

House Study Bill 133

Conference Committee Text

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1 1 Section 1. Section [6B.42](#), subsection 1, Code 1995, is
1 2 amended to read as follows:
1 3 1. A utility or railroad subject to section 327C.2,
1 4

~~chapter 479, or chapter~~
~~or chapters 476, 478, 479, and 479B.~~

1 5 authorized by law to acquire property by condemnation, which
1 6 acquires the property of a person or displaces a person for a
1 7 program or project which has received or will receive federal
1 8 financial assistance as defined in section 316.1, shall
1 9 provide to the person in addition to any other sums of money
1 10 in payment of just compensation, the payments and assistance
1 11 required by law, in accordance with chapter 316.

1 12 Sec. 2. Section [306A.3](#), Code 1995, is amended to read as
1 13 follows:

1 14 306A.3 AUTHORITY TO ESTABLISH CONTROLLED-ACCESS FACILITIES
1 15 – UTILITY ACCOMMODATION POLICY.

1 16 Cities and highway authorities having jurisdiction and
1 17 control over the highways of the state, as provided by chapter
1 18 306, acting alone or in co-operation with each other or with
1 19 any federal, state, or local agency or any other state having
1 20 authority to participate in the construction and maintenance
1 21 of highways, are

~~hereby~~

~~authorized to plan, designate,~~
1 22 establish, regulate, vacate, alter, improve, maintain, and
1 23 provide controlled-access facilities for public use

~~wherever~~

1 24

~~such authority or authorities are of the opinion that~~

~~if~~

1 25 traffic conditions, present or future, will justify

~~such~~

1 26 special facilities; provided, that within

~~cities~~

~~a city such~~

1 27 authority shall be subject to

~~such~~

~~municipal consent as may be~~
1 28 provided by law.

~~Said cities and highway authorities, in~~

~~In~~

1 29 addition to the specific powers granted in this chapter,
1 30 cities and highway authorities shall

~~also~~

- have

~~and may~~

- 1 31

~~exercise, relative to controlled access facilities,~~

- any

~~and~~

- 1 32

~~all~~

- additional authority

~~now or hereafter~~

- vested in them

1 33 relative to highways or streets within their respective

1 34 jurisdictions.

~~Said cities~~

- Cities and highway authorities may

1 35 regulate, restrict, or prohibit the use of

~~such~~

- controlled-

2 1 access facilities by

~~the~~

- various classes of vehicles or

2 2 traffic in a manner consistent with section 306A.2.

2 3 The department shall adopt rules, pursuant to chapter 17A,

2 4 embodying a utility accommodation policy which imposes

2 5 reasonable restrictions on placements occurring on or after

2 6 the effective date of the rules, on primary road rights-of-

2 7 way. The rules may require utilities to give notice to the

2 8 department prior to installation of a utility system on a

2 9 primary road right-of-way and obtain prior permission from the

2 10 department for the proposed installation. The rules shall

2 11 recognize emergency situations and the need for immediate

2 12 installation of service extensions subject to the standards

2 13 adopted by the department and the utilities board. The rules

2 14 shall be no less stringent than the standards adopted by the

2 15 utilities board pursuant to chapters 478, 479,

~~and~~

- 479A, and

2 16 479B. This paragraph shall not be construed as granting the

2 17 department authority which has been expressly granted to the

2 18 utilities board to determine the route of utility

2 19 installations. If the department requires a utility company

2 20 permit, the department shall be required to act upon the

2 21 permit application within thirty days of its filing. In cases

2 22 of federal-aid highway projects on nonprimary highways, the

2 23 local authority with jurisdiction over the highway and the

2 24 department shall comply with all federal regulations and

2 25 statutes regarding utility accommodation.

2 26 Sec. 3. Section 474.1, unnumbered paragraph 3, Code 1995,

2 27 is amended to read as follows:

2 28 As used in this chapter and chapters 475A, 476, 476A, 478,

2 29 479,

~~and~~

- 479A, and 479B, "division" and "utilities division"

2 30 mean the utilities division of the department of commerce.

2 31 Sec. 4. Section 474.9, Code 1995, is amended to read as

2 32 follows:

2 33 474.9 GENERAL JURISDICTION OF UTILITIES BOARD.

2 34 The utilities board has general supervision of all

2 35 pipelines and all lines for the transmission, sale, and

3 1 distribution of electrical current for light, heat, and power

3 2 pursuant to chapters 476, 476A, 478, 479,

~~and~~

- 479A, and 479B

3 3 and has other duties as provided by law.

3 4 Sec. 5. Section 479.1, Code 1995, is amended to read as

3 5 follows:

3 6 479.1 PURPOSE.

3 7 It is the purpose of the

~~legislature~~

- general assembly in

3 8 enacting this law to confer upon the utilities board the power

3 9 and authority to supervise the transportation or transmission

3 10 of any solid, liquid, or gaseous substance, except water,

3 11 within or through this state by pipeline, whether specifically

3 12 mentioned in this chapter or not, and the power and authority

3 13 to supervise the underground storage of gas, to protect the

3 14 safety and welfare of the public in its use of public or

3 15 private highways, grounds, waters, and streams of any kind in

3 16 this state. However, this chapter does not apply to

3 17 interstate natural gas or hazardous liquid pipelines, pipeline

3 18 companies, and underground storage, as these terms are defined

3 19 in

~~chapter~~

- chapters 479A and 479B.

3 20 Sec. 6. Section 479.2, Code 1995, is amended to read as

3 21 follows:

3 22 479.2 DEFINITIONS.

3 23 As used in this chapter:

3 24 1. "Board" means the utilities board within the utilities

3 25 division of the department of commerce.

3 26 2. "Pipeline"

~~as used in this chapter~~

- means a pipe, pipes,

3 27 or pipelines used for the transportation or transmission of a

3 28 solid, liquid, or gaseous substance, except water, within or

3 29 through this state. However, the term does not include

3 30 interstate pipe, pipes, or pipelines used for the

3 31 transportation or transmission of natural gas or hazardous

3 32 liquids.

3 33 3. "Pipeline company"

~~as used in this chapter~~

- means a

3 34 person engaged in or organized for the purpose of owning,

3 35 operating, or controlling pipelines for the transportation or

4 1 transmission of any solid, liquid, or gaseous substance,

4 2 except water, within or through this state. However, the term

4 3 does not include a person owning, operating, or controlling

4 4 interstate pipelines for the transportation or transmission of

4 5 natural gas or hazardous liquids.

4 6

~~The term "board" when used in this chapter means the~~

-
4 7

~~utilities board within the utilities division of the~~

-

4 8

~~department of commerce.~~

4 9 4.

~~The term "underground~~
~~"Underground storage"~~

~~insofar as~~

4 10

~~this chapter is concerned shall include and mean~~
~~means storage~~

4 11 of gas in a subsurface stratum or formation of the earth.

4 12 Sec. 7. Section [479.5](#), Code 1995, is amended to read as

4 13 follows:

4 14 479.5 APPLICATION FOR PERMIT.

4 15

~~Any~~

- ~~A~~ pipeline company

~~engaging in its said~~

- ~~doing~~ business

4 16 in this state shall file with the board its verified petition

4 17 asking for a permit to construct, maintain and operate its

4 18 pipeline or lines along, over or across the public or private

4 19 highways, grounds, waters and streams of any kind of this

4 20 state. Any pipeline company now owning or operating a

4 21 pipeline in this state shall be issued a permit by the board

4 22 upon supplying the information as provided for in section

4 23 479.6.

4 24

~~Any~~

- ~~A~~ pipeline company

~~engaging in its said~~

- ~~doing~~ business

4 25 in this state and proposing to engage in underground storage

4 26 of gas within this state shall file with the board its

4 27 verified petition asking for a permit to construct, maintain

4 28 and operate facilities for the underground storage of gas to

4 29 include the construction, placement, maintenance and operation

4 30 of machinery, appliances, fixtures, wells, pipelines, and

4 31 stations necessary for the construction, maintenance and

4 32 operation of

~~such~~

- ~~the~~ gas underground storage facilities.

4 33

~~As conditions precedent to the filing of a petition with~~

4 34

~~the board requesting a permit, and not less than thirty days~~

4 35

~~prior to the filing of such petition, the person, company, or~~

5 1

~~corporation~~

~~- A pipeline company shall hold informational~~
5 2 meetings in each county in which real property or property
5 3 rights

~~- therein~~

- will be affected at least thirty days prior to
5 4 filing the petition for a new pipeline. A member of the
5 5 board, the counsel of the board, or a hearing examiner
5 6 designated by the board shall serve as the presiding officer
5 7 at each meeting and present an agenda for

~~- such~~

- the meeting
5 8 which shall include a summary of the legal rights of the
5 9 affected landowners. No formal record of the meeting shall be
5 10 required.
5 11 The meeting shall be held at a location reasonably
5 12 accessible to all persons, companies, or corporations which
5 13 may be affected by the granting of the permit.
5 14 The

~~- person~~

- pipeline company seeking the permit for a new
5 15 pipeline shall give notice of the informational meeting to
5 16 each person determined to be a landowner affected by the
5 17 proposed project and each person in possession of or residing
5 18 on the property. For the purposes of the informational
5 19 meeting, "landowner" means a person listed on the tax
5 20 assessment rolls as responsible for the payment of real estate
5 21 taxes imposed on the property and "pipeline" means a line
5 22 transporting a solid, liquid, or gaseous substance, except
5 23 water, under pressure in excess of one hundred fifty pounds
5 24 per square inch and extending a distance of not less than five
5 25 miles or having a future anticipated extension of an overall
5 26 distance of five miles.
5 27 The notice shall set forth the name of the applicant; the
5 28 applicant's principal place of business; the general
5 29 description and purpose of the proposed project; the general
5 30 nature of the right of way desired; a map showing the route of
5 31 the proposed project; that the landowner has a right to be
5 32 present at such meeting and to file objections with the board;
5 33 and a designation of the time and place of the meeting; and
5 34 shall be served by certified mail with return requested not
5 35 less than thirty days previous to the time set for the
6 1 meeting; and shall be published once in a newspaper of general
6 2 circulation in the county.

~~- Such~~

- The publication shall be
6 3 considered notice to landowners whose residence is not known
6 4 and to each person in possession of or residing on the
6 5 property provided a good faith effort to notify can be
6 6 demonstrated by the pipeline company.
6 7

~~- No person, company, or corporation~~

- A pipeline company
6 8 seeking rights under this chapter shall not negotiate or
6 9 purchase any easements or other interests in land in any
6 10 county known to be affected by the proposed project prior to
6 11 the informational meeting.
6 12 Sec. 8. Section 479.23, Code 1995, is amended to read as
6 13 follows:
6 14 479.23 EXTENSION OF PERMIT.
6 15

~~- Any~~

~~- A pipeline company~~

~~- owning a permit granted under this~~

~~- 6 16~~

~~- chapter desiring to acquire an extension of such permit~~

~~- may~~

~~6 17 petition the board~~

~~- in the same manner provided for the~~

~~- 6 18~~

~~- granting of such permit and the same proceeding shall be had~~

~~- 6 19~~

~~- as on an original application~~

~~- for the extension of a permit~~

~~6 20 granted under this chapter by filing a petition containing the~~

~~6 21 information required by section 479.6, subsections 1 through~~

~~6 22 4, 6, and 7, and section 479.26.~~

~~6 23 Sec. 9. Section [479.24](#), Code 1995, is amended to read as~~

~~6 24 follows:~~

~~6 25 479.24 EMINENT DOMAIN.~~

~~6 26~~

~~- Any~~

~~- A pipeline company~~

~~- having secured a~~

~~- granted a pipeline~~

~~6 27 permit~~

~~- for pipelines as in~~

~~- under this chapter~~

~~- provided~~

~~- shall~~

~~6 28~~

~~- thereupon~~

~~- be vested with the right of eminent domain to~~

~~- such~~

~~6 29 the extent~~

~~- as may be~~

~~- necessary and as prescribed and approved~~

~~6 30 by~~

~~- said~~

~~- the board, not exceeding seventy-five feet in width~~

~~6 31 for right of way and not exceeding one acre in any one~~

~~6 32 location in addition to right of way for the location of~~

~~6 33 pumps, pressure apparatus, or other stations or equipment~~

~~6 34 necessary to the proper operation of its~~

~~- said~~

~~- pipeline~~

~~- or~~

~~- 6 35~~

~~lines~~

- The board may grant additional eminent domain rights
 - 7 1 where the pipeline company has presented sufficient evidence
 - 7 2 to adequately demonstrate that a greater area is required for
 - 7 3 the proper construction, operation, and maintenance of the
 - 7 4 pipeline or for the location of pumps, pressure apparatus, or
 - 7 5 other stations or equipment necessary to the proper operation
 - 7 6 of its pipeline.
 - 7 7

~~Any~~

- A pipeline company having secured a permit for
 - 7 8 underground storage of gas

~~as in this chapter provided~~

- shall
 - 7 9 be vested with the right of eminent domain to

~~such~~

- the extent
 - 7 10

~~as may be~~

- necessary and as prescribed and approved by

~~said~~

- the
 - 7 11 board in order to appropriate for its use for the underground
 - 7 12 storage of gas any subsurface stratum or formation in any land
 - 7 13 which the board shall have found to be suitable and in the
 - 7 14 public interest for the underground storage of gas, and

~~in~~

- 7 15

~~connection therewith~~

- may appropriate

~~such~~

- other interests in
 - 7 16 property, as may be required to adequately

~~to~~

- examine,
 - 7 17 prepare, maintain, and operate

~~such~~

- the underground gas
 - 7 18 storage facilities.

~~The right of appropriation hereby granted~~

- 7 19

~~shall be without prejudice to the rights of the owner of said~~

- 7 20

~~lands or of other rights or interests therein to drill or bore~~

- 7 21

~~through the underground stratum or formation so appropriated~~

- 7 22

~~in such manner as shall comply with orders, rules of the board~~

~~7 23~~

~~issued for the purpose of protecting underground storage~~

~~7 24~~

~~strata or formations against pollution and against the escape~~

~~7 25~~

~~of gas therefrom and shall be without prejudice to the rights~~

~~7 26~~

~~of the owner of said lands or other rights or interest therein~~

~~7 27~~

~~as to all other uses thereof.~~

~~7 28~~

~~If agreement cannot be made with the private owner of lands~~

~~7 29~~

~~as to damages caused by the construction of said pipeline or~~

~~7 30~~

~~gas storage facilities, the same proceedings shall be taken as~~

~~7 31~~

~~provided for taking private property for works of internal~~

~~7 32~~

~~improvement.~~

~~7 33~~

~~Nothing in this~~

~~This chapter~~

~~shall~~

~~does not~~ authorize the

7 34 construction of a pipeline longitudinally on, over or under

7 35 any railroad right of way or public highway, or at other than

8 1 an approximate right angle to

~~such~~

~~a~~ railroad track or public

8 2 highway without the consent of

~~such~~

~~the~~ railroad company, the

8 3 state department of transportation, or the county board of

8 4 supervisors,

~~as the case may be, nor shall any provision of~~

8 5 and this chapter does not authorize or give the right of

8 6 condemnation or eminent domain for such purposes.

8 7 Sec. 10. Section [479.25](#), Code 1995, is amended to read as

8 8 follows:
8 9 479.25 DAMAGES.
8 10

~~Pipeline companies~~

- ~~A pipeline company~~ operating

~~pipelines~~

- ~~a~~

8 11 pipeline or a gas storage area shall have reasonable access to
8 12 the

~~same~~

- pipeline or gas storage area for the purpose of
8 13 constructing,

~~reconstructing, enlarging, repairing~~

- operating,

8 14 maintaining, or locating

~~their~~

- pipes, pumps, pressure

8 15 apparatus or other stations, wells, devices, or equipment used
8 16 in or upon

~~such line~~

- the pipeline or gas storage area

~~, but~~

- ~~i~~

8 17 shall pay

~~to~~

- the owner of

~~such lands~~

- the land for the right of

8 18 entry

~~thereon~~

- and the owner of crops

~~thereon~~

- for all damages

8 19 caused by entering, using, or occupying

~~said lands for said~~

-

8 20

~~purposes~~

- the land; and shall pay to the owner

~~or owners of~~

-

8 21

~~such lands~~

- all damages caused

~~after~~

- by the completion of

8 22 construction of

~~said~~

- the pipeline

~~on account of~~
- ~~due to~~ wash or
8 23 erosion of the soil at or along the location of

~~said~~
- ~~the~~
8 24 pipeline

~~by reason of the construction thereof upon said lands~~
-
8 25

~~on account of~~
- ~~and due to~~ the settling of the soil along and
8 26 above

~~said~~
- ~~the~~ pipeline

~~, provided, that nothing herein~~
-
8 27

~~contained shall~~
- ~~However, this section shall not prevent the~~
8 28 execution of an agreement between the pipeline company and the
8 29 owner of

~~said~~
- land or crops with reference to the use

~~thereof~~
-
8 30 of the land.

8 31 Sec. 11. Section [479.27](#), Code 1995, is amended to read as
8 32 follows:
8 33 479.27 VENUE

~~and~~ ~~SERVICE OF ORIGINAL NOTICE~~

-
8 34 In all cases arising under this chapter, the district court
8 35 of any county

~~, through~~
- ~~in~~ which

~~said~~
- ~~property of a~~ pipeline
9 1 company is located

~~,~~
- shall have jurisdiction

~~; and service of~~

-
9 2

~~original notice on the pipeline company therein shall be had~~

-
9 3

~~and made upon the chairperson of the board~~

-
9 4 Sec. 12. Section [479.29](#), subsection 1, Code 1995, is
9 5 amended to read as follows:
9 6 1. The board shall, pursuant to chapter 17A, adopt rules
9 7 establishing standards for the protection of underground

9 8 improvements during the construction of pipelines, to protect
9 9 soil conservation and drainage structures from being
9 10 permanently damaged by pipeline construction and for the
9 11 restoration of agricultural lands after pipeline construction.
9 12 To ensure that all interested persons are informed of this
9 13 rule-making procedure and are afforded a right to participate,
9 14 the board shall schedule an opportunity for oral presentations
9 15 on the proposed rule making, and, in addition to the
9 16 requirements of section 17A.4, shall distribute copies of the
9 17 notice of intended action and opportunity for oral
9 18 presentations to each county board of supervisors. Any county
9 19 board of supervisors may, under the provisions of chapter 17A,
9 20 and subsequent to the rule-making proceedings, petition under
9 21 those provisions for additional rule making to establish
9 22 standards to protect soil conservation practices, structures
9 23 and drainage structures within that county. Upon the request
9 24 of the petitioning county the board shall schedule a hearing
9 25 to consider the merits of the petition.

~~These rules~~

~~- Rules~~

9 26 adopted under this section shall not apply within the
9 27 boundaries of a city, unless the land is used for agricultural
9 28 purposes.
9 29 Sec. 13. Section [479.30](#), Code 1995, is amended to read as
9 30 follows:
9 31 479.30 ENTRY FOR LAND SURVEYS.
9 32

~~- A~~

~~- After the informational meeting or after the filing of a
9 33 petition if no informational meeting is required, a pipeline
9 34 company may enter upon private land for the purpose of~~

~~making~~

~~-~~

9 35

~~land surveys~~

~~- surveying and examining the land to determine the~~

10 1 direction or depth of

~~pipelines, not to exceed a depth of~~

~~-~~

10 2

~~twenty five feet, after receipt of a permit to construct,~~

~~-~~

10 3

~~maintain and operate its pipeline~~

~~- a pipeline by giving ten~~

10 4 days' written notice by restricted certified mail to the
10 5 landowner as defined in section 479.5 and to any person
10 6 residing on or in possession of the land. The entry for land
10 7 surveys authorized in this section shall not be deemed a
10 8 trespass and may be aided by injunction. The pipeline company
10 9 shall pay the actual damages caused by the entry.

~~and~~

~~- survey.~~

10 10 and examination.

10 11 Sec. 14. Section 479.31, unnumbered paragraph 1, Code
10 12 1995, is amended to read as follows:

10 13

~~- Any~~

- A person who violates

~~any provision of~~

- this chapter or

10 14 any

~~regulation~~

- rule or order issued pursuant to this chapter

10 15 shall be subject to a civil penalty

~~of~~

- levied by the board not

10 16 to exceed ten thousand dollars for each violation. Each day
10 17 that the violation continues shall constitute a separate
10 18 offense. However, the maximum civil penalty shall not exceed
10 19 five hundred thousand dollars for any related series of
10 20 violations. Civil penalties collected pursuant to this
10 21 section shall be credited to the Iowa energy center created in
10 22 section 266.39C.

10 23 Sec. 15. Section [479.41](#), Code 1995, is amended to read as
10 24 follows:

10 25 479.41 ARBITRATION AGREEMENTS.

10 26 If an easement or other written agreement between a
10 27 landowner and a pipeline company provides for the
10 28 determination through arbitration of the amount of monetary
10 29 damages sustained by a landowner and caused by the
10 30 construction, maintenance, or repair of a pipeline, and if
10 31 either

~~person~~

- party has not appointed its arbitrator or agreed

10 32 to an arbitrator under the agreement within thirty days after
10 33 the other

~~person~~

- party has invoked the arbitration provisions

10 34 of the agreement by written notice to the other party by
10 35 restricted certified mail, the landowner or the pipeline
11 1 company may petition a judicial magistrate in the county where
11 2 the real property is located for the appointment of an
11 3 arbitrator to serve in the stead of the arbitrator who would
11 4 have been appointed or agreed to by the other

~~person~~

- party.

11 5 Before filing the petition the landowner or pipeline company
11 6 shall give notice of the petitioning of the judicial
11 7 magistrate by restricted certified mail to the other

~~person~~

- party and file proof of mailing with the petition. If after
11 9 hearing, the magistrate finds that the landowner or pipeline
11 10 company has not been diligent in appointing or reasonable in
11 11 agreeing to an arbitrator, the magistrate shall appoint an
11 12 impartial arbitrator who shall have all of the powers and
11 13 duties of an arbitrator appointed or agreed to by the other
11 14

~~person~~

- party under the agreement.

11 15 For purposes of this section only, "landowner" means the
11 16 persons who signed the easement or other written agreement,
11 17 their heirs, successors, and assigns.

11 18 Sec. 16. Section [479.42](#), Code 1995, is amended to read as
11 19 follows:

11 20 479.42 SUBSEQUENT PIPELINES.

11 21 A pipeline company shall not install a subsequent pipeline
11 22 upon its existing easement when a damage claim from the
11 23 installation of its previous pipeline on that easement has not
11 24 been

~~—determined by negotiation, arbitration or action of the~~

11 25

~~—courts. This section does not apply if
—resolved, unless the~~

11 26 damage claim is under litigation,

~~—or~~

~~—arbitration, or a~~

11 27 proceeding pursuant to section 479.46.

11 28 With the exception of claims for damage to drain tile and
11 29 future crop deficiency, for this section to apply, landowners
11 30 and tenants must submit in writing their claims for damages
11 31 caused by installation of the pipeline within one year of
11 32 final cleanup on the real property.

11 33 Sec. 17. Section 479.46, subsections 1, 2, and 3, Code
11 34 1995, are amended to read as follows:

11 35 1. The county board of supervisors shall determine when
12 1 installation of a pipeline has been completed in that county
12 2 for the purposes of this section.

~~—Between seventy five and~~

12 3

~~—one hundred~~

~~—Not less than ninety~~ days after the completion of

12 4 installation, and if an agreement cannot be made as to

12 5 damages, a landowner whose land was affected by the

12 6 installation of the pipeline or a pipeline company may file

12 7 with the board of supervisors a petition asking that a

12 8 compensation commission determine the damages arising from the
12 9 installation of the pipeline.

12 10 2. If the board of supervisors by resolution approves the
12 11 petition, the landowner or pipeline company shall commence the
12 12 proceeding by filing an application with the chief judge of
12 13 the judicial district of the county for the appointment of a
12 14 compensation commission as provided in section 6B.4.

12 15 The application shall contain the following:

12 16 a. The name and address of the

~~—petitioning landowner~~

12 17 applicant and a description of the land on which the damage is
12 18 claimed to have occurred.

12 19 b. A description of the nature of the damage claimed to
12 20 have occurred and the amount of the damage claimed.

12 21 c. The name and address of the pipeline company claimed to
12 22 have caused the damage or the name and address of the affected
12 23 landowner.

12 24 3. After the commissioners have been appointed, the

12 25

~~—landowner~~

~~—applicant~~ shall serve notice on the pipeline company

12 26 or the landowner stating the following:

12 27 a. That a compensation commission has been appointed to
12 28 determine the damages caused by the installation of the
12 29 pipeline.

12 30 b. The name and address of the

~~landowner~~

- applicant and a

12 31 description of the land on which the damage is claimed to have
12 32 occurred.

12 33 c. The date, time, and place when the commissioners will
12 34 view the premises and proceed to appraise the damages and that
12 35 the pipeline company or the landowner may appear before the
13 1 commissioners.

13 2 Sections 6B.10 to 6B.13 apply to this notice. If more than
13 3 one landowner petitions the county board of supervisors, the
13 4 application to the chief judge, notice to the pipeline
13 5 company, and appraisal of damages shall be consolidated
13 6 into one application, notice, and appraisal. The county
13 7 attorney may assist in co-ordinating the consolidated
13 8 application and notice, but does not become an attorney for
13 9 the landowners by doing so.

13 10 Sec. 18. Section [479.47](#), Code 1995, is amended to read as
13 11 follows:

13 12 479.47 SUBSEQUENT TILING.

13 13 All additional costs of new tile construction caused by an
13 14 existing pipeline shall be paid by the pipeline company.

~~The~~

13 15

~~additional costs shall be paid by the pipeline company upon~~

13 16

~~presentation of an invoice, verified by the county engineer or~~

13 17

~~soil and water conservation district conservationist and~~

13 18

~~specifically showing the added costs caused by the presence of~~

13 19

~~the pipeline. A copy of the county engineer's or district~~

13 20

~~conservationist's verification of additional costs shall~~

13 21

~~accompany the invoice to the pipeline company.~~

- To receive

13 22 compensation under this section, the landowner or agent of the
13 23 landowner shall either present an invoice specifying the
13 24 additional costs caused by the presence of the pipeline which
13 25 is accompanied by a written verification of the additional
13 26 costs by the county engineer or soil and water conservation
13 27 district conservationist or reach an agreement with the
13 28 pipeline company on the project design and share of the cost
13 29 to be paid by the pipeline company during the planning of the
13 30 tiling project.

13 31 Sec. 19. Section [479A.11](#), Code 1995, is amended to read as
13 32 follows:

13 33 479A.11 DAMAGES.

13 34

~~Pipeline companies~~

- A pipeline company operating pipelines

13 35 or underground storage shall be given reasonable access to the
14 1 pipelines and storage areas for the purpose of constructing,
14 2

~~reconstructing, enlarging, repairing,
operating, maintaining,~~

14 3 or locating their pipes, pumps, pressure apparatus, or other
14 4 stations, wells, devices, or equipment used in or upon a
14 5 pipeline or storage area, but shall pay the owner of the lands
14 6 for the right of entry and the owner of crops on the land all
14 7 damages caused by entering, using, or occupying the lands for
14 8 these purposes; and shall pay to the owner of the lands, after
14 9 the completion of construction of the pipeline or storage, all
14 10 damages caused by settling of the soil along and above the
14 11 pipeline, and wash or erosion of the soil along the pipeline
14 12 due to the construction of the pipeline. However, this
14 13 section does not prevent the execution of an agreement with
14 14 other terms between the pipeline company and the owner of the
14 15 land or crops with reference to their use.

14 16 Sec. 20. Section [479A.13](#), Code 1995, is amended to read as
14 17 follows:

14 18 479A.13 JURISDICTION

~~and~~ ~~SERVICE OF ORIGINAL NOTICE~~

14 19 In all cases arising under this chapter, the district court
14 20 of any county in which property of a pipeline company is
14 21 located, has jurisdiction of a case involving that company

14 22

~~and service of original notice on the pipeline company may be~~

14 23

~~made by serving the chairperson of the board~~

14 24 Sec. 21. Section [479A.14](#), subsection 1, Code 1995, is
14 25 amended to read as follows:

14 26 1. The board shall adopt rules establishing standards to
14 27 protect underground improvements during the construction of
14 28 pipelines, to protect soil conservation and drainage
14 29 structures from being permanently damaged by pipeline
14 30 construction, and for the restoration of agricultural lands
14 31 after pipeline construction. To ensure that all interested
14 32 persons are informed of this rulemaking procedure and are
14 33 afforded a right to participate, the board shall schedule an
14 34 opportunity for oral presentations on the proposed rulemaking
14 35 and, in addition to the requirements of section 17A.4, shall
15 1 distribute copies of the notice of intended action and
15 2 opportunity for oral presentations to each county board of
15 3 supervisors. A county board of supervisors may, under chapter
15 4 17A and subsequent to the rulemaking proceedings, petition for
15 5 additional rulemaking to establish standards to protect soil
15 6 conservation practices, structures, and drainage structures
15 7 within that county. Upon the request of the petitioning
15 8 county, the board shall schedule a hearing to consider the
15 9 merits of the petition. Rules adopted under this section do
15 10 not apply within the boundaries of a city, unless the land is
15 11 used for agricultural purposes.

15 12 Sec. 22. Section [479A.15](#), Code 1995, is amended to read as
15 13 follows:

15 14 479A.15 ENTRY FOR LAND SURVEYS.

15 15 A pipeline company may enter upon private land for the

15 16 purpose of

~~making land surveys~~

- surveying and examining the

15 17 land to determine direction or depth of

~~pipelines~~

- a pipeline

15 18 by giving ten days' written notice by restricted certified
15 19 mail to the landowner and to any person residing on or in
15 20 possession of the land. For purposes of this section only,
15 21 "landowner" means a person listed on the tax assessment rolls
15 22 as responsible for the payment of real estate taxes imposed on
15 23 the property. The entry for land surveys authorized in this
15 24 section is not a trespass and may be aided by injunction. The
15 25 pipeline company shall pay the actual damages caused by the
15 26 entry and survey.

15 27 Sec. 23. Section 479A.16, unnumbered paragraph 1, Code
15 28 1995, is amended to read as follows:

15 29 A person who violates a provision of this chapter or a rule
15 30 or standards issued pursuant to this chapter is subject to a
15 31 civil penalty levied by the board not to exceed one thousand
15 32 dollars for each violation. Each day that the violation
15 33 continues constitutes a separate offense. However, the civil
15 34 penalty shall not exceed two hundred thousand dollars for any
15 35 related series of violations.

16 1 Sec. 24. Section 479A.20, Code 1995, is amended to read as
16 2 follows:

16 3 479A.20 ARBITRATION AGREEMENTS.

16 4 Notwithstanding conflicting provisions of chapter 679A, if
16 5 an easement or other written agreement between a landowner and
16 6 a pipeline company provides for the determination through
16 7 arbitration of the amount of monetary damages sustained by a
16 8 landowner and caused by the construction, maintenance, or re-
16 9 pair of a pipeline, and if either

~~person~~

- party has not

16 10 appointed its arbitrator or agreed to an arbitrator under the
16 11 agreement within thirty days after the other

~~person~~

- party has

16 12 invoked the arbitration provisions of the agreement by written
16 13 notice to the other party by restricted certified mail, the
16 14 landowner or the pipeline company may petition a magistrate in
16 15 the county where the real property is located for the
16 16 appointment of an arbitrator to serve in place of the
16 17 arbitrator who would have been appointed or agreed to by the
16 18 other

~~person~~

- party. Before filing the petition the landowner

16 19 or pipeline company shall give notice of the petitioning of
16 20 the magistrate by restricted certified mail to the other
16 21

~~person~~

- party and file proof of mailing with the petition. If,

16 22 after hearing, the magistrate finds that the landowner or
16 23 pipeline company has not been diligent in appointing or
16 24 reasonable in agreeing to an arbitrator, the magistrate shall
16 25 appoint an impartial arbitrator who shall have all of the
16 26 powers and duties of an arbitrator appointed or agreed to by
16 27 the other

~~person~~

- party under the agreement.

16 28 For purposes of this section only, "landowner" means the
16 29 persons who signed the easement or other written agreement,
16 30 their heirs, successors, and assigns.

16 31 Sec. 25. Section [479A.21](#), Code 1995, is amended to read as
16 32 follows:

16 33 479A.21 SUBSEQUENT PIPELINES.

16 34 A pipeline company shall not install a subsequent pipeline
16 35 upon its existing easement when a damage claim from the
17 1 installation of its previous pipeline on that easement has not
17 2 been

~~17 3 determined by negotiation, arbitration, or action of the~~

~~17 3~~

~~17 4 courts. However, this section does not apply if the damage~~

~~17 5 resolved unless that claim is under litigation or arbitration
17 6 or is the subject of a proceeding pursuant to section 479A.25.~~

17 6 Sec. 26. Section 479A.25, subsections 1, 2, and 3, Code
17 7 1995, are amended to read as follows:

17 8 1. The county board of supervisors shall determine when
17 9 installation of a pipeline has been completed in that county
17 10 for the purposes of this section.

~~17 11 Within one year of~~

~~17 12 Not less~~

17 11 than ninety days after the completion of installation, and if
17 12 an agreement cannot be made as to damages, a landowner whose
17 13 land was affected by the installation of the pipeline or the
17 14 pipeline company may file with the board of supervisors a
17 15 petition asking that a compensation commission determine the
17 16 damages arising from the installation of the pipeline.

17 17 2. If the board of supervisors by resolution approves the
17 18 petition, the landowner or pipeline company shall commence the
17 19 proceeding by filing an application with the chief judge of
17 20 the judicial district of the county for the appointment of a
17 21 compensation commission as provided in section 6B.4.

17 22 The application shall contain all of the following:

17 23 a. The name and address of the

~~17 24 petitioning landowner~~

~~17 25~~
17 24 applicant and a description of the land on which the damage is
17 25 claimed to have occurred.

17 26 b. A description of the nature of the damage claimed to
17 27 have occurred and the amount of the damage claimed.

17 28 c. The name and address of the pipeline company claimed to
17 29 have caused the damage or the name and address of the affected
17 30 landowner.

17 31 3. After the commissioners have been appointed, the
17 32

~~17 33 landowner~~

~~17 34~~
- applicant shall serve notice on the pipeline company

17 33 or the landowner stating all of the following:

17 34 a. That a compensation commission has been appointed to
17 35 determine the damages caused by the installation of the pipe-
18 1 line.

18 2 b. The name and address of the

~~18 3 landowner~~

~~18 4~~
- applicant and a

18 3 description of the land on which the damage is claimed to have
18 4 occurred.

18 5 c. The place, date, and time when the commissioners will

18 6 view the premises and proceed to appraise the damages and that
18 7 the pipeline company or landowner may appear before the
18 8 commissioners.
18 9

~~d. That the pipeline company may appear before the com-~~

18 10

~~missioners.~~

18 11 Sections 6B.10 to 6B.13 apply to this notice. If more than
18 12 one landowner petitions the county board of supervisors, the
18 13 application to the chief judge, notice to the pipeline
18 14 company, and appraisal of damages shall be consolidated
18 15 into one application, notice, and appraisal. The county
18 16 attorney may assist in coordinating the consolidated
18 17 application and notice, but does not become an attorney for
18 18 the landowners by doing so.

18 19 Sec. 27. Section [479A.26](#), Code 1995, is amended to read as
18 20 follows:

18 21 479A.26 SUBSEQUENT TILING.

18 22 Additional costs of new tile construction caused by an
18 23 existing pipeline shall be paid by the pipeline company.

~~The~~

18 24

~~additional costs shall be paid by the pipeline company upon~~

18 25

~~presentation of an invoice, verified by the county engineer or~~

18 26

~~soil and water conservation district conservationist and~~

18 27

~~specifically showing the added costs caused by the presence of~~

18 28

~~the pipeline. A copy of the county engineer's or district~~

18 29

~~conservationist's verification of additional costs shall~~

18 30

~~accompany the invoice to the pipeline company.~~

~~To receive~~

18 31 compensation under this section, the landowner or agent of the
18 32 landowner shall either present an invoice specifying the
18 33 additional costs caused by the presence of the pipeline which
18 34 is accompanied by a written verification of the additional
18 35 costs by the county engineer or soil and water conservation
19 1 district conservationist or reach an agreement with the
19 2 pipeline company on the project design and share of the cost
19 3 to be paid by the pipeline company during the planning of the
19 4 tiling project.

19 5 Sec. 28. NEW SECTION. 479B.1 PURPOSE ‐ AUTHORITY.

19 6 It is the purpose of the general assembly in enacting this
19 7 law to grant the utilities board the authority to implement

19 8 certain controls over hazardous liquid pipelines to protect
19 9 landowners and tenants from environmental or economic damages
19 10 which may result from the construction, operation, or
19 11 maintenance of a hazardous liquid pipeline or underground
19 12 storage facility within the state, to approve the location and
19 13 route of hazardous liquid pipelines, and to grant rights of
19 14 eminent domain where necessary.

19 15 Sec. 29. NEW SECTION. 479B.2 DEFINITIONS.

19 16 As used in this chapter, unless the context appears
19 17 otherwise:

19 18 1. "Board" means the utilities board within the utilities
19 19 division of the department of commerce.

19 20 2. "Hazardous liquid" means crude oil, refined petroleum
19 21 products, liquefied petroleum gases, anhydrous ammonia, liquid
19 22 fertilizers, liquefied carbon dioxide, alcohols, and coal
19 23 slurries.

19 24 3. "Pipeline" means an interstate pipe or pipeline and
19 25 necessary appurtenances used for the transportation or
19 26 transmission of hazardous liquids.

19 27 4. "Pipeline company" means a person engaged in or
19 28 organized for the purpose of owning, operating, or controlling
19 29 pipelines for the transportation or transmission of any
19 30 hazardous liquid or underground storage facilities for the
19 31 underground storage of any hazardous liquid.

19 32 5. "Underground storage" means storage of hazardous liquid
19 33 in a subsurface stratum or formation of the earth.

19 34 6. "Utilities division" means the utilities division of
19 35 the department of commerce.

20 1 Sec. 30. NEW SECTION. 479B.3 CONDITIONS ATTENDING
20 2 OPERATION.

20 3 A pipeline company shall not construct, maintain, or
20 4 operate a pipeline or underground storage facility under,
20 5 along, over, or across any public or private highways,
20 6 grounds, waters, or streams of any kind in this state except
20 7 in accordance with this chapter.

20 8 Sec. 31. NEW SECTION. 479B.4 APPLICATION FOR PERMIT
20 9 INFORMATIONAL MEETING & NOTICE.

20 10 A pipeline company doing business in this state shall file
20 11 a verified petition with the board asking for a permit to
20 12 construct, maintain, and operate a new pipeline along, over,
20 13 or across the public or private highways, grounds, waters, and
20 14 streams of any kind in this state. Any pipeline company now
20 15 owning or operating a pipeline in this state shall be issued a
20 16 permit by the board upon supplying the information as provided
20 17 for in section 479B.5, subsections 1 through 5, and meeting
20 18 the requirements of section 479B.13.

20 19 A pipeline company doing business in this state and
20 20 proposing to store hazardous liquid underground within this
20 21 state shall file with the board a verified petition asking for
20 22 a permit to construct, maintain, and operate facilities for
20 23 the underground storage of hazardous liquid which includes the
20 24 construction, placement, maintenance, and operation of
20 25 machinery, appliances, fixtures, wells, pipelines, and
20 26 stations necessary for the construction, maintenance, and
20 27 operation of the underground storage facilities.

20 28 The pipeline company shall hold informational meetings in
20 29 each county in which real property or property rights will be
20 30 affected at least thirty days prior to filing the petition for
20 31 a new pipeline. A member of the board, or a person designated
20 32 by the board, shall serve as the presiding officer at each
20 33 meeting and present an agenda for the meeting which shall
20 34 include a summary of the legal rights of the affected
20 35 landowners. No formal record of the meeting shall be
21 1 required. The meeting shall be held at a location reasonably
21 2 accessible to all persons who may be affected by granting the
21 3 permit.

21 4 The pipeline company seeking the permit for a new pipeline

21 5 shall give notice of the informational meeting to each
21 6 landowner affected by the proposed project and each person in
21 7 possession of or residing on the property. For the purposes
21 8 of the informational meeting, "landowner" means a person
21 9 listed on the tax assessment rolls as responsible for the
21 10 payment of real estate taxes imposed on the property and
21 11 "pipeline" means a line transporting a hazardous liquid under
21 12 pressure in excess of one hundred fifty pounds per square inch
21 13 and extending a distance of not less than five miles or having
21 14 a future anticipated extension of an overall distance of five
21 15 miles.

21 16 The notice shall set forth the following: the name of the
21 17 applicant, the applicant's principal place of business, the
21 18 general description and purpose of the proposed project, the
21 19 general nature of the right-of-way desired, a map showing the
21 20 route or location of the proposed project, that the landowner
21 21 has a right to be present at the meeting and to file
21 22 objections with the board, and a designation of the time and
21 23 place of the meeting. The notice shall be sent by restricted
21 24 certified mail and shall be published once in a newspaper of
21 25 general circulation in the county not less than thirty days
21 26 before the date set for the meeting. The publication shall be
21 27 considered notice to landowners whose residence is not known
21 28 and to each person in possession of or residing on the
21 29 property provided a good faith effort to notify can be
21 30 demonstrated by the pipeline company.

21 31 A pipeline company seeking rights under this chapter shall
21 32 not negotiate or purchase an easement or other interest in
21 33 land in a county known to be affected by the proposed project
21 34 prior to the informational meeting.

21 35 Sec. 32. NEW SECTION. 479B.5 PETITION.

22 1 A petition for a permit shall state all of the following:

22 2 1. The name of the individual, firm, corporation, company,
22 3 or association applying for the permit.

22 4 2. The applicant's principal office and place of business.

22 5 3. A legal description of the route of the proposed
22 6 pipeline and a map of the route.

22 7 4. A general description of the public or private
22 8 highways, grounds, waters, streams, and private lands of any
22 9 kind along, over, or across which the proposed pipeline will
22 10 pass.

22 11 5. If permission is sought to construct, maintain, and
22 12 operate facilities for the underground storage of hazardous
22 13 liquids the petition shall include the following additional
22 14 information:

22 15 a. A description and a map of the public or private
22 16 highways, grounds, waters, streams, and private lands of any
22 17 kind under which the storage is proposed.

22 18 b. Maps showing the location of proposed machinery,
22 19 appliances, fixtures, wells, and stations necessary for the
22 20 construction, maintenance, and operation of the hazardous
22 21 liquid storage facilities.

22 22 6. The possible use of alternative routes.

22 23 7. The relationship of the proposed project to the present
22 24 and future land use and zoning ordinances.

22 25 8. The inconvenience or undue injury which may result to
22 26 property owners as a result of the proposed project.

22 27 9. An affidavit attesting to the fact that informational
22 28 meetings were held in each county affected by the proposed
22 29 project and the time and place of each meeting.

22 30 Sec. 33. NEW SECTION. 479B.6 HEARING ‐ NOTICE.

22 31 After the petition is filed, the board shall fix a date for
22 32 a hearing and shall publish notice for two consecutive weeks,
22 33 in a newspaper of general circulation in each county through
22 34 which the proposed pipeline or hazardous liquid storage
22 35 facilities will extend.

23 1 The hearing shall not be less than ten days nor more than

23 2 thirty days from the date of the last publication of the
23 3 notice. If the pipeline exceeds five miles in length, the
23 4 hearing shall be held in the county seat of the county located
23 5 at the midpoint of the proposed pipeline or the county in
23 6 which the proposed hazardous liquid storage facility would be
23 7 located.

23 8 Sec. 34. NEW SECTION. 479B.7 OBJECTIONS.

23 9 A person, including a governmental entity, whose rights or
23 10 interests may be affected by the proposed pipeline or
23 11 hazardous liquid storage facilities may file written
23 12 objections.

23 13 All objections shall be on file with the board not less
23 14 than five days before the date of hearing on the application.
23 15 However, the board may permit the filing of the objections
23 16 later than five days before the hearing, in which event the
23 17 applicant must be granted a reasonable time to meet the
23 18 objections.

23 19 Sec. 35. NEW SECTION. 479B.8 EXAMINATION & TESTIMONY.

23 20 The board may examine the proposed route of the pipeline
23 21 and location of the underground storage facility. At the
23 22 hearing the board shall consider the petition and any
23 23 objections and may hear testimony to assist the board in
23 24 making its determination regarding the application.

23 25 Sec. 36. NEW SECTION. 479B.9 FINAL ORDER & CONDITION.

23 26 The board may grant a permit in whole or in part upon
23 27 terms, conditions, and restrictions as to location and route
23 28 as it determines to be just and proper. A permit shall not be
23 29 granted to a pipeline company unless the board determines that
23 30 the proposed services will promote the public convenience and
23 31 necessity.

23 32 Sec. 37. NEW SECTION. 479B.10 COSTS AND FEES.

23 33 The applicant shall pay all costs of the informational
23 34 meetings, hearing, and necessary preliminary investigation
23 35 including the cost of publishing notice of hearing, and shall
24 1 pay the actual unrecovered costs directly attributable to
24 2 inspections conducted by the board.

24 3 Sec. 38. NEW SECTION. 479B.11 INSPECTION FEE.

24 4 If the board enters into agreements with the United States
24 5 department of transportation pursuant to section 479B.23, a
24 6 pipeline company shall pay an annual fee of fifty cents per
24 7 mile of pipeline or fraction thereof for each inch of diameter
24 8 of the pipeline located in the state. The inspection fee
24 9 shall be paid to the board between January 1 and February 1
24 10 for the calendar year.

24 11 The board shall collect all fees. Failure to pay any fee
24 12 within thirty days from the due date shall be grounds for
24 13 revocation of the permit or assessment of civil penalties.

24 14 Sec. 39. NEW SECTION. 479B.12 USE OF FUNDS.

24 15 All moneys received under this chapter, other than civil
24 16 penalties collected pursuant to section 479B.21, shall be
24 17 remitted monthly to the treasurer of state and credited to the
24 18 general fund of the state.

24 19 Sec. 40. NEW SECTION. 479B.13 FINANCIAL CONDITION OF
24 20 PERMITTEE BOND.

24 21 Before a permit is granted under this chapter the applicant
24 22 must satisfy the board that the applicant has property within
24 23 this state other than pipelines or underground storage
24 24 facilities, subject to execution of a value in excess of two
24 25 hundred fifty thousand dollars, or the applicant must file and
24 26 maintain with the board a surety bond in the penal sum of two
24 27 hundred fifty thousand dollars with surety approved by the
24 28 board, conditioned that the applicant will pay any and all
24 29 damages legally recovered against it growing out of the
24 30 construction, maintenance, or operation of its pipeline or
24 31 underground storage facilities in this state. When the
24 32 pipeline company deposits with the board security satisfactory
24 33 to the board as a guaranty for the payment of the damages, or

24 34 furnishes to the board satisfactory proofs of its solvency and
24 35 financial ability to pay the damages, the pipeline company is
25 1 relieved of the provisions requiring bond.

25 2 Sec. 41. NEW SECTION. 479B.14 PERMITS ‐ LIMITATIONS ‐;
25 3 SALE OR TRANSFER ‐ RECORDS ‐ EXTENSION.

25 4 The board shall prepare and issue permits. The permit
25 5 shall show the name and address of the pipeline company to
25 6 which it is issued and identify the decision and order of the
25 7 board under which the permit is issued. The permit shall be
25 8 signed by the chairperson of the board and the official seal
25 9 of the board shall be affixed to it.

25 10 The board shall not grant an exclusive right to any
25 11 pipeline company to construct, maintain, or operate its
25 12 pipeline along, over, or across any public or private highway,
25 13 grounds, waters, or streams. The board shall not grant a
25 14 permit for longer than twenty-five years.

25 15 A permit shall not be sold until the sale is approved by
25 16 the board.

25 17 If a transfer of a permit is made before the construction
25 18 for which it was issued is completed in whole or in part, the
25 19 transfer shall not be effective until the pipeline company to
25 20 which it was issued files with the board a notice in writing
25 21 stating the date of the transfer and the name and address of
25 22 the transferee.

25 23 The board shall keep a record of all permits granted by it,
25 24 showing when and to whom granted and the location and route of
25 25 the pipeline or underground storage facility, and if the
25 26 permit has been transferred, the date and the name and address
25 27 of the transferee.

25 28 A pipeline company may petition the board for an extension
25 29 of a permit granted under this section by filing a petition
25 30 containing the information required by section 479B.5,
25 31 subsections 1 through 5, and meeting the requirements of
25 32 section 479B.13.

25 33 Sec. 42. NEW SECTION. 479B.15 ENTRY FOR LAND SURVEYS.

25 34 After the informational meeting or after the filing of a
25 35 petition if no informational meeting is required, a pipeline
26 1 company may enter upon private land for the purpose of
26 2 surveying and examining the land to determine direction or
26 3 depth of pipelines by giving ten days' written notice by
26 4 restricted certified mail to the landowner as defined in
26 5 section 479B.4 and to any person residing on or in possession
26 6 of the land. The entry for land surveys shall not be deemed a
26 7 trespass and may be aided by injunction. The pipeline company
26 8 shall pay the actual damages caused by the entry, survey, and
26 9 examination.

26 10 Sec. 43. NEW SECTION. 479B.16 EMINENT DOMAIN.

26 11 A pipeline company granted a pipeline permit shall be
26 12 vested with the right of eminent domain, to the extent
26 13 necessary and as prescribed and approved by the board, not
26 14 exceeding seventy-five feet in width for right-of-way and not
26 15 exceeding one acre in any one location in addition to right-
26 16 of-way for the location of pumps, pressure apparatus, or other
26 17 stations or equipment necessary to the proper operation of its
26 18 pipeline. The board may grant additional eminent domain
26 19 rights where the pipeline company has presented sufficient
26 20 evidence to adequately demonstrate that a greater area is
26 21 required for the proper construction, operation, and
26 22 maintenance of the pipeline or for the location of pumps,
26 23 pressure apparatus, or other stations or equipment necessary
26 24 to the proper operation of its pipeline.

26 25 A pipeline company granted a permit for underground storage
26 26 of hazardous liquid shall be vested with the right of eminent
26 27 domain to the extent necessary and as prescribed and approved
26 28 by the board in order to appropriate for its use for the
26 29 underground storage of hazardous liquid any subsurface stratum
26 30 or formation in any land which the board shall have found to

26 31 be suitable and in the public interest for the underground
26 32 storage of hazardous liquid, and may appropriate other
26 33 interests in property, as may be required adequately to
26 34 examine, prepare, maintain, and operate the underground
26 35 storage facilities.

27 1 This chapter does not authorize the construction of a
27 2 pipeline longitudinally on, over, or under any railroad right-
27 3 of-way or public highway, or at other than an approximate
27 4 right angle to a railroad track or public highway without the
27 5 consent of the railroad company, the state department of
27 6 transportation, or the county board of supervisors, and this
27 7 chapter does not authorize or give the right of condemnation
27 8 or eminent domain for such purposes.

27 9 Sec. 44. NEW SECTION. 479B.17 DAMAGES.

27 10 A pipeline company operating a pipeline or an underground
27 11 storage facility shall have reasonable access to the pipeline
27 12 or underground storage facility for the purpose of
27 13 constructing, operating, maintaining, or locating pipes,
27 14 pumps, pressure apparatus, or other stations, wells, devices,
27 15 or equipment used in or upon the pipeline or underground
27 16 storage facility. A pipeline company shall pay the owner of
27 17 the land for the right of entry and the owner of crops for all
27 18 damages caused by entering, using, or occupying the lands and
27 19 shall pay to the owner all damages caused by the completion of
27 20 construction of the pipeline due to wash or erosion of the
27 21 soil at or along the location of the pipeline and due to the
27 22 settling of the soil along and above the pipeline. However,
27 23 this section does not prevent the execution of an agreement
27 24 between the pipeline company and the owner of the land or
27 25 crops with reference to the use of the land.

27 26 Sec. 45. NEW SECTION. 479B.18 VENUE.

27 27 In all cases arising under this chapter, the district court
27 28 of any county in which property of a pipeline company is
27 29 located has jurisdiction of a case involving the pipeline
27 30 company.

27 31 Sec. 46. NEW SECTION. 479B.19 ORDERS & ENFORCEMENT.

27 32 If the pipeline company fails to obey an order within the
27 33 period of time determined by the board, the board may commence
27 34 an equitable action in the district court of the county where
27 35 the pipeline, device, apparatus, equipment, or underground
28 1 storage facility is located to compel compliance with its
28 2 order. If, after trial, the court finds that the order is
28 3 reasonable, equitable, and just, the court shall decree a
28 4 mandatory injunction compelling obedience to and compliance
28 5 with the order and may grant other relief as may be just and
28 6 proper. Appeal from the decree may be taken in the same
28 7 manner as in other actions.

28 8 Sec. 47. NEW SECTION. 479B.20 LAND RESTORATION
28 9 STANDARDS.

28 10 1. The board, pursuant to chapter 17A, shall adopt rules
28 11 establishing standards for the protection of underground
28 12 improvements during the construction of pipelines or
28 13 underground storage facilities, to protect soil conservation
28 14 and drainage structures from being permanently damaged by
28 15 construction of the pipeline or underground storage facility,
28 16 and for the restoration of agricultural lands after pipeline
28 17 or underground storage facility construction. To ensure that
28 18 all interested persons are informed of this rulemaking
28 19 procedure and are afforded a right to participate, the board
28 20 shall schedule an opportunity for oral presentations on the
28 21 proposed rulemaking, and, in addition to the requirements of
28 22 section 17A.4, shall distribute copies of the notice of
28 23 intended action and opportunity for oral presentations to each
28 24 county board of supervisors. Any county board of supervisors
28 25 may, under the provisions of chapter 17A, and subsequent to
28 26 the rulemaking proceedings, petition under those provisions
28 27 for additional rulemaking to establish standards to protect

28 28 soil conservation practices, structures, and drainage
28 29 structures within that county. Upon the request of the
28 30 petitioning county, the board shall schedule a hearing to
28 31 consider the merits of the petition. Rules adopted under this
28 32 section shall not apply within the boundaries of a city unless
28 33 the land is used for agricultural purposes.

28 34 2. The county board of supervisors shall cause an on-site
28 35 inspection for compliance with the standards adopted under
29 1 this section to be performed at any pipeline construction
29 2 project in the county. A professional engineer familiar with
29 3 the standards adopted under this section and registered under
29 4 chapter 542B shall be responsible for the inspection. A
29 5 county board of supervisors may contract for the services of a
29 6 professional engineer for the purposes of the inspection. The
29 7 reasonable costs of the inspection shall be paid by the
29 8 pipeline company.

29 9 3. If the inspector determines that there has been a
29 10 violation of the standards adopted under this section, the
29 11 inspector shall give oral notice, followed by written notice,
29 12 to the pipeline company and the contractor operating for the
29 13 pipeline company and order corrective action to be taken in
29 14 compliance with the standards. The costs of the corrective
29 15 action shall be borne by the contractor operating for the
29 16 pipeline company.

29 17 4. As a part of the inspection process, the inspector
29 18 shall ascertain that the trench excavation has been filled in
29 19 a manner to provide that the topsoil has been replaced on top
29 20 and rocks and debris have been removed from the topsoil of the
29 21 easement area. An existing topsoil layer extending at least
29 22 one foot in width on either side of the pipeline excavation at
29 23 a maximum depth of twelve inches shall be removed separately
29 24 and shall be stockpiled and preserved separately during
29 25 subsequent construction operations, unless other means for
29 26 separating the topsoil are provided in the easement. The
29 27 topsoil shall be replaced so the upper portion of the pipeline
29 28 excavation and the crowned surface shall contain only the
29 29 topsoil originally removed.

29 30 5. Adequate inspection of underground improvements altered
29 31 during construction of the pipeline shall be conducted at the
29 32 time of the replacement or repair of the underground
29 33 improvements. An inspector shall be present on the site at
29 34 all times at each phase and separate activity of the opening
29 35 of the trench, the restoration of underground improvements,
30 1 and backfilling. The pipeline company and its contractor
30 2 shall keep all county inspectors continually informed of the
30 3 work schedule and any schedule changes.

30 4 6. If the pipeline company or its contractor does not
30 5 comply with the orders of the inspector for compliance with
30 6 the standards, the county board of supervisors may direct the
30 7 county attorney to petition the district court for an order
30 8 requiring corrective action to be taken in compliance with the
30 9 standards adopted under this section.

30 10 7. The pipeline company shall allow landowners and
30 11 inspectors to view the proposed center line of the pipeline
30 12 prior to commencing trenching operations to ensure that
30 13 construction takes place in its proper location.

30 14 8. An inspector may temporarily halt the construction if
30 15 the construction is not in compliance with the law or the
30 16 terms of the agreement with the pipeline company regarding
30 17 topsoil removal and replacement, drainage structures, soil
30 18 moisture conditions, or the location of construction until the
30 19 inspector consults with the supervisory personnel of the
30 20 pipeline company. If the construction is then continued over
30 21 the inspector's objection and is found not to be in compliance
30 22 with the law or agreement and is found to cause damage, any
30 23 civil penalty recovered under section 479B.21 as a result of
30 24 that violation shall be paid to the landowner.

30 25 9. The board shall instruct inspectors appointed by the
30 26 board of supervisors regarding the content of the statutes and
30 27 rules and the inspector's responsibility to require
30 28 construction conforming with the standards provided by this
30 29 chapter.

30 30 10. Any underground drain tile damaged, cut, or removed
30 31 shall be temporarily repaired and maintained as necessary to
30 32 allow for its proper function during construction of the
30 33 pipeline or underground storage facility. If temporary repair
30 34 is not determined to be necessary, the exposed tile shall
30 35 nonetheless be screened or otherwise protected to prevent the
31 1 entry of any foreign material or small animals into the tile
31 2 line system.

31 3 11. This section does not preclude the application of
31 4 provisions for protecting or restoring property contained in
31 5 agreements independently executed by the pipeline company and
31 6 the landowner if the provisions are not inconsistent with
31 7 state law or with rules adopted by the board.

31 8 Sec. 48. NEW SECTION. 479B.21 CIVIL PENALTY.

31 9 A person who violates this chapter or any rule or order
31 10 issued pursuant to this chapter shall be subject to a civil
31 11 penalty levied by the board in an amount not to exceed one
31 12 thousand dollars for each violation. Each day that the
31 13 violation continues shall constitute a separate offense.
31 14 However, the maximum civil penalty shall not exceed two
31 15 hundred thousand dollars for any related series of violations.
31 16 Civil penalties collected pursuant to this section shall be
31 17 credited to and are appropriated for the use of the Iowa
31 18 energy center created in section 266.39C.

31 19 A civil penalty may be compromised by the board. In
31 20 determining the amount of the penalty, or the amount agreed
31 21 upon in compromise, the appropriateness of the penalty to the
31 22 size of the pipeline company charged, the gravity of the
31 23 violation, and the good faith of the person charged in
31 24 attempting to achieve compliance, after notification of a
31 25 violation, shall be considered. The amount of the penalty,
31 26 when finally determined, or the amount agreed upon in
31 27 compromise, may be deducted from any sums owed by the state to
31 28 the person charged, or may be recovered in a civil action.

31 29 Sec. 49. NEW SECTION. 479B.22 REHEARING – JUDICIAL
31 30 REVIEW.

31 31 Rehearing procedure for any person aggrieved by actions of
31 32 the board under this chapter shall be as provided in section
31 33 476.12. Judicial review may be sought in accordance with the
31 34 terms of chapter 17A.

31 35 Sec. 50. NEW SECTION. 479B.23 AUTHORIZED FEDERAL AID.

32 1 The board may enter into agreements with and receive moneys
32 2 from the United States department of transportation for the
32 3 inspection of pipelines to determine compliance with
32 4 applicable standards of pipeline safety, and for enforcement
32 5 of the applicable standards of pipeline safety as provided by
32 6 49 U.S.C. } 60101 et seq.

32 7 Sec. 51. NEW SECTION. 479B.24 CANCELLATION.

32 8 A pipeline company seeking to acquire an easement or other
32 9 property interest for the construction, maintenance, or
32 10 operation of a pipeline or underground storage facility shall
32 11 do all of the following:

32 12 1. Allow the landowner or a person serving in a fiduciary
32 13 capacity on the landowner's behalf to cancel an agreement
32 14 granting an easement or other interest by restricted certified
32 15 mail to the pipeline company's principal place of business if
32 16 received by the pipeline company within seven days, excluding
32 17 Saturday and Sunday, of the date of the agreement and inform
32 18 the landowner or the fiduciary in writing of the right to
32 19 cancel prior to the signing of the agreement by the landowner
32 20 or the fiduciary.

32 21 2. Provide the landowner or a person serving in a

32 22 fiduciary capacity in the landowner's behalf with a form in
32 23 duplicate for the notice of cancellation.

32 24 3. Not record an agreement until after the period for
32 25 cancellation has expired.

32 26 4. Not include in the agreement a waiver of the right to
32 27 cancel in accordance with this section. The landowner or a
32 28 person serving in a fiduciary capacity in the landowner's
32 29 behalf may exercise the right of cancellation only once for
32 30 each pipeline project.

32 31 Sec. 52. NEW SECTION. 479B.25 ARBITRATION AGREEMENTS.

32 32 If an easement or other written agreement between a
32 33 landowner and a pipeline company provides for the
32 34 determination through arbitration of the amount of monetary
32 35 damages sustained by a landowner and caused by the
33 1 construction, maintenance, or repair of a pipeline or
33 2 underground storage facility, and if either party has not
33 3 appointed its arbitrator or agreed to an arbitrator under the
33 4 agreement within thirty days after the other party has invoked
33 5 the arbitration provisions of the agreement by written notice
33 6 to the other party by restricted certified mail, the landowner
33 7 or the pipeline company may petition a magistrate in the
33 8 county where the real property is located for the appointment
33 9 of an arbitrator to serve in the stead of the arbitrator who
33 10 would have been appointed or agreed to by the other party.
33 11 Before filing the petition the landowner or pipeline company
33 12 shall give notice of the petitioning of the magistrate by
33 13 restricted certified mail to the other party and file proof of
33 14 mailing with the petition.

33 15 If after hearing, the magistrate finds that the landowner
33 16 or pipeline company has not been diligent in appointing or
33 17 reasonable in agreeing to an arbitrator, the magistrate shall
33 18 appoint an impartial arbitrator who shall have all of the
33 19 powers and duties of an arbitrator appointed or agreed to by
33 20 the other party under the agreement.

33 21 For purposes of this section only, "landowner" means the
33 22 person who signed the easement or other written agreement, or
33 23 the person's heirs, successors, and assigns.

33 24 Sec. 53. NEW SECTION. 479B.26 SUBSEQUENT PIPELINE OR
33 25 UNDERGROUND STORAGE FACILITY.

33 26 A pipeline company shall not construct a subsequent
33 27 pipeline or underground storage facility upon its existing
33 28 easement when a damage claim from the installation of its
33 29 previous pipeline on that easement has not been resolved
33 30 unless that claim is under litigation or arbitration, or is
33 31 the subject of a proceeding pursuant to section 479B.30.

33 32 With the exception of claims for damage to drain tile and
33 33 future crop deficiency, for this section to apply, landowners
33 34 and tenants must submit their claims in writing for damages
33 35 caused by construction of the pipeline or underground storage
34 1 facility within one year of final cleanup on the real property
34 2 by the pipeline company.

34 3 Sec. 54. NEW SECTION. 479B.27 DAMAGE AGREEMENT.

34 4 A pipeline company shall not construct a pipeline or
34 5 underground storage facility until a written statement is on
34 6 file with the board as to how damages resulting from the
34 7 construction of the pipeline shall be determined and paid,
34 8 except in cases of eminent domain. The pipeline company shall
34 9 provide a copy of the statement to the landowner.

34 10 Sec. 55. NEW SECTION. 479B.28 NEGOTIATED FEE.

34 11 In lieu of a one-time lump sum payment for an easement or
34 12 other property interest allowing a pipeline to cross property
34 13 or allowing underground storage of hazardous liquids, a
34 14 landowner and the pipeline company may negotiate an annual
34 15 fee, to be paid over a fixed number of years. Unless the
34 16 easement provides otherwise, the annual fee shall run with the
34 17 land and shall be payable to the owner of record.

34 18 Sec. 56. NEW SECTION. 479B.29 PARTICULAR DAMAGE CLAIMS.

34 19 1. The loss of gain by or the death or injury of livestock
34 20 caused by the interruption or relocation of normal feeding of
34 21 the livestock caused by the construction or repair of a
34 22 pipeline or underground storage facility is a compensable loss
34 23 and shall be recognized by a pipeline company.

34 24 2. A claim for damage for future crop deficiency within
34 25 the easement strip shall not be precluded from renegotiation
34 26 under section 6B.52 on the grounds that it was apparent at the
34 27 time of settlement unless the settlement expressly releases
34 28 the pipeline company from claims for damage to the
34 29 productivity of the soil. The landowner shall notify the
34 30 pipeline company in writing thirty days prior to harvest in
34 31 each year to assess crop deficiency.

34 32 Sec. 57. NEW SECTION. 479B.30 DETERMINATION OF
34 33 CONSTRUCTION DAMAGES.

34 34 1. The county board of supervisors shall determine when
34 35 construction of a pipeline or underground storage facility has
35 1 been completed in that county for the purposes of this
35 2 section. Not less than ninety days after the completion of
35 3 construction and if an agreement cannot be made as to damages,
35 4 a landowner whose land was affected by the construction of the
35 5 pipeline or underground storage facility or the pipeline
35 6 company may file with the board of supervisors a petition
35 7 asking that a compensation commission determine the damages
35 8 arising from construction of the pipeline.

35 9 2. If the board of supervisors by resolution approves the
35 10 petition, the landowner or pipeline company shall commence the
35 11 proceeding by filing an application with the chief judge of
35 12 the judicial district for the county for the appointment of a
35 13 compensation commission as provided in section 6B.4. The
35 14 application shall contain all of the following information:

35 15 a. The name and address of the applicant and a description
35 16 of the land on which the damage is claimed to have occurred.

35 17 b. A description of the nature of the damage claimed to
35 18 have occurred and the amount of the damage claimed.

35 19 c. The name and address of the pipeline company claimed to
35 20 have caused the damage or the name and address of the affected
35 21 landowner.

35 22 3. After the commissioners have been appointed, the
35 23 applicant shall serve notice on the pipeline company or the
35 24 landowner stating all of the following:

35 25 a. That a compensation commission has been appointed to
35 26 determine the damages caused by the construction of the
35 27 pipeline or underground storage facility.

35 28 b. The name and address of the applicant and a description
35 29 of the land on which the damage is claimed to have occurred.

35 30 c. The date, time, and place when the commissioners will
35 31 view the premises and proceed to appraise the damages and that
35 32 the pipeline company or landowner may appear before the
35 33 commissioners.

35 34 Sections 6B.10 to 6B.13 apply to this notice. If more than
35 35 one landowner petitions the county board of supervisors, the
36 1 application to the chief judge, notice to the pipeline
36 2 company, and appraisal of damages shall be consolidated
36 3 into one application, notice, and appraisal. The county
36 4 attorney may assist in coordinating the consolidated
36 5 application and notice, but does not become an attorney for
36 6 the landowners by doing so.

36 7 4. The commissioners shall view the land at the time
36 8 provided in the notice and assess the damages sustained by the
36 9 landowner by reason of the construction of the pipeline or
36 10 underground storage facility and they shall file their report
36 11 with the sheriff. The appraisal of damages returned by the
36 12 commissioners is final unless appealed. After the
36 13 appraisal of damages has been delivered to the sheriff by
36 14 the compensation commission, the sheriff shall give written
36 15 notice by ordinary mail to the pipeline company and the

36 16 landowner of the date the appraisalment of damages was made,
36 17 the amount of the appraisalment, and that any interested party
36 18 may appeal to the district court within thirty days of the
36 19 date of mailing. The sheriff shall endorse the date of
36 20 mailing of notice on the original appraisalment of damages. At
36 21 the time of appeal, the appealing party shall give written
36 22 notice to the adverse party or the party's attorney and the
36 23 sheriff.

36 24 5. Chapter 6B applies to this section to the extent it is
36 25 applicable and consistent with this section.

36 26 6. The pipeline company shall pay all costs of the
36 27 assessment made by the commissioners and reasonable attorney
36 28 fees and costs incurred by the landowner as determined by the
36 29 commissioners if the award of the commissioners exceeds one
36 30 hundred ten percent of the final offer of the pipeline company
36 31 prior to the determination of damages; if the award does not
36 32 exceed one hundred ten percent, the landowners shall pay the
36 33 fees and costs incurred by the pipeline company. The pipeline
36 34 company shall file with the sheriff an affidavit setting forth
36 35 the most recent offer made to the landowner. Commissioners
37 1 shall receive a per diem of fifty dollars and actual and
37 2 necessary expenses incurred in the performance of their
37 3 official duties. The pipeline company shall also pay all
37 4 costs occasioned by the appeal, including reasonable attorney
37 5 fees to be taxed by the court, unless on the trial of the
37 6 appeal the same or a lesser amount of damages is awarded than
37 7 was allowed by the commission from which the appeal was taken.

37 8 7. As used in this section, "damages" means compensation
37 9 for damages to the land, crops, and other personal property
37 10 caused by the construction of a pipeline and its attendant
37 11 structures or underground storage facility but does not
37 12 include compensation for a property interest, and "landowner"
37 13 includes a farm tenant.

37 14 8. The provisions of this section do not apply if the
37 15 easement provides for any other means of negotiation or
37 16 arbitration.

37 17 Sec. 58. NEW SECTION. 479B.31 SUBSEQUENT TILING.

37 18 All additional costs of new tile construction caused by an
37 19 existing pipeline or underground storage facility shall be
37 20 paid by the pipeline company. To receive compensation under
37 21 this section, the landowner or agent of the landowner shall
37 22 either present an invoice specifying the additional costs
37 23 caused by the presence of the pipeline which is accompanied by
37 24 a written verification of the additional costs by the county
37 25 engineer or soil and water conservation district
37 26 conservationist or reach an agreement with the pipeline
37 27 company on the project design and share of the cost to be paid
37 28 by the pipeline company during the planning of the tiling
37 29 project.

37 30 Sec. 59. Section 546.7, Code 1995, is amended to read as
37 31 follows:

37 32 546.7 UTILITIES DIVISION.

37 33 The utilities division shall regulate and supervise public
37 34 utilities operating in the state. The division shall enforce
37 35 and implement chapters 476, 476A, 477C, 478, 479,

~~and~~

- 479A.

38 1 and 479B and shall perform other duties assigned to it by law.
38 2 The division is headed by the administrator of public
38 3 utilities who shall be appointed by the governor pursuant to
38 4 section 474.1.

38 5 Sec. 60. EFFECTIVE DATE. This Act, being deemed of
38 6 immediate importance, takes effect upon enactment.

38 7 Sec. 61. RETROACTIVE APPLICABILITY. The sections of this
38 8 Act which create new sections 479B.17, 479B.25, and 479B.29
38 9 through 479B.31 are retroactive to July 1, 1993.

38 10

EXPLANATION

38 11 This bill creates a new chapter 479B to regulate hazardous
38 12 liquid pipelines and amends chapter 479 regulating pipelines
38 13 and underground gas storage and chapter 479A regulating
38 14 interstate natural gas pipelines. The creation of the new
38 15 chapter is prompted by a United States Eighth Circuit Court
38 16 opinion, Kinley Corporation v. Iowa Utilities Board, 999 F.2d
38 17 354 (8th Circuit 1993) which held that the state was unable to
38 18 regulate hazardous liquid pipelines because chapter 479 was
38 19 invalid as it pertained to hazardous liquid pipelines.

38 20 The purpose of chapter 479B as stated in the Act is to
38 21 grant the Iowa utilities board the authority to implement
38 22 certain controls over hazardous liquid pipelines to protect
38 23 landowners and tenants from environmental or economic damages
38 24 which may result from the construction, operation, or
38 25 maintenance of a hazardous liquid pipeline or underground
38 26 storage facility within the state and to supervise the
38 27 location and route of hazardous liquid pipelines and
38 28 underground storage facilities and to grant eminent domain
38 29 rights when necessary.

38 30 A pipeline company is prohibited from constructing,
38 31 maintaining, or operating a pipeline or underground storage
38 32 facility without a permit issued by the board. The company
38 33 is required to hold informational meetings in each county
38 34 where property rights will be affected at least 30 days before
38 35 filing a petition for a new pipeline. Chapters 479 and 479A
39 1 are also amended to provide that informational hearings must
39 2 be held at least 30 days prior to filing a petition for a new
39 3 pipeline and to simplify the process for obtaining an
39 4 extension of the original permit.

39 5 After the company files a petition, the board sets a date
39 6 for a hearing. A person whose rights may be affected by the
39 7 permit may file written objections with the board. During the
39 8 hearing the board considers the petition, the objections, and
39 9 any other relevant testimony. The applicant must pay all the
39 10 costs of the meetings, hearing, and investigative work and the
39 11 costs of inspections conducted by the board. The bill
39 12 provides that if the board enters into an agreement with the
39 13 United States department of transportation, a pipeline company
39 14 must pay an annual fee of 50 cents per mile of pipeline or
39 15 fraction thereof for each inch of diameter of the pipeline
39 16 located in the state. The inspection fees are to be paid to
39 17 the board between January 1 and February 1 of each year. A
39 18 pipeline company who fails to pay the fees may be subject to
39 19 civil penalties or the revocation of the permit.

39 20 The bill requires that before a permit may be granted, the
39 21 applicant must satisfy the board that the applicant is in good
39 22 financial condition or provide a bond. Permits are limited to
39 23 25 years and may be sold or transferred by the permittee under
39 24 certain conditions.

39 25 After receipt of a permit, a pipeline company has the right
39 26 to survey and examine the proposed construction area. A
39 27 pipeline company issued a pipeline permit has the right of
39 28 eminent domain to the extent necessary and as approved by the
39 29 board, but not to exceed 75 feet in width for right-of-way and
39 30 not to exceed one acre in any one location in addition to
39 31 right-of-way for the location of pumps, pressure apparatus, or
39 32 other stations or equipment necessary to the operation of the
39 33 pipeline. In addition to adding these provisions to chapter
39 34 479B, the bill amends chapters 479 and 479A to provide that
39 35 the board may grant additional eminent domain rights where the
40 1 pipeline company has presented sufficient evidence to
40 2 adequately demonstrate that a greater area is required for the
40 3 proper construction, operation, and maintenance of the
40 4 pipeline or for the location of pumps, pressure apparatus, or
40 5 other stations or equipment necessary to the proper operation
40 6 of its pipeline. A pipeline company granted a permit for

40 7 underground storage of hazardous liquid is vested with the
40 8 right of eminent domain over any subsurface stratum or
40 9 formation in any land which the board finds to be suitable for
40 10 the location of an underground storage facility.

40 11 A pipeline company is granted reasonable access to the area
40 12 for the purposes of constructing, operating, maintaining, or
40 13 locating pipes, pumps, pressure apparatus, or other stations,
40 14 wells, devices, or equipment and is responsible for payment of
40 15 all damages to land or crops caused by the pipeline or storage
40 16 facility.

40 17 The bill gives the board the ability to adopt land
40 18 restoration standards to protect underground improvements
40 19 during the construction of a pipeline or underground storage
40 20 facility, soil conservation practices, and drainage structures
40 21 and for the restoration of agricultural lands. The county
40 22 board of supervisors inspects the site to ensure compliance
40 23 with the standards.

40 24 In chapter 479B, the bill provides that if an agreement for
40 25 damages cannot be reached 90 days after completion of the
40 26 installation, a landowner or pipeline company may file with
40 27 the board of supervisors of the county requesting that a
40 28 compensation commission be appointed to determine the damages
40 29 arising from the installation of the pipeline. Chapters 479
40 30 and 479A are also amended to provide that either the landowner
40 31 or the pipeline company may request the establishment of the
40 32 compensation commission and to change the time period in which
40 33 the petition may be filed from between 75 and 100 days from
40 34 installation to not less than 90 days from installation of the
40 35 pipeline.

41 1 The bill provides that the additional costs of new tile
41 2 construction caused by an existing pipeline must be paid by
41 3 the pipeline company. For chapters 479 and 479A, the bill
41 4 changes the way compensation may be obtained for these
41 5 damages. Currently, the additional costs must be verified by
41 6 the county engineer or soil and water conservation district
41 7 conservationist. The bill allows the landowner to enter into
41 8 an agreement as to costs with the pipeline company during the
41 9 planning of the tiling project.

41 10 The bill contains other provisions regarding cancellation
41 11 of the easement, arbitration agreements, and further damage
41 12 provisions. The bill provides that any person who violates a
41 13 provision of chapter 479B is subject to a civil penalty of up
41 14 to \$1,000 for each violation. Each day the violation
41 15 continues constitutes a separate violation, but the amount is
41 16 not to exceed \$250,000. The moneys are to be credited to the
41 17 Iowa energy center created in section 266.39C.

41 18 The bill is effective upon enactment and provisions of the
41 19 bill relating to damages, arbitration agreements, and
41 20 subsequent tiling for new chapter 479B are retroactive to July
41 21 1, 1993.

41 22 LSB 1975HC 76

41 23 js/jj/8