concerned pays
19 19 the agreed purchase price.

19 20 12. After damages have been finally determined and paid,
19 21 the acquiring agency may offer, and the owner may accept, an
19 22 amount equal to thirty percent of the amount of damages plus
19 23 payment to the owner of expenses listed in subsection 10, once
19 24 those expenses have been determined. If the owner accepts
19 25 such an offer, the owner is barred from claiming payment from
19 26 the acquiring agency for any other expenses allowed by law.
19 27 This subsection does not apply when property is being acquired
19 28 for street and highway projects undertaken by the state, a
19 29 county, or a city.

19 30 Sec. 19. Section 6B.55, unnumbered paragraph 1, Code 2005,
19 31 is amended to read as follows:

19 32 For any ~~program or project that has received or will~~
19 33 ~~receive federal financial assistance as defined in section~~
19 34 ~~316.1, for any state-funded projects, or for any other public~~
19 35 ~~use, public purpose, or public improvement for which~~
20 1 condemnation is sought, an acquiring agency shall at a minimum
20 2 satisfy the following policies:

20 3 Sec. 20. Section 6B.56, subsection 1, Code 2005, is
20 4 amended to read as follows:

20 5 1. If real property condemned pursuant to this chapter is
20 6 not used for the purpose stated in the application filed
20 7 pursuant to section 6B.3 and the ~~condemner~~ acquiring agency
20 8 seeks to dispose of the real property, the ~~condemner~~ acquiring
20 9 agency shall first offer the property for sale to the prior
20 10 owner of the condemned property as provided in this section.
20 11 If real property condemned pursuant to this chapter is used
20 12 for the purpose stated in the application filed pursuant to
20 13 section 6B.3 and the acquiring agency seeks to dispose of the
20 14 real property by sale to a private person or entity within
20 15 five years after acquisition of the property, the acquiring
20 16 agency shall first offer the property for sale to the prior
20 17 owner of the condemned property as provided in this section.

20 18 For purposes of this section, the prior owner of the real
20 19 property includes the successor in interest of the real
20 20 property.

20 21 Sec. 21. Section 6B.56, subsection 2, Code 2005, is
20 22 amended to read as follows:

20 23 2. Before the real property may be offered for sale to the
20 24 general public, the ~~condemner~~ acquiring agency shall notify
20 25 the prior owner of the real property condemned in writing of
20 26 the ~~condemner's~~ acquiring agency's intent to dispose of the
20 27 real property, of the current appraised value of the real
20 28 property, and of the prior owner's right to purchase the real
20 29 property within sixty days from the date the notice is served
20 30 at a price equal to the current appraised value of the real
20 31 property or the fair market value of the property at the time
20 32 it was acquired by the acquiring agency from the prior owner
20 33 plus cleanup costs incurred by the acquiring agency, whichever
20 34 is less. However, the current appraised value of the real
20 35 property shall be the purchase price to be paid by the

21 1 previous owner if any other amount would result in a loss of
21 2 federal funding for projects funded in whole or in part with
21 3 federal funds. The notice sent by the ~~condemner~~ acquiring
21 4 agency as provided in this subsection shall be filed with the
21 5 office of the recorder in the county in which the real
21 6 property is located.

21 7 For purposes of this subsection, "cleanup costs" means
21 8 costs incurred to abate a nuisance or a public nuisance as
21 9 those terms are defined in chapters 657 and 657A and costs
21 10 incurred to recycle and remediate land pursuant to chapter
21 11 455H.

21 12 Sec. 22. Section 6B.56, subsection 3, Code 2005, is
21 13 amended to read as follows:

21 14 3. If the prior owner elects to purchase the real property
21 15 at the price established in subsection 2, before the
21 16 expiration of the sixty-day period, the prior owner shall
21 17 notify the ~~condemner~~ acquiring agency in writing of this
21 18 intention and file a copy of this notice with the office of
21 19 the recorder in the county in which the real property is
21 20 located.

21 21 Sec. 23. NEW SECTION. 6B.56A DISPOSITION OF CONDEMNED

21 22 PROPERTY == FIVE=YEAR TIME PERIOD.

21 23 1. When five years have elapsed since property was
21 24 condemned and the property has not been used for the purpose
21 25 stated in the application filed pursuant to section 6B.3, and
21 26 the acquiring agency has not taken action to dispose of the
21 27 property pursuant to section 6B.56, the acquiring agency
21 28 shall, within sixty days, adopt a resolution reaffirming the
21 29 purpose for which the property will be used or offering the
21 30 property for sale to the prior owner at a price as provided in
21 31 section 6B.56. If the resolution adopted approves an offer of
21 32 sale to the prior owner, the offer shall be made in writing
21 33 and mailed by certified mail to the prior owner. The prior
21 34 owner has one hundred eighty days after the offer is mailed to
21 35 purchase the property from the acquiring agency.

22 1 2. If the acquiring agency has not adopted a resolution
22 2 described in subsection 1 within the sixty-day time period,
22 3 the prior owner may, in writing, petition the acquiring agency
22 4 to offer the property for sale to the prior owner at a price
22 5 as provided in section 6B.56. Within sixty days after receipt
22 6 of such a petition, the acquiring agency shall adopt a
22 7 resolution described in subsection 1. If the acquiring agency
22 8 does not adopt such a resolution within sixty days after
22 9 receipt of the petition, the acquiring agency is deemed to
22 10 have offered the property for sale to the prior owner.

22 11 3. The acquiring agency shall give written notice to the
22 12 owner of the right to purchase the property under this section
22 13 at the time damages are paid to the owner.

22 14 4. This section does not apply to property acquired for
22 15 street and highway projects undertaken by the state, a county,
22 16 or a city.

22 17 Sec. 24. Section 6B.57, Code 2005, is amended to read as
22 18 follows:

22 19 6B.57 PROCEDURAL COMPLIANCE.

22 20 If an acquiring agency makes a good faith effort to serve,
22 21 send, or provide the notices or documents required under this
22 22 chapter to the owner and any contract purchaser of private
22 23 property that is or may be the subject of condemnation, or to
22 24 any tenant known to be occupying such property if notices or
22 25 documents are required to be served, sent, or provided to such
22 26 a person, but fails to provide the notice or documents to the
22 27 owner and any contract purchaser, or to any tenant known to be
22 28 occupying the property if applicable, such failure shall not
22 29 constitute grounds for invalidation of the condemnation
22 30 proceeding if the chief judge of the judicial district
22 31 determines that such failure can be corrected by delaying the
22 32 condemnation proceedings to allow compliance with the
22 33 requirement or such failure does not unreasonably prejudice
22 34 the owner or any contract purchaser.

22 35 Sec. 25. Section 6B.58, Code 2005, is amended to read as
23 1 follows:

23 2 6B.58 ACQUIRING AGENCY == DEFINITION.

23 3 For purposes of this chapter, an "acquiring agency" means
23 4 the state of Iowa or any person or entity conferred the right
23 5 by statute to condemn private property or to otherwise
23 6 exercise the power of eminent domain. In the exercise of
23 7 eminent domain power, the words "applicant" and "condemner"
23 8 mean acquiring agency as defined in this section, unless the
23 9 context clearly requires otherwise.

23 10 Sec. 26. NEW SECTION. 6B.60 RENTAL CHARGES PROHIBITED.

23 11 Rent shall not be charged to a person in possession of the
23 12 property and shall not accrue against the property owner until
23 13 all or a portion of the compensation commission award has been
23 14 paid to the condemnee pursuant to section 6B.25.

23 15 Sec. 27. NEW SECTION. 6B.61 APPROVAL OF LOCAL ELECTED
23 16 OFFICIALS REQUIRED.

23 17 Notwithstanding any provision of law to the contrary, any
23 18 entity created by or on behalf of one or more political
23 19 subdivisions and granted, by statute, eminent domain authority
23 20 to acquire property shall not exercise such authority outside
23 21 the jurisdictional limits of the political subdivisions
23 22 participating in the entity at the time of such exercise of
23 23 authority without first presenting the proposal to acquire
23 24 such property by eminent domain to the board of supervisors of
23 25 each county where the property is located and such proposal
23 26 receives the approval, by resolution, of each applicable board
23 27 of supervisors. However, this section does not apply to an
23 28 entity created by or on behalf of one or more political
23 29 subdivisions if the entity is authorized by statute to act as
23 30 a political subdivision and if this section would limit the
23 31 ability of the entity to comply with requirements or
23 32 limitations imposed by the Internal Revenue Code to preserve

23 33 the tax exemption of interest payable on bonds or obligations
23 34 of the entity acting as a political subdivision.

23 35 This section does not apply to a person issued a
24 1 certificate of public convenience, use, and necessity under
24 2 chapter 476A. This section does not apply to property
24 3 condemned by or on behalf of a multistate entity created to
24 4 provide drinking water that has received or is receiving
24 5 federal funds, but only if such property is to be acquired for
24 6 water transmission and service lines, pump stations, water
24 7 storage tanks, meter houses and vaults, related appurtenances,
24 8 or supporting utilities.

24 9 Sec. 28. Section 28F.11, Code 2005, is amended to read as
24 10 follows:

24 11 28F.11 EMINENT DOMAIN.

24 12 Any public agency participating in an agreement authorizing
24 13 the joint exercise of governmental powers pursuant to this
24 14 chapter may exercise its power of eminent domain to acquire
24 15 interests in property, under provisions of law then in effect
24 16 and applicable to the public agency, for the use of the entity
24 17 created to carry out the agreement, provided that the power of
24 18 eminent domain is not used to acquire interests in property
24 19 which is part of a system of facilities in existence, under
24 20 construction, or planned, for the generation, transmission or
24 21 sale of electric power. In the exercise of the power of
24 22 eminent domain, the public agency shall proceed in the manner

24 23 provided by chapter 6B. Any interests in property acquired
24 24 are acquired for a public purpose, as defined in chapter 6A,
24 25 of the condemning public agency, and the payment of the costs
24 26 of the acquisition may be made pursuant to the agreement or to
24 27 any separate agreement between the public agency and the
24 28 entity or the other public agencies participating in the
24 29 entity or any of them. Upon payment of costs, any property
24 30 acquired is the property of the entity.

24 31 Sec. 29. Section 327I.7, subsection 4, Code 2005, is
24 32 amended to read as follows:

24 33 4. Exercise the power of eminent domain consistent with
24 34 the provisions of chapters 6A and 6B.

24 35 Sec. 30. Section 330A.8, subsection 11, Code 2005, is
25 1 amended to read as follows:

25 2 11. To have the power of eminent domain, ~~such power to be~~
25 3 ~~exercised in the manner provided by law for municipal~~
25 4 ~~corporations of this state but only as provided in section~~
25 5 ~~330A.13.~~

25 6 Sec. 31. Section 346.27, subsection 9, paragraph b, Code
25 7 2005, is amended to read as follows:

25 8 b. To acquire in the corporate name of the authority the
25 9 fee simple title to the real property located within the area
25 10 by purchase, gift, devise, or by the exercise of the power of
25 11 eminent domain consistent with the provisions of chapters 6A
25 12 and 6B, or to take possession of real estate by lease.

25 13 Sec. 32. Section 364.4, subsection 1, Code 2005, is
25 14 amended to read as follows:

25 15 1. Acquire, hold, and dispose of property outside the city
25 16 in the same manner as within. However, the power of a city to
25 17 acquire property outside the city does not include the power
25 18 to acquire property outside the city by eminent domain, except
25 19 for the following, subject to the provisions of chapters 6A
25 20 and 6B:

25 21 a. The operation of a city utility as defined in section
25 22 362.2.

25 23 b. The operation of a city franchise conferred the
25 24 authority to condemn private property under section 364.2.

25 25 c. The operation of a combined utility system as defined
25 26 in section 384.80.

25 27 d. The operation of a municipal airport.

25 28 e. The operation of a landfill or other solid waste
25 29 disposal or processing site.

25 30 f. The use of property for public streets and highways.

25 31 g. The operation of a multistate entity, of which the city
25 32 is a participating member, created to provide drinking water
25 33 that has received or is receiving federal funds, but only if
25 34 such property is to be acquired for water transmission and
25 35 service lines, pump stations, water storage tanks, meter
26 1 houses and vaults, related appurtenances, or supporting
26 2 utilities.

26 3 The exceptions provided in paragraphs "a" through "c" apply
26 4 only to the extent the city had this power prior to July 1,
26 5 2006.

26 6 Sec. 33. Section 389.3, unnumbered paragraph 2, Code 2005,
26 7 is amended to read as follows:

26 8 A joint water utility is a political subdivision and an

26 9 instrumentality of municipal government. The statutory
26 10 powers, duties, and limitations conferred upon a city utility
26 11 apply to a joint water utility, except that title to property
26 12 of a joint water utility may be held in the name of the joint
26 13 water utility. The joint water utility board shall have all
26 14 powers and authority of a city with respect to property which
26 15 is held by the joint water utility. A joint water utility
26 16 shall have the power of eminent domain, including the powers,
26 17 duties, and limitations conferred upon a city in chapters 6A
26 18 and 6B, for the purposes of constructing and operating a joint
26 19 water utility.

26 20 Sec. 34. Section 403.2, subsection 4, Code 2005, is
26 21 amended to read as follows:

26 22 4. It is further found and declared that the powers
26 23 conferred by this chapter are for public uses and purposes for
26 24 which public money may be expended and for which the power of
26 25 eminent domain, to the extent authorized, and police power
26 26 exercised; and that the necessity in the public interest for
26 27 the provisions herein enacted is hereby declared as a matter
26 28 of legislative determination.

26 29 Sec. 35. Section 403.5, subsection 4, paragraph b,
26 30 subparagraph (2), Code 2005, is amended to read as follows:

26 31 (2) If it is to be developed for nonresidential uses, the
26 32 local governing body shall determine that such nonresidential
26 33 uses are necessary and appropriate to facilitate the proper
26 34 growth and development of the community in accordance with
26 35 sound planning standards and local community objectives.

27 1 PARAGRAPH DIVIDED. The acquisition of open land authorized
27 2 in subparagraphs (1) and (2) may require the exercise of
27 3 governmental action, as provided in this chapter, because of
27 4 defective or unusual conditions of title, diversity of
27 5 ownership, tax delinquency, improper subdivisions, outmoded
27 6 street patterns, deterioration of site, economic disuse,
27 7 unsuitable topography or faulty lot layouts, or because of the
27 8 need for the correlation of the area with other areas of a
27 9 municipality by streets and modern traffic requirements, or
27 10 any combination of such factors or other conditions which
27 11 retard development of the area. If such governmental action
27 12 involves the exercise of eminent domain authority, the
27 13 municipality is subject to the limitations of this chapter and
27 14 chapters 6A and 6B.

27 15 Sec. 36. Section 403.5, subsection 4, unnumbered paragraph
27 16 2, Code 2005, is amended by striking the unnumbered paragraph.

27 17 Sec. 37. Section 403.6, subsection 3, Code 2005, is
27 18 amended to read as follows:

27 19 3. Within its area of operation, to enter into any
27 20 building or property in any urban renewal area in order to
27 21 make inspections, surveys, appraisals, soundings or test
27 22 borings, and to obtain an order for this purpose from a court
27 23 of competent jurisdiction in the event entry is denied or
27 24 resisted; to acquire by purchase, lease, option, gift, grant,
27 25 bequest, devise, eminent domain or otherwise, any real
27 26 property, or personal property for administrative purposes,
27 27 together with any improvements thereon; to hold, improve,
27 28 clear or prepare for redevelopment any such property; to
27 29 mortgage, pledge, hypothecate or otherwise encumber or dispose
27 30 of any real property; to insure or provide for the insurance
27 31 of any real or personal property or operations of the
27 32 municipality against any risks or hazards, including the power
27 33 to pay premiums on any such insurance; and to enter into any
27 34 contracts necessary to effectuate the purposes of this
27 35 chapter: ~~Provided, however, that no statutory provision with~~

~~28 1 respect to the acquisition, clearance or disposition of~~
~~28 2 property by public bodies shall restrict a municipality or~~
~~28 3 other public body exercising powers hereunder in the exercise~~
~~28 4 of such functions with respect to an urban renewal project,~~
~~28 5 unless the legislature shall specifically so state. A~~
~~28 6 municipality or other public body exercising powers under this~~
~~28 7 chapter with respect to the acquisition, clearance, or~~
~~28 8 disposition of property shall not be restricted by any other~~
~~28 9 statutory provision in the exercise of such powers unless such~~
~~28 10 statutory provision specifically states its application to~~
~~28 11 this chapter or unless this chapter specifically applies~~
~~28 12 restrictions contained in another statutory provision to the~~
~~28 13 powers that may be exercised under this chapter.~~

28 14 Sec. 38. Section 403.7, Code 2005, is amended to read as
28 15 follows:

28 16 403.7 CONDEMNATION OF PROPERTY.

28 17 1. A municipality shall have the right to acquire by
28 18 condemnation any interest in real property, including a fee
28 19 simple title thereto, which it may deem necessary for or in

28 20 connection with an urban renewal project under this chapter,
28 21 subject to the limitations on eminent domain authority in
28 22 chapter 6A. However, a municipality shall not condemn
28 23 agricultural land included within an economic development area
28 24 for any use unless the owner of the agricultural land consents
28 25 to condemnation or unless ~~the agricultural land is to be~~
28 26 ~~acquired for industry as that term is defined in section~~
28 27 ~~260E.2 the municipality determines that the land is necessary~~
28 28 or useful for any of the following:

28 29 a. The operation of a city utility as defined in section
28 30 362.2.

28 31 b. The operation of a city franchise conferred the
28 32 authority to condemn private property under section 364.2.

28 33 c. The operation of a combined utility system as defined
28 34 in section 384.80.

28 35 2. A municipality ~~may shall~~ exercise the power of eminent
29 1 domain in the manner provided in chapter 6B, ~~and Acts~~
29 2 ~~amendatory to that chapter or supplementary to that chapter,~~
29 3 ~~or it may exercise the power of eminent domain in the manner~~
29 4 ~~now or which may be hereafter provided by any other statutory~~
29 5 ~~provisions for the exercise of the power of eminent domain.~~
29 6 Property already devoted to a public use may be acquired in
29 7 like manner. However, real property belonging to the state,
29 8 or any political subdivision of this state, shall not be
29 9 acquired without its consent, and real property or any right
29 10 or interest in the property owned by any public utility
29 11 company, pipeline company, railway or transportation company
29 12 vested with the right of eminent domain under the laws of this
29 13 state, shall not be acquired without the consent of the
29 14 company, or without first securing, after due notice to the
29 15 company and after hearing, a certificate authorizing
29 16 condemnation of the property from the board, commission, or
29 17 body having the authority to grant a certificate authorizing
29 18 condemnation.

29 19 3. In a condemnation proceeding, if a municipality
29 20 proposes to take a part of a lot or parcel of real property,
29 21 the municipality shall also take the remaining part of the lot
29 22 or parcel if requested by the owner.

29 23 Sec. 39. Section 403A.3, subsection 4, Code 2005, is
29 24 amended to read as follows:

29 25 4. To lease or rent any dwellings, accommodations, lands,
29 26 buildings, structures or facilities embraced in any project
29 27 and (subject to the limitations contained in this chapter with
29 28 respect to the rental of dwellings in housing projects) to
29 29 establish and revise the rents or charges therefor; to own,
29 30 hold and improve real or personal property; to purchase,
29 31 lease, obtain options upon, acquire by gift, grant, bequest,
29 32 devise or otherwise any real or personal property or any
29 33 interest therein; to acquire by the exercise of the power of
29 34 eminent domain any real property subject to section 403A.20;
29 35 to sell, lease, exchange, transfer, assign, pledge or dispose
30 1 of any real or personal property or any interest therein; to
30 2 insure or provide for the insurance, in any stock or mutual
30 3 company of any real or personal property or operations of the
30 4 municipality against any risks or hazards; to procure or agree
30 5 to the procurement of federal or state government insurance or
30 6 guarantees of the payment of any bonds or parts thereof issued
30 7 by a municipality, including the power to pay premiums on any
30 8 such insurance.

30 9 Sec. 40. Section 403A.20, Code 2005, is amended to read as
30 10 follows:

30 11 403A.20 CONDEMNATION OF PROPERTY.

30 12 A municipality shall have the right to acquire by
30 13 condemnation any interest in real property, including a fee
30 14 simple title thereto, which it may deem necessary for or in
30 15 connection with a municipal housing project under this
30 16 chapter, subject to the limitations on eminent domain
30 17 authority in chapter 6A. A municipality ~~may shall~~ exercise
30 18 the power of eminent domain in the manner provided in chapter
30 19 6B, ~~and acts amendatory thereof or supplementary thereto, or~~
30 20 ~~it may exercise the power of eminent domain in the manner now~~
30 21 ~~or which may be hereafter provided by any other statutory~~
30 22 ~~provisions for the exercise of the power of eminent domain.~~
30 23 Property already devoted to a public use may be acquired in
30 24 like manner: ~~Provided, that no.~~ However, real property
30 25 belonging to the state, or any political subdivision thereof,
30 26 may shall not be acquired without its consent, provided
30 27 further that no and real property or any right or interest
30 28 therein in the property owned by any public utility company,
30 29 pipeline company, railway or transportation company vested
30 30 with the right of eminent domain under the laws of this state,

30 31 shall not be acquired without the consent of ~~such the~~ company,
30 32 or without first securing, after due notice to ~~such the~~
30 33 company and after hearing, a certificate authorizing
30 34 condemnation of such property from the board, commission, or
30 35 body having the authority to grant a certificate authorizing
31 1 condemnation.

31 2 Sec. 41. Section 422.7, Code Supplement 2005, is amended
31 3 by adding the following new subsection:

31 4 NEW SUBSECTION. 45. Subtract, to the extent included, the
31 5 amount of ordinary or capital gain realized by the taxpayer as
31 6 a result of the involuntary conversion of property due to
31 7 eminent domain. However, if the total amount of such realized
31 8 ordinary or capital gain is not recognized because the
31 9 converted property is replaced with property that is similar
31 10 to, or related in use to, the converted property, the amount
31 11 of such realized ordinary or capital gain shall not be
31 12 subtracted under this subsection until the remaining realized
31 13 ordinary or capital gain is subject to federal taxation or
31 14 until the time of disposition of the replacement property as
31 15 provided under rules of the director. The subtraction allowed
31 16 under this subsection shall not alter the basis as established
31 17 for federal tax purposes of any property owned by the
31 18 taxpayer.

31 19 Sec. 42. Section 422.35, Code Supplement 2005, is amended
31 20 by adding the following new subsection:

31 21 NEW SUBSECTION. 22. Subtract, to the extent included, the
31 22 amount of ordinary or capital gain realized by the taxpayer as
31 23 a result of the involuntary conversion of property due to
31 24 eminent domain. However, if the total amount of such realized
31 25 ordinary or capital gain is not recognized because the
31 26 converted property is replaced with property that is similar
31 27 to, or related in use to, the converted property, the amount
31 28 of such realized ordinary or capital gain shall not be
31 29 subtracted under this subsection until the remaining realized
31 30 ordinary or capital gain is subject to federal taxation or
31 31 until the time of disposition of the replacement property as
31 32 provided under rules of the director. The subtraction allowed
31 33 under this subsection shall not alter the basis as established
31 34 for federal tax purposes of any property owned by the
31 35 taxpayer.

32 1 Sec. 43. Section 422.73, Code 2005, is amended by adding
32 2 the following new subsection:

32 3 NEW SUBSECTION. 3. Notwithstanding subsection 1, a claim
32 4 for credit or refund of the income tax paid on the gain
32 5 realized from the involuntary conversion of property due to a
32 6 condemnation action is timely filed with the department as
32 7 provided in this subsection if the taxpayer's claim is the
32 8 result of the reacquisition by the taxpayer, as the prior
32 9 owner, of the property condemned pursuant to section 6B.56,
32 10 subsection 2, or section 6B.56A. The claim under this
32 11 subsection shall be timely filed only if the claim is made
32 12 prior to the end of the sixth month following the month in
32 13 which the reacquisition occurs.

32 14 Sec. 44. Section 468.128, Code 2005, is amended to read as
32 15 follows:

32 16 468.128 IMPOUNDING AREAS AND EROSION CONTROL DEVICES.
32 17 Levee and drainage districts are empowered to construct
32 18 impounding areas and other flood and erosion control devices
32 19 to protect lands of the district and drainage structures and
32 20 may provide ways for access to improvements for the operation
32 21 or protection thereof, where the cost is not excessive in
32 22 consideration of the value to the district. Necessary lands
32 23 or easements may be acquired within or without the district by
32 24 purchase, lease or agreement, or by exercise of the right of
32 25 eminent domain as provided for in chapter 6B and may be
32 26 procured and construction undertaken either independently or
32 27 in co-operation with other districts, individuals, or any
32 28 federal or state agency or political subdivision.

32 29 Sec. 45. Section 468.146, subsection 1, Code 2005, is
32 30 amended to read as follows:

32 31 1. When a drainage district is established and a
32 32 satisfactory outlet cannot be obtained except through lands in
32 33 an adjoining county, or when an improved outlet cannot be
32 34 obtained except through lands downstream from the district
32 35 boundary, the board shall have the power to purchase a right
33 1 of way, to construct and maintain such outlets, and to pay all
33 2 necessary costs and expenses out of the district funds. The
33 3 board shall have similar authority relative to the
33 4 construction and maintenance of silt basins upstream from the
33 5 district boundary. In case the board and the owners of the
33 6 land required for such outlet or silt basin cannot agree upon

33 7 the price to be paid as compensation for the land taken or
33 8 used, the board is hereby empowered to exercise the right of
33 9 eminent domain as provided for in chapter 6B in order to
33 10 procure such necessary right of way.
33 11 Sec. 46. Section 468.366, Code 2005, is amended to read as
33 12 follows:
33 13 468.366 SETTLING BASIN == CONDEMNATION.
33 14 If, before a district operating a pumping plant is
33 15 completed and accepted, it appears that portions of the lands
33 16 within said district are wet or nonproductive by reason of the
33 17 floods or overflow waters from one or more streams running
33 18 into, through, or along said district and that said district
33 19 or some other district of which such district shall have
33 20 formed a part, shall have provided a settling basin to care
33 21 for the said floods and overflow waters of said stream or
33 22 watercourse, but no channel to said settling basin has been
33 23 provided, said board or boards are hereby empowered to lease,
33 24 buy, or condemn the necessary lands within or without the
33 25 district for such channel. Proceedings to condemn shall be as
33 26 provided in chapter 6B for the exercise of the right of
33 27 eminent domain.
33 28 Sec. 47. CODE EDITOR DIRECTIVE.
33 29 1. The Code editor is directed to make the following
33 30 transfers:
33 31 a. Section 6B.10 to become subsection 2 of section 6B.9.
33 32 b. Section 6B.20 to become subsection 4 of section 6B.18.
33 33 c. Section 6B.27 to become subsection 2 of section 6B.26.
33 34 d. Sections 6B.39 and 6B.41 to become subsections 3 and 4,
33 35 respectively, of section 6B.38.
34 1 e. Section 6B.43 to become unnumbered paragraph 3 of
34 2 section 6B.4.
34 3 f. Sections 6B.47 through 6B.51 to become subsections 2
34 4 through 6, respectively, of section 6B.46.
34 5 g. Section 6B.58 to become subsection 2 of section 6B.1.
34 6 2. The Code editor is directed to correct internal
34 7 references in the Code as necessary due to enactment of this
34 8 section.
34 9 Sec. 48. Section 6B.4A, Code 2005, is repealed.
34 10 Sec. 49. EFFECTIVE AND APPLICABILITY DATES.
34 11 1. The section of this Act enacting section 422.73,
34 12 subsection 3, being deemed of immediate importance, takes
34 13 effect upon enactment and applies to reacquisitions of
34 14 property occurring on or after the effective date of that
34 15 section of this Act.
34 16 2. The sections of this Act enacting section 422.7,
34 17 subsection 45, and section 422.35, subsection 22, apply
34 18 retroactively to January 1, 2006, for tax years beginning on
34 19 or after that date.
34 20 3. The sections of this Act amending sections 6B.2B and
34 21 6B.14, unnumbered paragraph 2, the portion of the section of
34 22 this Act amending section 6B.54, subsection 3, and the section
34 23 of this Act enacting section 6B.2D take effect January 1,
34 24 2007.
34 25 4. The sections of this Act amending section 6B.3,
34 26 subsection 3, section 6B.56, subsection 2, sections 6B.57 and
34 27 6B.58, being deemed of immediate importance, take effect upon
34 28 enactment.
34 29 5. The remainder of this Act, being deemed of immediate
34 30 importance, takes effect upon enactment and applies to
34 31 applications for condemnation filed pursuant to section 6B.3
34 32 on or after the date of enactment, with the following
34 33 exceptions:
34 34 a. The section of this Act enacting section 6A.23 applies
34 35 to applications for condemnation pending on the date of
35 1 enactment of this Act if the appropriate parties have not been
35 2 served with a notice of assessment pursuant to section 6B.8 as
35 3 of the date of enactment of this Act.
35 4 b. The section of this Act amending section 6B.33 and that
35 5 portion of the section of this Act enacting 6B.54, subsection
35 6 12, apply to applications for condemnation filed pursuant to
35 7 section 6B.3 and pending on the date of enactment of this Act
35 8 if the appraisal report required under section 6B.14 has
35 9 not been filed with the sheriff as of the date of enactment of
35 10 this Act.
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35 14 CHRISTOPHER C. RANTS
35 15 Speaker of the House
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JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 2351, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor