

JAN 13 1997
TRANSPORTATION

HOUSE FILE 2
BY MILLAGE

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

- 1 An Act relating to alternate and permanent access to a highway
- 2 undergoing construction or maintenance.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4

**HOUSE FILE 2
FISCAL NOTE**

A fiscal note for House File 2 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House file 2 requires State and local jurisdictions performing road construction to provide a means of alternative access to a property if construction obstructs the normal means of access to the property.

FISCAL IMPACT

The fiscal impact to House File 2 cannot be determined due to insufficient data. The Bill could likely increase highway construction costs to State, city, and county governments as a result of the need to purchase additional right-of-way for alternate access during construction, and additional construction costs associated with constructing alternate accesses.

SOURCES

Department of Transportation
Iowa State Association of Counties

(LSB 1088hh, DLR)

FILED FEBRUARY 17, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

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TLSB 1088HH 77
jls/sc/14

1 Section 1. Section 306.10, Code 1997, is amended to read
2 as follows:

3 306.10 POWER TO ESTABLISH, ALTER, OR VACATE; RIGHT OF
4 ACCESS.

5 1. In the construction, improvement, operation, or
6 maintenance of ~~any~~ a highway, or highway system, the agency
7 which has control and jurisdiction over ~~such the~~ highway or
8 highway system, shall have power, on its own motion, to alter
9 or vacate and close ~~any-such the~~ highway or ~~any~~ railroad
10 crossing ~~thereon~~ on the highway, and to establish new highways
11 or railroad crossing ~~thereon~~ on the highways which are or are
12 intended to become a part of the highway system over which
13 ~~said the~~ agency has jurisdiction and control, subject to other
14 provisions of this section.

15 2. If highway access to a business or dwelling would be
16 completely obstructed during the course of any such
17 construction, improvement, operation, or maintenance of a
18 highway or highway system, the agency shall provide for an
19 alternate access to the business or dwelling during the course
20 of the construction, improvement, operation, or maintenance.
21 This right of access shall be in addition to any other remedy
22 a property owner or occupant may have under law. If the
23 property owner and occupant and the agency cannot reach
24 agreement regarding the provision of alternate access,
25 objections by the property owner or occupant with respect to
26 the right of access shall be subject to the same hearing
27 process and procedures that permit a property owner to claim
28 damages or compensation for property and property rights taken
29 by an agency as provided in sections 306.32 through 306.35.

30 3. If the property owner or occupant and the agency cannot
31 reach agreement regarding changes in the width of the
32 permanent right of access to the property, before the
33 permanent right of access may be reduced in width, the agency
34 must prove by clear and convincing evidence that the change is
35 necessary for safety reasons. This evidence, and any

1 objections by the property owner or occupant, shall be subject
2 to the same hearing process and procedures that permit a
3 property owner to claim damages or compensation for property
4 and property rights taken by an agency as provided in sections
5 306.32 through 306.35.

6 EXPLANATION

7 This bill requires an agency that is performing road
8 construction to provide a means of alternate access to a
9 property if the construction obstructs the normal means of
10 access to the property. In addition, absent agreement with
11 the property owner and occupant regarding a reduction in width
12 of the permanent right of access to the property, the agency
13 must prove by clear and convincing evidence that the change is
14 necessary for safety reasons. If the agency and the property
15 owner and occupant cannot reach agreement regarding the
16 alternative or permanent access, a right for a hearing and an
17 appeal are provided.

18 The bill may include a state mandate as defined in section
19 25B.3.

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