

5-27/95 *Transportation*
5-4/6/95 *Amend & Do Pass*

MAR 16 1995

Place On Calendar

HOUSE FILE 460

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 61)

Passed House, Date 3/23/95 (P.968)
Vote: Ayes 95 Nays 0
Re-passed House
Ayes 95 Nays 0
4/20/95 (P.1743)
Approved May 1, 1995
Passed Senate, Date 4/18/95 (P.1257)
Vote: Ayes 50 Nays 0

A BILL FOR

1 An Act relating to governmental control of property by allowing
2 governmental entities to enter and test property for
3 condemnation of property for highway purposes, providing for
4 the interest rates assessed for condemnation damages,
5 providing for right-of-way notice filings, and concerning
6 advertising control laws on scenic highways.

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

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HF 460

1 Section 1. Section 6B.24, Code 1995, is amended to read as
2 follows:

3 6B.24 REDUCTION OF DAMAGES -- INTEREST ON INCREASED AWARD.

4 If the amount of damages awarded by the commissioners is
5 decreased on ~~the trial of the~~ appeal, the reduced amount ~~only~~
6 shall be paid to the landowner. If the amount of damages
7 awarded by the commissioners is increased on appeal, interest
8 shall be paid from the date of the condemnation. Interest
9 shall not be paid on any amount which was previously paid.
10 Interest shall be calculated at an annual rate equal to the
11 coupon issue yield equivalent, as determined by the United
12 States secretary of the treasury, of the average accepted
13 auction price for the last auction of fifty-two-week United
14 States treasury bills settled immediately before the date of
15 the award.

16 Sec. 2. Section 306.19, subsection 5, paragraph a, Code
17 1995, is amended to read as follows:

18 a. The department may notify a city or county that a road
19 under the jurisdiction or control of the department will be
20 established, improved, relocated, or maintained and that the
21 department may need to acquire additional right-of-way or
22 property rights within an area described by the department.
23 The notice shall include a depiction of the area on a map
24 provided by the city, county, or the department. This notice
25 shall be valid for a period of three years from the date of
26 notification to the city or county and may be refiled by the
27 department ~~for an additional three-year period~~ every three
28 years. Within seven days of filing the notice, the department
29 shall publish in a newspaper of public record a description
30 and map of the area and a description of the potential
31 restrictions applied to the city or county with respect to the
32 granting of building permits, approving of subdivision plats,
33 or zoning changes within the area.

34 Sec. 3. Section 306C.11, unnumbered paragraph 1, Code
35 1995, is amended to read as follows:

1 Subject to the ~~provision~~ provisions made in section 306C.13
2 regarding control of bonus interstate highways and section
3 306C.11A regarding scenic highways or byways, ~~no an~~
4 advertising device shall not be erected or maintained within
5 any adjacent area ~~as-defined-in-section-306C-10~~, or on the
6 right-of-way right-of-way of any primary highway, except the
7 following:

8 Sec. 4. NEW SECTION. 306C.11A SCENIC HIGHWAY
9 ADVERTISING.

10 Advertising devices erected or maintained within the
11 adjacent area and in the right-of-way of any interstate or
12 primary highway designated as a scenic highway or scenic byway
13 pursuant to chapter 306D shall be limited to advertising
14 devices identified in section 306C.11.

15 Sec. 5. Section 314.9, Code 1995, is amended to read as
16 follows:

17 314.9 ENTERING PRIVATE LAND.

18 The agency or engineer in control of any highway or highway
19 system ~~or-the-engineer~~, or any other authorized person
20 employed by ~~said~~ the agency, may after thirty days' written
21 notice by restricted certified mail addressed to the owner and
22 also to the occupant, enter upon private ~~land~~ property for the
23 purpose of making surveys, soundings, drillings, appraisals,
24 and examinations as ~~it~~ the agency deems appropriate or
25 necessary to determine the advisability or practicability of
26 locating and constructing a highway ~~thereon~~ on the property or
27 for the purpose of determining whether gravel or other
28 material exists on ~~said-land~~ the property of suitable quality
29 and in sufficient quantity to warrant the purchase or
30 condemnation of ~~said-land-or-part-thereof~~ the property. Such
31 The entry, ~~after-notice~~, shall not be deemed a trespass, and
32 the agency may be aided by injunction to insure peaceful
33 entry. The agency shall pay actual damages caused by ~~such~~ the
34 entry, surveys, soundings, drillings, appraisals or
35 examinations.

1 Any damage caused by ~~such~~ the entry, surveys, soundings,
2 drillings, appraisals or examinations shall be determined by
3 agreement or in the manner provided for the award of damages
4 in condemnation of ~~land~~ property for highway purposes. No
5 ~~such-soundings~~ Soundings or drillings shall not be done within
6 ~~twenty-rods~~ thirty feet of ~~the~~ a dwelling house or buildings
7 on ~~said-land~~ the property without written consent of owner.

8 EXPLANATION

9 This bill amends section 6B.24 to provide for a market-
10 based interest rate for condemnation damages rather than the
11 current rate of 10 percent. In addition, it provides that
12 interest on an award which has been determined on appeal to be
13 greater than the amount set by the compensation commission
14 should be accrued from the date of condemnation rather than
15 from the date of the commencement of the action as provided in
16 section 535.3.

17 Current law provides that the state department of
18 transportation may notify a county or city that a road under
19 the department's jurisdiction will be established, improved,
20 relocated, or maintained and that the department may need to
21 acquire additional right-of-way. The notice is valid for
22 three years from the date of notification and can be refiled
23 by the department for an additional three-year period. The
24 bill amends section 306.19 to provide that the department can
25 refile this notice every three years.

26 The bill provides that the only permissible advertising
27 devices along a scenic byway or scenic highway, as designated
28 pursuant to chapter 306D, are those devices specified in
29 section 306C.11.

30 The bill also provides for access to private property by
31 agencies in control of any highway and to allow testing within
32 30 feet of a building without notice. Current law limits
33 access for testing without notice to within 20 rods of the
34 building.

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HOUSE FILE 460

S-3370

1 Amend House File 460, as passed by the House, as
2 follows:

3 1. By striking page 2, line 15, through page 3,
4 line 7.

5 2. Title page, by striking lines 1 through 3 and
6 inserting the following: "An Act relating to
7 governmental control of property by providing for".

By COMMITTEE ON TRANSPORTATION
DON E. GETTINGS, Chairperson

S-3370 FILED APRIL 6, 1995
adopted 4/11/95 (p. 1120)

HOUSE FILE 460

S-3423

1 Amend House File 460, as passed by the House, as
2 follows:

3 1. Page 2, line 3, by striking the figure
4 "306C.11A" and inserting the following: "306D.4".

5 2. Page 2, line 8, by striking the figure
6 "306C.11A" and inserting the following: "306D.4".

7 3. Page 2, by striking lines 10 through 14 and
8 inserting the following:

9 "The department of transportation shall have the
10 authority to adopt rules to control the erection of
11 new advertising devices on a highway designated as a
12 scenic highway or scenic byway in order to comply with
13 federal requirements concerning the implementation of
14 a scenic byways program."

By ANDY McKEAN
MIKE CONNOLLY

S-3423 FILED APRIL 13, 1995

Adopted 4-18-95
(p. 1257)

SENATE AMENDMENT TO HOUSE FILE 460

H-3971

1 Amend House File 460, as passed by the House, as
2 follows:

3 1. Page 2, line 3, by striking the figure
4 "306C.11A" and inserting the following: "306D.4".

5 2. Page 2, line 8, by striking the figure
6 "306C.11A" and inserting the following: "306D.4".

7 3. Page 2, by striking lines 10 through 14 and
8 inserting the following:

9 "The department of transportation shall have the
10 authority to adopt rules to control the erection of
11 new advertising devices on a highway designated as a
12 scenic highway or scenic byway in order to comply with
13 federal requirements concerning the implementation of
14 a scenic byways program."

15 4. By striking page 2, line 15, through page 3,
16 line 7.

17 5. Title page, by striking lines 1 through 3 and
18 inserting the following: "An Act relating to
19 governmental control of property by providing for".

20 6. By renumbering, relettering, or redesignating
21 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-3971 FILED APRIL 18, 1995

House concurred 4/20/95 (p. 1743)

Eddie, CHAIR
SALTON
Mundie

HSB 61

TRANSPORTATION

SENATE/HOUSE FILE

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 governmental control of property by allowing
2 governmental entities to enter and test property for
3 condemnation purposes, providing for the interest rates
4 assessed for condemnation damages, providing for right-of-way
5 notice filings, and concerning advertising control laws on
6 scenic highways.

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

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1 Section 1. NEW SECTION. 6B.6 ENTRY UPON PRIVATE PROPERTY
2 TO EVALUATE.

3 1. The state or a county or city, after thirty days'
4 written notice by restricted certified mail addressed to the
5 owner and also to any occupants, may enter private property
6 considered for acquisition for conducting surveys, drillings,
7 samplings, appraisals, examinations, assessments, or studies
8 for the purposes provided in this section.

9 2. The entry by the state, county, or city shall be
10 conducted for the purpose of determining any of the following:

11 a. The value of the property.

12 b. The advisability or feasibility of constructing public
13 improvements on the property or making use of the property for
14 any public purpose.

15 c. The suitability of the property for public use from an
16 environmental perspective.

17 d. Whether gravel or other material exists on the property
18 of suitable quality and sufficient quantity to warrant
19 acquisition of the property.

20 3. The entry, after proper notice, shall not be deemed a
21 trespass, and the state, county, or city may be aided by
22 injunction to ensure peaceful entry. The state, county, or
23 city shall pay actual damages caused by the entry. The
24 damages shall be determined by agreement or in the manner
25 provided for the award of damages in condemnation proceedings.

26 Sec. 2. Section 6B.24, Code 1995, is amended to read as
27 follows:

28 6B.24 REDUCTION OF DAMAGES -- INTEREST ON INCREASED AWARD.

29 If the amount of damages awarded by the commissioners is
30 decreased on ~~the trial of the~~ appeal, the reduced amount only
31 shall be paid to the landowner. If the amount of damages
32 awarded by the commissioners is increased on appeal, interest
33 shall be paid from the date of the condemnation. Interest
34 shall not be paid on any amount which was previously paid.
35 Interest shall be calculated at an annual rate equal to the

1 coupon issue yield equivalent, as determined by the United
2 States secretary of the treasury, of the average accepted
3 auction price for the last auction of fifty-two-week United
4 States treasury bills settled immediately before the date of
5 the award.

6 Sec. 3. Section 306.19, subsection 5, paragraph a, Code
7 1995, is amended to read as follows:

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

24 Sec. 4. Section 306C.11, unnumbered paragraph 1, Code
25 1995, is amended to read as follows:

26 Subject to the ~~provision~~ provisions made in section 306C.13
27 regarding control of bonus interstate highways and section
28 306C.11A regarding scenic highways or byways, no an
29 advertising device shall not be erected or maintained within
30 any adjacent area ~~as-defined-in-section-306C-10~~, or on the
31 ~~right-of-way~~ right-of-way of any primary highway, except the
32 following:

33 Sec. 5. NEW SECTION. 306C.11A SCENIC HIGHWAY
34 ADVERTISING.

35 Advertising devices erected or maintained within the

1 adjacent area and in the right-of-way of any interstate or
2 primary highway designated as a scenic highway or scenic byway
3 pursuant to chapter 306D shall be limited to advertising
4 devices identified in section 306C.11, subsections 1, 2, 4,
5 and 5.

6 Sec. 6. REPEAL. Section 314.9, Code 1995, is repealed.

7 EXPLANATION

8 Section 1 of this bill allows the state, or a city or
9 county to enter private property that the governmental entity
10 is considering acquiring through condemnation for the purpose
11 of conducting tests of the property through surveys,
12 drillings, samplings, and other assessments. The section
13 provides that the testing be for the purpose of determining
14 the value of the property, the feasibility of using the
15 property for public purposes, whether there are any
16 environmental concerns about the property, or whether there is
17 sufficient gravel or other material to warrant acquisition of
18 the property. Code section 314.9, repealed by section 6 of
19 the bill, permits testing by the state department of
20 transportation when acquiring property for the construction of
21 a highway and limits that testing if it is done within a
22 certain distance of a dwelling house or other buildings.

23 Section 2 amends section 6B.24 to provide for a market-
24 based interest rate for condemnation damages rather than the
25 current rate of 10 percent. In addition, it provides that
26 interest on an award which has been determined on appeal to be
27 greater than the amount set by the compensation commission
28 should be accrued from the date of condemnation rather than
29 from the date of the commencement of the action as provided in
30 section 535.3.

31 Current law provides that the state department of
32 transportation may notify a county or city that a road under
33 the department's jurisdiction will be established, improved,
34 relocated, or maintained and that the department may need to
35 acquire additional right-of-way. The notice is valid for

1 three years from the date of notification and can be refiled
2 by the department for an additional three-year period.
3 Section 3 amends section 306.19 to provide that the department
4 can refile this notice every three years.

5 Sections 4 and 5 provide that the only permissible
6 advertising devices along a scenic byway or scenic highway, as
7 designated pursuant to chapter 306D, are those devices
8 specified in section 306C.11, subsections 1, 2, 4, and 5.
9 Currently, as provided in section 306C.11, subsection 3,
10 advertising devices are permitted along highways, including
11 scenic byways or highways, in commercial or industrial zones
12 or in unzoned commercial or industrial areas.

13 Section 306C.15 provides for the acquisition by the state
14 department of transportation of certain nonconforming
15 advertising devices.

16 BACKGROUND STATEMENT

17 SUBMITTED BY THE AGENCY

18 Sections 1 and 6: Testing and assessment of proposed state
19 and local government land purchases is necessary to determine
20 if there are hazardous materials in the soil and other
21 information which can influence a purchase decision. Current
22 Code section 314.9 authorizes the state department of
23 transportation access to private property for testing with
24 notice regardless of the owner's permission, providing for
25 payment for any damages, but limits access to 330 feet of any
26 building. This limit is a barrier to appropriate testing,
27 especially in urban areas. Section 1 proposes to provide
28 testing access for state and local government without
29 restriction to proximity of buildings. Section 6 repeals
30 section 314.9 which would be unnecessary with passage of
31 section 1 of this bill.

32 Section 2: After surveying all 50 states, the federal
33 highway administration recommended that any state with an
34 interest rate of 8 percent or more establish a market-based
35 interest rate for condemnation awards. Currently, Iowa has a

1 fixed rate of 10 percent for awards that exceed the amount of
2 deposit, providing incentive for a property owner to defer
3 settlement. Establishing a market-base interest rate ensures
4 all parties are protected by the market and economic
5 conditions.

6 Section 3: Current law provides that corridor preservation
7 expires after three years and may be renewed. This has been
8 interpreted to mean it can be renewed only once, although no
9 such limit was intended by the legislature. This amendment
10 clarifies the original intent to allow for multiple renewals
11 of a corridor preservation notice.

12 Sections 4 and 5: The federal highway administration
13 notified the state department of transportation that Iowa's
14 current advertising control laws (Iowa Code chapter 306C) does
15 not comply with 23 U.S.C. § 131(s) regarding scenic byway
16 prohibition which requires control of any sign, display, or
17 device on such a highway. Not complying could have an adverse
18 affect on future scenic byway grant requests according to the
19 federal highway administration. These amendments will put
20 Iowa in compliance with federal law.

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HOUSE FILE 460

AN ACT

RELATING TO GOVERNMENTAL CONTROL OF PROPERTY BY PROVIDING FOR THE INTEREST RATES ASSESSED FOR CONDEMNATION DAMAGES, PROVIDING FOR RIGHT-OF-WAY NOTICE FILINGS, AND CONCERNING ADVERTISING CONTROL LAWS ON SCENIC HIGHWAYS.

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

Section 1. Section 6B.24, Code 1995, is amended to read as follows:

6B.24 REDUCTION OF DAMAGES -- INTEREST ON INCREASED AWARD.

If the amount of damages awarded by the commissioners is decreased on the ~~trial of the~~ appeal, the reduced amount only shall be paid to the landowner. If the amount of damages awarded by the commissioners is increased on appeal, interest shall be paid from the date of the condemnation. Interest shall not be paid on any amount which was previously paid. Interest shall be calculated at an annual rate equal to the

coupon issue yield equivalent, as determined by the United States secretary of the treasury, of the average accepted auction price for the last auction of fifty-two-week United States treasury bills settled immediately before the date of the award.

Sec. 2. Section 306.19, subsection 5, paragraph a, Code 1995, is amended to read as follows:

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 every three~~ years. 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.

Sec. 3. Section 306C.11, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Subject to the ~~provision~~ provisions made in section 306C.13 regarding control of bonus interstate highways and section 306D.4 regarding scenic highways or byways, ~~no an~~ advertising device shall not be erected or maintained within any adjacent area ~~as defined in section 306C.10~~, or on the right-of-way right-of-way of any primary highway, except the following:

Sec. 4. NEW SECTION. 306D.4 SCENIC HIGHWAY ADVERTISING.

The department of transportation shall have the authority to adopt rules to control the erection of new advertising devices on a highway designated as a scenic highway or scenic

byway in order to comply with federal requirements concerning the implementation of a scenic byways program.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 460, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved *Terry E. Branstad*, 1995

TERRY E. BRANSTAD
Governor