

(See Stamp 4/2 B. Pass 4/10/91 (p. 1180))

MARCH 14 1991

HOUSE FILE 491

BY COMMITTEE ON TRANSPORTATION

FROM THE CALENDAR

(SUCCESSOR TO HSB 38)

Passed Senate, Date 4/1/91 (p. 921) Passed House, Date 2/17/91 (p. 1290)

Vote: Ayes 69 Nays 18 Vote: Ayes 47 Nays 0

Approved May 6, 1991 (p. 341)

A BILL FOR

1 An Act relating to acquisition of rights-of-way for highways.

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

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HF 491

1 Section 1. Section 306.19, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6. a. The department may notify a city
4 or county that a road under the jurisdiction or control of the
5 department will be established, improved, relocated, or
6 maintained and that the department may need to acquire
7 additional right-of-way or property rights within an area
8 described by the department. The notice shall include a
9 depiction of the area on a map provided by the city, county,
10 or the department. This notice shall be valid for a period of
11 three years from the date of notification to the city or
12 county and may be refiled by the department for an additional
13 three-year period. Within seven days of filing the notice,
14 the department shall publish in a newspaper of public record a
15 description and map of the area and a description of the
16 potential restrictions applied to the city or county with
17 respect to the granting of building permits, approving of
18 subdivision plats, or zoning changes within the area.

19 b. The city or county shall notify the department of an
20 application for a building permit for construction valued at
21 twenty-five thousand dollars or more, of the submission of a
22 subdivision plat, or of a proposed zoning change within the
23 area at least thirty days prior to granting the proposed
24 building permit, approving the subdivision plat, or changing
25 the zoning.

26 c. If the department, within the thirty-day period,
27 notifies the city or county that the department is proceeding
28 to acquire all or part of the property or property rights
29 affecting the area, the city or county shall not issue the
30 building permit, approve the subdivision plat, or change the
31 zoning. The department may apply to the city or county for an
32 extension of the thirty-day period. After a public hearing on
33 the matter, the city or county may grant an additional sixty-
34 day extension of the period.

35 d. The department shall begin the process of acquiring

1 property or property rights from affected persons within ten
2 days of the department's written notification of intent to the
3 city or county.

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EXPLANATION

5 This bill allows the state department of transportation to
6 notify a city or county of the need to acquire additional
7 right-of-way within an area. The notice must include a map
8 which depicts the area. Within 7 days of filing the notice,
9 the department must publish in a newspaper of public record a
10 description and map of the area and a description of the
11 potential restrictions. This notification is valid for three
12 years and can be refiled for an additional three-year period.
13 The city or county must notify the department 30 days prior to
14 granting a building permit for construction valued at over
15 \$25,000, approving a subdivision plot, or changing the zoning
16 in the affected area. The department can apply to the city or
17 county for an additional 60-day extension and the extension
18 can be granted after a public hearing on the matter. If the
19 department notifies the city or county within 30 days that it
20 will proceed to acquire all or part of the property in the
21 affected area, the city or county cannot issue the building
22 permit, approve the subdivision plat, or change the zoning
23 requirements. The department is required to begin the process
24 of acquiring the property or property rights within 10 days of
25 sending written notice of intent to acquire to the city or
26 county.

27 This bill may include a state mandate as defined in chapter
28 25B.

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**HOUSE FILE 491
FISCAL NOTE**

A fiscal note for House File 491 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 491 requires the Department of Transportation to notify a city or county of the need to acquire additional right-of-way within an area. The city or county must notify the Department 30 days prior to granting a building permit for construction valued at over \$25,000, approving a subdivision plot, or changing the zoning in the affected area. The Department is required to begin the process of acquiring the property or property rights within 10 days of sending written notice of intent to acquire to the city or county.

Fiscal Effect

The Department of Transportation is unable to determine the fiscal effect of this bill. The bill could have significant fiscal impact by reducing the acquisition cost of right-of-way in advance of changes in land use. However, this could also increase the cost of acquiring and holding property for subsequent construction improvements. The net fiscal impact would be to reduce overall right-of-way acquisition costs.

(Source: Department of Transportation)

(LSB 1230hv, DLR)

FILED MARCH 26, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

TRANSPORTATION

SENATE/HOUSE FILE 471
BY (PROPOSED DEPARTMENT
OF TRANSPORTATION BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to acquisition of rights-of-way for highways.

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

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1 Section 1. Section 306.19, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6. a. The department may notify a city
4 or county that a road under the jurisdiction or control of the
5 department will be established, improved, relocated, or
6 maintained and that the department may need to acquire
7 additional right-of-way or property rights within an area
8 described by the department. This notice shall be valid for a
9 period of three years from the date of notification to the
10 city or county and may be refiled by the department for an
11 additional three-year period.

12 b. The city or county shall notify the department of an
13 application for a building permit for construction valued at
14 twenty-five thousand dollars or more, of the submission of a
15 subdivision plat, or of a proposed zoning change within the
16 area at least ninety days prior to granting the proposed
17 building permit, approving the subdivision plat, or changing
18 the zoning.

19 c. If the department, within the ninety-day period,
20 notifies the city or county that the department is proceeding
21 to acquire all or part of the property or property rights
22 affecting the area, the city or county shall not issue the
23 building permit, approve the subdivision plat, or change the
24 zoning.

25 d. The department shall begin the process of acquiring
26 property or property rights from affected persons within ten
27 days of the department's written notification of intent to the
28 city or county.

29 EXPLANATION

30 This bill allows the state department of transportation to
31 notify a city or county of the need to acquire additional
32 right-of-way within an area. This notification is valid for
33 three years and can be refiled for an additional three-year
34 period. The city or county must notify the department 90 days
35 prior to granting a building permit for construction valued at

1 over \$25,000, approving a subdivision plot, or changing the
2 zoning in the affected area. If the department notifies the
3 city or county within 90 days that it will proceed to acquire
4 all or part of the property in the affected area, the city or
5 county cannot issue the building permit, approve the
6 subdivision plat, or change the zoning requirements. The
7 department is required to begin the process of acquiring the
8 property or property rights within 10 days of sending written
9 notice of intent to acquire to the city or county.

10 This bill may include a state mandate as defined in chapter
11 25B.

12 BACKGROUND STATEMENT

13 SUBMITTED BY THE AGENCY

14 The process of developing a highway project, particularly
15 on a new alignment, may require several years from the time
16 the project corridor is first identified until the right-of-
17 way is purchased and the construction begins. This interim
18 can be a time of uncertainty for property owners and actions
19 that take place within the corridor can have substantial
20 impact on the cost of the project. Land in and around urban
21 areas is especially vulnerable to these impacts. In some
22 cases property has been developed and buildings built even
23 though the developer knew plans called for a future highway.
24 It is desirable for the state, cities and counties to have a
25 mechanism that ensures that expensive development does not
26 take place in identified corridors while at the same time
27 preserving property owners rights to compensation for any
28 actual taking of property rights.

29 This bill creates a notification process that would make
30 the highway agency aware before approval of any application
31 for a major building permit, subdivision plat or zoning change
32 within an identified corridor. The procedure would create a
33 90-day moratorium on these actions while the agency determines
34 whether the proposed action will seriously hinder the progress
35 of the highway project. If it would, the agency could

1 prohibit the issuance of the permit, plat or zoning change and
2 proceed to acquire important parcels to avoid the possibility
3 of an unconstitutional taking of property without
4 compensation.

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HOUSE FILE 491

AN ACT

RELATING TO ACQUISITION OF RIGHTS-OF-WAY FOR HIGHWAYS.

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

Section 1. Section 306.19, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. The department may notify a city or county that a road under the jurisdiction or control of the department will be established, improved, relocated, or maintained and that the department may need to acquire additional right-of-way or property rights within an area described by the department. The notice shall include a depiction of the area on a map provided by the city, county, or the department. This notice shall be valid for a period of three years from the date of notification to the city or county and may be refiled by the department for an additional three-year period. Within seven days of filing the notice, the department shall publish in a newspaper of public record a description and map of the area and a description of the potential restrictions applied to the city or county with respect to the granting of building permits, approving of subdivision plats, or zoning changes within the area.

b. The city or county shall notify the department of an application for a building permit for construction valued at twenty-five thousand dollars or more, of the submission of a subdivision plat, or of a proposed zoning change within the area at least thirty days prior to granting the proposed building permit, approving the subdivision plat, or changing the zoning.

c. If the department, within the thirty-day period, notifies the city or county that the department is proceeding

to acquire all or part of the property or property rights affecting the area, the city or county shall not issue the building permit, approve the subdivision plat, or change the zoning. The department may apply to the city or county for an extension of the thirty-day period. After a public hearing on the matter, the city or county may grant an additional sixty-day extension of the period.

d. The department shall begin the process of acquiring property or property rights from affected persons within ten days of the department's written notification of intent to the city or county.

ROBERT C. ARNOULD
Speaker of the House

JOE J. WELSH
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 491, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House
Approved May 6, 1991

TERRY E. BRANSTAD
Governor