

HOUSE FILE 1465

By COMMITTEE ON TRANSPORTATION

MAR 20 1974
Place On Calendar
See Hall Resolution 4-16, Page 4-16

Passed House, Date 4-15-74 (1708) Passed Senate, Date 4-25-74 (1601)
Vote: Ayes 81 Nays 0 Vote: Ayes 47 Nays 0
Approved 5-27-74

A BILL FOR

1 An Act relating to the great river road and to scenic and
2 recreational parkways.

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

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1 Section 1. Section three hundred eight point three (308.3),
2 Code 1973, is amended by striking the section and inserting
3 in lieu thereof the following:

4 308.3 DEFINITIONS. As used in this chapter:

5 1. "Secretary", "parkway", "scenic landscape", "slightly
6 or safety easement", "access", "parkway road", "parkway
7 development", "frontage", and other similar terms have the
8 same meaning as defined in any act of the Congress of the
9 United States related to a national parkway.

10 2. "National parkway" has the same meaning as defined
11 in Public Law ninety-three dash eighty-seven (93-87), first
12 session, Ninety-third Congress of the United States.

13 3. "Great river road" means a scenic and recreational
14 highway consisting of a designated system of roads and streets
15 along the Mississippi River in this state.

16 4. "A scenic and recreational highway" means a public
17 highway designated to allow enjoyment of aesthetic and scenic
18 views, points of historical, archeological, and scientific
19 interest, state parks and other recreational areas and includes
20 both the right-of-way and conservation area.

21 5. "Scenic easement" means a servitude which is acquired
22 by gift, purchase, exchange, or condemnation and is designed
23 to permit land to remain in private ownership for its normal
24 agricultural, residential or other use and, at the same time,
25 to restrict and control the future use of the land for the
26 purpose of preserving, restoring, or enhancing the natural
27 and historic beauty of the land subject to the scenic easement.

28 6. "Right-of-way" means land area dedicated to public
29 use for a highway and its maintenance, and includes land
30 acquired in fee simple or by permanent easement for highway
31 purposes, but does not include temporary easements or rights
32 for supplementary highway appurtenances.

33 7. "Conservation area" means land in which the state high-
34 way commission or the state conservation commission has
35 acquired rights other than that land necessary for a right-

1 of-way.

2 Sec. 2. Section three hundred eight point four (308.4),
3 Code 1973, is amended by striking the section and inserting
4 in lieu thereof the following:

5 308.4 HIGHWAY COMMISSION AUTHORITY.

6 1. The state highway commission shall make such investiga-
7 tions, surveys, studies and plans in connection with any
8 proposed national parkway or parkway development as it shall
9 deem necessary or desirable to determine if the proposed
10 development is under the terms of the act of the United States
11 Congress applicable to such parkway or any regulations under
12 such act and is advantageous to the state. Such parkway
13 development may be any portion of the proposed parkway which
14 is proposed to be constructed as a project under such act.

15 2. The state highway commission, with the cooperation
16 of the state conservation commission, shall also:

17 a. Plan, designate and establish the exact routing of
18 the great river road, utilizing the general guidelines estab-
19 lished in Title twenty-three (23), United States Code.

20 b. Acquire all rights in land necessary for reconstruction
21 or relocation of any portions of the great river road where
22 such reconstruction or relocation is imperative for the safety
23 of the traveling public, or where the condition or location
24 of existing segments of the highway is not in keeping with
25 the intent of the provisions of this Act. Acquisitions of
26 such rights in land shall be by gift, purchase, exchange,
27 or by instituting and maintaining proceedings for condemnation.
28 Gift, purchase, exchange, and condemnation shall include
29 acquisition of a scenic easement. A scenic easement acquired
30 under this Act shall constitute easements both at law and
31 in equity, and all legal and equitable remedies, including
32 prohibitory and mandatory injunctions, shall be available
33 to protect and enforce the state's interest in such scenic
34 easements. Any scenic easement acquired under this Act shall
35 be deemed to be appurtenant to the roadway to which it is

1 adjacent or from which it is visible. The duties created
2 by any scenic easement acquired under this Act shall be binding
3 upon and enforceable against the original owner of the land
4 subject to the scenic easement and his heirs, successors,
5 and assigns in perpetuity, unless the instrument creating
6 the scenic easement expressly provides for a lesser duration.
7 A court shall not declare any scenic easement acquired under
8 this Act to have been extinguished or to have become
9 unenforceable by virtue of changed conditions or frustration
10 of purpose.

11 c. Accept and administer state, federal, and any other
12 public or private funds made available for the acquisition
13 of rights in land and for the planning and construction or
14 reconstruction of any segment of the great river road and
15 any state and federal funds for the maintenance of that part
16 of the great river road constituting the right-of-way.

17 Sec. 3. Section three hundred eight point five (308.5),
18 Code 1973, is amended by striking the section and inserting
19 in lieu thereof the following:

20 308.5 JURISDICTION AND CONTROL. Jurisdiction and control
21 of the great river road shall be vested in the state highway
22 commission.

23 Sec. 4. Chapter three hundred eight (308), Code 1973,
24 is amended by adding the following new sections:

25 NEW SECTION. TRANSFERRING JURISDICTION. The state highway
26 commission, with the concurrence of the state conservation
27 commission, shall transfer jurisdiction of any adjacent
28 conservation area to the state conservation commission upon
29 completion of any new segment of the great river road.

30 NEW SECTION. DUTIES OF THE STATE CONSERVATION COMMISSION.
31 The state conservation commission, with the cooperation of
32 the state highway commission, shall:

33 1. Control the conservation area acquired by the state
34 highway commission.

35 2. Protect all scenic easements.

1 3. Maintain, improve, and beautify according to plans
2 made under paragraph a of subsection two (2) of section two
3 (2) of this Act, all conservation areas, including the
4 establishment of off-road-vehicle trails, equestrian trails,
5 and hiking paths.

6 4. Accept and administer state, federal, and any other
7 public or private funds made available for the maintenance,
8 improvement, and beautification of conservation areas.

9 NEW SECTION. AGREEMENTS AUTHORIZED. The state highway
10 commission and the state conservation commission may enter
11 into agreements with the United States secretary of transpor-
12 tation, as provided under the United States Code, Title twenty-
13 three (23) relating to scenic and recreational highway system,
14 and with any other agency and jurisdiction, and take action
15 in the name of the state to comply with the terms of any
16 agreement.

17 NEW SECTION. ESTABLISHING LOCATIONS FOR THE HIGHWAY.

18 1. When, as a result of its investigations and studies,
19 the state highway commission, in cooperation with the state
20 conservation commission, finds that there may be a need in
21 the future for the development and construction or reconstruc-
22 tion of segments of the great river road and when the state
23 highway commission determines that in order to prevent con-
24 flicting costly economic development on areas of lands to
25 be available for the great river road when needed for such
26 future development, there is need to establish and to inform
27 the public of the approximate location and widths of new or
28 improved segments of the great river road to be needed, the
29 state highway commission may proceed to establish such location
30 and the approximate widths in the manner provided in this
31 section. The state highway commission shall give notice
32 and hold a public hearing on the matter in a convenient place
33 in the area to be affected by the proposed improvement of
34 the great river road. The state highway commission shall
35 consider and evaluate the testimony presented at the public

1 hearing and it shall make a study and prepare a map showing
2 location of the proposed new or reconstructed segment of the
3 great river road and the approximate widths of right-of-way
4 needed. There shall be shown on such map the existing roadway
5 and the property lines and record owners of lands to be needed.
6 The approval of such map shall be recorded by reference in
7 the state highway commission's minutes, and a notice of such
8 action and a copy of the map showing the lands or interest
9 in the lands needed in any county shall be filed in the office
10 of the county recorder of such county. Notice of the action
11 and of the filing shall be published once in a newspaper of
12 general circulation in such county, and within sixty days
13 following the filing, notice of the filing shall be served
14 by registered mail on the owners of record on the date of
15 filing and on the functional classification board of the
16 county. Using the same procedures for approval, notice and
17 publications, and notice to the affected record owners, the
18 state highway commission may, from time to time, amend the
19 map.

20 2. After such location is established, within the area
21 of the great river road as shown on the map or in such
22 proximity to it as to result in consequential damages when
23 the rights in land for the great river road are acquired,
24 a person shall not erect or move in any additional structure
25 or rebuild, alter or add to any existing structure, without
26 giving to the state highway commission by registered mail
27 sixty-days' notice of such contemplated construction,
28 alteration, or addition describing the same. However, this
29 prohibition and requirement shall not apply to any normal
30 or emergency repairs or replacements which are necessary to
31 maintain an existing structure of a facility in approximately
32 its previously existing functioning condition. When the
33 rights in land for a segment of the great river road are
34 acquired, damages shall not be allowed for any construction,
35 alterations, or additions in violation of this subsection.

1 3. Without limiting any authority otherwise existing,
2 rights in land needed for the great river road may be acquired
3 at any time by the state, the county, or the municipality
4 in which such segment of the great river road is located.
5 If an owner's contiguous land is acquired to an extent which
6 is less than the total amount shown on the map as needed,
7 consequential damages to the land not acquired shall be allowed
8 as found to exist.

9 EXPLANATION

10 This bill provides for the establishment of the great river
11 road as a scenic and recreational highway in Iowa. It provides
12 for a cooperative effort between the state highway commission
13 and the state conservation commission in determining the loca-
14 tion of any new or improved segments of the great river road,
15 and in maintaining the scenic easements, conservation areas,
16 and right-of-way acquired for the roadway.

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