

FILED MAR 31 1977

SENATE FILE 307

BY COMMITTEE ON COUNTY GOVERNMENT
approved 2/31 (p. 282.)

Passed Senate, Date 4-5-77 (p. 919) Passed House, Date 5-9-77 (p. 1994)
Vote: Ayes 44 Nays 1 Vote: Ayes 74 Nays 2
Approved 6/3/77

A BILL FOR

1 An Act relating to vacating and closing highways.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S. F. 307

1 Section 1. Section three hundred six point sixteen
2 (306.16), Code 1977, is amended to read as follows:

3 306.16 FINAL ORDER. After such the hearing, the agency
4 which instituted such the proceedings and conducted such the
5 hearing, shall enter an order. ~~Said agency may dismiss either~~
6 dismissing the proceedings, or ~~it may vacate and close such~~
7 vacating and closing the road, part thereof, or crossing,
8 in which event it shall determine and state in the order the
9 amount of ~~the~~ damages allowed to each claimant. ~~Said~~ The
10 order thus entered shall be final except as to the amount
11 of the damages unless the order is rescinded as provided in
12 section three hundred six point seventeen (306.17) of the
13 Code. A copy of such the order shall be filed with the county
14 auditor of the county or counties in which the road, part
15 thereof, or crossing, is located and with the department and
16 the agency in control of any affected state land.

17 Sec. 2. Section three hundred six point seventeen (306.17),
18 Code 1977, is amended to read as follows:

19 306.17 APPEAL. Notwithstanding the terms of the Iowa
20 administrative procedure Act, any claimant for damages may,
21 by serving, within twenty days after the ~~said final~~ order
22 has been issued, a written notice upon the agency which
23 instituted and conducted such the proceedings, appeal as to
24 the amount of damages, to the district court of the county
25 in which the land is located, in the manner and form prescribed
26 in chapter 472 with reference to appeals from condemnation,
27 and such the proceedings shall thereafter ~~likewise~~ conform
28 to the applicable provisions of ~~said that~~ that chapter. If, in
29 the opinion of the agency, the damages as finally determined
30 on appeal are excessive, the agency may rescind its order
31 vacating and closing the road, part thereof, or crossing,
32 and the right-of-way shall remain under the jurisdiction of
33 the agency. If the order is rescinded at any time after an
34 appeal is taken, the agency shall pay reasonable attorney
35 fees incurred by the claimant as taxed by the court.

1 Sec. 3. This Act is effective January 1, 1978.

2 EXPLANATION

3 This bill gives agencies the right to rescind vacating
4 and closing orders after completion of the appeal procedure.

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21 SENATE FILE 307
22 FISCAL NOTE

23 Date Prepared: April 5, 1977
24 Requested by: Senator Redmond
25 Prepared in regard to Senate File 307, An Act relating to
vacating and closing highways.

26 Following is the fiscal effect in dollars of the
27 legislative proposal as required by Joint Rule 16.

28
29 S.F. 307 gives agencies the right to rescind vacating and closing orders
30 after completion of the appeal procedure.

31 No cost estimate is available.

32 FILED
33 APRIL 5, 1977

Gerry Rankin
LEGISLATIVE FISCAL DIRECTOR

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1 Amend Senate File 307 as passed by the Senate as
2 follows:

3 1. Page 1, by inserting before line 1 the follow-
4 ing:

5 "Sec. ____ Chapter three hundred six (306), Code
6 1977, is amended by adding the following new sections:

7 NEW SECTION. MAINTENANCE OF LAND ACCESS ROADS.

8 Roads classified and properly designated as land
9 access roads shall be maintained by the adjoining
10 landowners and not by the jurisdiction having control
11 over the road.

12 NEW SECTION. ABANDONED RIGHT-OF-WAY REHABILITATION

13 FUND. There is hereby created a fund which shall
14 be known as the abandoned right-of-way rehabilitation
15 fund and shall consist of funds allocated from the
16 road use tax fund.

17 NEW SECTION. USE OF ABANDONED RIGHT-OF-WAY

18 REHABILITATION FUND. Funds allocated to the aban-
19 doned right-of-way rehabilitation fund shall be used
20 to pay a part of the cost incurred in reshaping road
21 rights-of-way which have been vacated and closed
22 pursuant to the provisions of this chapter such that
23 the resulting terrain configuration would be suitable
24 for return to agricultural productivity. The board
25 of supervisors of any county may make written
26 application to the department on behalf of the affected
27 property owner for rehabilitation assistance at any
28 time following the publishing of a notice of a proposed
29 vacating or closing as required in section three
30 hundred six point twelve (306.12) of the Code.

31 Rehabilitation assistance shall be limited to a
32 reimbursement of seventy percent of the total actual
33 rehabilitation cost with at least thirty percent to
34 be provided by the affected property owner. The board
35 of supervisors of the county in which the property
36 is located shall provide the department with
37 certification of the actual rehabilitation cost
38 incurred by the property owner in returning the vacated
39 right-of-way to agricultural productivity. Upon
40 receiving said certification, and upon reaching a
41 decision on the amount, if any, to be reimbursed from
42 the abandoned right-of-way rehabilitation fund, the
43 department shall direct the treasurer of state to
44 pay the amount from the funds available in the
45 abandoned right-of-way rehabilitation fund. Provided,
46 however, that no funds shall be distributed until
47 after a final order to vacate and close the road has
48 been entered and the land has been returned to
49 agricultural productivity.

50 Sec. ____ Section three hundred six point one

1 (306.1), subsection one (1), Code 1977, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. m. The land access system.
4 Sec. ____. Section three hundred six point one
5 (306.1), subsection two (2), paragraph f, Code 1977,
6 is amended by striking the paragraph and inserting
7 in lieu thereof the following:

8 f. The area service system shall consist of those
9 roads providing principal access to farmsteads or
10 to residential, commercial or industrially developed
11 land in rural areas and all other public roads outside
12 of municipalities not otherwise classified.

13 Sec. ____. Section three hundred six point one
14 (306.1), subsection two (2), Code 1977, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. m. The land access system shall
17 consist of those roads providing secondary access
18 to farmsteads and to lands primarily served by vehicles
19 other than passenger cars and commercial vehicles.
20 Roads within this classification may be closed to
21 general public use through the installation and mainte-
22 nance of appropriate signs at all entry points by
23 the unit of government having jurisdiction and control
24 over such roads. Roads within this classification
25 may be altered, vacated or closed as provided in this
26 chapter. A landowner may petition the county board
27 of supervisors to alter, vacate or close a road based
28 on the grounds of mutual benefit to both parties.

29 Sec. ____. Section three hundred six point three
30 (306.3), subsection four (4), Code 1977, is amended
31 to read as follows:

32 4. "Secondary roads" or "secondary road system"
33 means those roads, outside the boundaries of municipi-
34 palities, classified as trunk, trunk collector and,
35 area service and land access under section 306.1.

36 Sec. ____. Section three hundred six point three
37 (306.3), subsection six (6), Code 1977, is amended
38 to read as follows:

39 6. "Local secondary roads" or "local secondary
40 road system" means those secondary roads which are
41 classified as area service and land access under
42 section 306.1.

43 Sec. ____. Section three hundred six point three
44 (306.3), Code 1977, is amended by adding the following
45 new subsections:

46 NEW SUBSECTION. 12. "Principal access" means
47 the only motor vehicle access to a farmstead or to
48 residential, commercial, or industrial property in
49 rural areas, or, in the case of multiple accesses,
50 the road which in the judgment of the county functional

1 classification board provides the most beneficial
 2 overall traffic service to the public in total.
 3 NEW SUBSECTION. 13. "Secondary access" means
 4 those roads which provide duplicate access in addition
 5 to the access provided by the principal access road
 6 serving a given farmstead, residence, commercial,
 7 or industrial property in rural areas.

8 Sec. ____ . Section three hundred six point four
 9 (306.4), subsection two (2), Code 1977, is amended
 10 to read as follows:

11 2. Jurisdiction and control over the secondary
 12 roads shall be vested in the county board of super-
 13 visors of the respective counties provided that the
 14 county board shall not be responsible for maintenance
 15 of those roads classified as land access roads under
 16 section three hundred six point one (306.1) of the
 17 Code."

18 2. Page 1, by inserting after line 35 the follow-
 19 ing:

20 "Sec. ____ . Section three hundred twelve point
 21 two (312.2), Code 1977, is amended by adding the
 22 following new subsection:

23 "NEW SUBSECTION. The treasurer of state, before
 24 making the allotments provided for in this section,
 25 shall credit annually to the abandoned right-of-way
 26 rehabilitation fund the sum of one million dollars.
 27 All unobligated funds at the end of each year shall
 28 revert to the road use tax fund."

29 3. Amend the title, line 1, by inserting after
 30 the word "highways" the words "providing for rescission
 31 of vacation orders after damage awards and for
 32 definitions of land access roads, principal access
 33 roads and secondary access roads, the creation of
 34 an abandoned right-of-way rehabilitation fund and
 35 appropriating one million dollars to the fund".

36 4. Renumber sections and correct internal refer-
 37 ences as necessary in conformance with this amendment.

H-4040 FILED *Miller to amend* BY MILLER of Buchanan

MAY 6, 1977 *rule governing*
amendment book 5/4 (p. 1994)

SENATE FILE 307

H-4041

1 Amend amendment H- 4040 to Senate File 307 as
 2 follows:

3 1. Page 1, line 10 by adding after the word
 4 "landowners" the words "sufficient for their own
 5 use,".

6 2. Page 1, by striking lines 12 through 49.

7 3. Page 3, by striking lines 18 through 28.

8 4. Page 3, by striking lines 33, 34 and 35

9 and inserting in lieu thereof the following:

10 "roads and secondary access roads."

H-4041 FILED *One of order* BY WELDEN of Hardin

MAY 6, 1977 *5/4 (p. 1994)* VARLEY of Adair

SENATE FILE 307

AN ACT

RELATING TO VACATING AND CLOSING HIGHWAYS.

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

Section 1. Section three hundred six point sixteen (306.16), Code 1977, is amended to read as follows:

306.16 FINAL ORDER. After ~~such~~ the hearing, the agency which instituted ~~such~~ the proceedings and conducted ~~such~~ the hearing, shall enter an order--~~Said agency may dismiss either~~ dismissing the proceedings, or it may vacate and close such vacating and closing the road, part thereof, or crossing, in which event it shall determine and state in the order the amount of ~~the~~ damages allowed to each claimant. ~~Said~~ The order thus entered shall be final except as to the amount of the damages unless the order is rescinded as provided in section three hundred six point seventeen (306.17) of the Code. A copy of ~~such~~ the order shall be filed with the county auditor of the county or counties in which the road, part thereof, or crossing, is located and with the department and the agency in control of any affected state land.

Sec. 2. Section three hundred six point seventeen (306.17), Code 1977, is amended to read as follows:

306.17 APPEAL. Notwithstanding the terms of the Iowa administrative procedure Act, any claimant for damages may, by serving, within twenty days after the ~~said final~~ order has been issued, a written notice upon the agency which instituted and conducted ~~such~~ the proceedings, appeal as to the amount of damages, to the district court of the county in which the land is located, in the manner and form prescribed in chapter 472 with reference to appeals from condemnation, and ~~such~~ the proceedings shall thereafter ~~likewise~~ conform to the applicable provisions of ~~said~~ that chapter. If, in the opinion of the agency, the damages as finally determined

on appeal are excessive, the agency may rescind its order vacating and closing the road, part thereof, or crossing, and the right-of-way shall remain under the jurisdiction of the agency. If the order is rescinded at any time after an appeal is taken, the agency shall pay reasonable attorney fees incurred by the claimant as taxed by the court.

Sec. 3. This Act is effective January 1, 1978.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 307, Sixty-seventh General Assembly.

STEVEN C. CROSS
Secretary of the Senate

Approved 6/3, 1977

ROBERT D. RAY
Governor