

Calendar

3/24/97 Motion to R/c by

Vanderhoef
3/26/97 Motion w/d + Kahlke

S. 3/31/97 2 amendments

S. 4-1-97 amend/Do Pass w/S. 3306

MAR 18 1997

Place On Calendar

HOUSE FILE 686

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 152)

(P. 133)

Passed House, Date 3-24-97

Passed Senate, Date _____

Vote: Ayes 98 Nays 0

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for the sale of unused highway right-of-way and
2 other real property by the state department of transportation
3 to past or present owners of affected property.

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

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HF 686

1 Section 1. NEW SECTION. 6B.56 DISPOSITION OF CONDEMNED
2 PROPERTY -- STATE DEPARTMENT OF TRANSPORTATION.

3 1. If real property condemned pursuant to this chapter by
4 the state department of transportation is not used for the
5 purpose stated in the application filed pursuant to section
6 6B.3 and the condemner seeks to dispose of the real property,
7 the condemner shall first offer the property for sale to the
8 prior owner of the condemned property as provided in this
9 section. For purposes of this section, the prior owner of the
10 real property includes the successor in interest of the real
11 property.

12 2. Before the real property may be offered for sale to the
13 general public, the condemner shall notify the prior owner of
14 the real property condemned in writing of the condemner's
15 intent to dispose of the real property, the fair market value
16 of real property based on an appraisal by an independent
17 appraiser, and the prior owner's right to purchase the real
18 property within sixty days from the date the notice is served
19 at a price equal to the fair market value of the real
20 property. The notice sent by the condemner as provided in
21 this subsection shall be filed with the office of the recorder
22 in the county in which the real property is located.

23 3. If the prior owner elects to purchase the real property
24 at the price established in subsection 2, the prior owner
25 shall notify the condemner in writing of this intention and
26 file a copy of this notice with the office of the recorder in
27 the county in which the real property is located, before the
28 expiration of the sixty-day period.

29 4. The provisions of this section do not apply to the sale
30 of unused right-of-way property as provided in chapter 306.

31 Sec. 2. Section 306.23, Code 1997, is amended to read as
32 follows:

33 306.23 NOTICE -- PREFERENCE OF SALE -- USE OF UNUSED
34 RIGHT-OF-WAY FOR PUBLIC PURPOSE.

35 1. For-the-sale-of-unused-right-of-way-notice-of-intention

1 ~~to sell the tract, parcel, or piece of land, or part thereof,~~
 2 ~~must be sent, not less than ten days prior to the sale, by~~
 3 ~~certified mail, by the~~ The agency in control of the land, a
 4 tract, parcel, or piece of land, or part thereof, which is
 5 unused right-of-way may use or transfer the land for another
 6 public purpose. The agency shall, if the land is not used or
 7 transferred for a public purpose, send by certified mail to
 8 the last known address of the present owner of adjacent land
 9 from which the tract, parcel, piece of land, or part thereof,
 10 was originally bought purchased or condemned for highway
 11 purposes, and if located in a city, to the mayor to the person
 12 who owned the land at the time it was purchased or condemned
 13 for highway purposes, notice of the agency's intent to sell
 14 the land, the name and address of any other person to whom a
 15 notice was sent, and the fair market value of the real
 16 property based upon an appraisal by an independent appraiser.

17 2. The notice shall give an opportunity to the present
 18 owner of adjacent property and to the person who owned the
 19 land at the time it was purchased or condemned for highway
 20 purposes to be heard and make offers within sixty days of the
 21 date the notice is mailed for the tract, parcel, or piece of
 22 land to be sold, and if the offer is equal to. An offer which
 23 equals or exceeds in amount any other offer received, it and
 24 which equals or exceeds the fair market value of the property
 25 shall be given preference by the agency in control of the
 26 land. Neglect or failure for any reason, to comply with the
 27 notice, does not prevent the giving of a clear title to the
 28 purchaser of the tract, parcel, or piece of land. If no
 29 offers are received within sixty days or if no offer equals or
 30 exceeds the fair market value of the land, the agency shall
 31 proceed with the sale of the property.

32 3. For the purposes of this section, "public purpose"
 33 means the transfer to a state agency or a city, county, or
 34 other political subdivision for a public purpose.

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EXPLANATION

1 This bill provides that a present owner of land adjacent to
2 or a prior owner of real property condemned by the state
3 department of transportation shall be given 60 days to
4 reacquire that property if the condemner has not used the
5 property for the purpose of the condemnation and if the
6 department seeks to otherwise dispose of the property to the
7 public. The bill provides that the prior owner can reacquire
8 the property at the fair market value of the property.

9 The bill provides that the past owner who conveyed a parcel
10 of land which is an unused right-of-way or the current owner
11 of the adjacent land from which the parcel was purchased or
12 condemned may buy the parcel before it is offered for sale to
13 others unless the agency in control of the parcel transfers it
14 to a public entity for a public use.

15 The bill also provides an offer to purchase must be made
16 within 60 days of notification. The highest offer over the
17 fair market value of the parcel will be accepted. If no
18 offers are made, the parcel may be sold to anybody.

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**HOUSE FILE 686
FISCAL NOTE**

A fiscal note for House File 686 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 686 provides that a present owner of land adjacent to or a prior owner of real property condemned by the Department of Transportation (DOT) shall be given 60 days to reacquire the property if the DOT has not used the property for the purposes for which it was condemned. The Bill also provides that the prior owner can reacquire the property at the fair market value.

FISCAL IMPACT

The fiscal impact of House File 686 cannot be determined due to insufficient information.

(LSB 1390hv, DLR)

FILED MARCH 24, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 686

H-1357

- 1 Amend House File 686 as follows:
- 2 1. Page 2, by striking lines 5 through 7 and
- 3 inserting the following: "unused right-of-way shall
- 4 send by certified mail to".
- 5 2. Page 2, line 30, by inserting after the word
- 6 "shall" the following: "transfer the land for a
- 7 public purpose or".

By MURPHY of Dubuque
WELTER of Jones
VAN MAANEN of Marion

H-1357 FILED MARCH 25, 1997

O/orden 3/26/97 (p847)

HOUSE FILE 686

S-3306

- 1 Amend House File 686, as passed by the House, as
- 2 follows:
- 3 1. Page 1, lines 33 and 34, by striking the words
- 4 "-- USE OF UNUSED RIGHT-OF-WAY FOR PUBLIC PURPOSE".
- 5 2. Page 2, by striking lines 5 through 7 and
- 6 inserting the following: "unused right-of-way shall
- 7 send by certified mail to".
- 8 3. Page 2, line 30, by inserting after the word
- 9 "shall" the following: "transfer the land for a
- 10 public purpose or".
- 11 4. Page 2, by inserting after line 34 the
- 12 following:
- 13 "Sec. ____ . APPLICABILITY DATE. This Act applies
- 14 only to decisions to dispose of unused right-of-way
- 15 made on or after July 1, 1997."
- 16 5. Title page, line 3, by inserting after the
- 17 word "property" the following: "and providing an
- 18 applicability date".
- 19 6. By renumbering as necessary.

By COMMITTEE ON TRANSPORTATION
RICHARD F. DRAKE, Chairperson

S-3306 FILED APRIL 1, 1997

Vande Hoef, Ch
Brauns
Schermer

HSB 152

TRANSPORTATION
Succeeded By
SF/HP 686

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON WELTER)

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

A BILL FOR

1 An Act providing for the sale of unused highway right-of-way and
2 other real property by the state department of transportation
3 to past or present owners of adjacent property.

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1 Section 1. NEW SECTION. 6B.56 DISPOSITION OF CONDEMNED
2 PROPERTY -- STATE DEPARTMENT OF TRANSPORTATION.

3 1. If real property condemned pursuant to this chapter by
4 the state department of transportation is not used for the
5 purpose stated in the application filed pursuant to section
6 6B.3 and the condemner seeks to dispose of the real property,
7 the condemner shall first offer the property for sale to the
8 prior owner of the condemned property as provided in this
9 section. For purposes of this section, the prior owner of the
10 real property includes the successor in interest of the real
11 property.

12 2. Before the real property may be offered for sale to the
13 general public, the condemner shall notify the prior owner of
14 the real property condemned in writing of the condemner's
15 intent to dispose of the real property, the fair market value
16 of real property, and the prior owner's right to purchase the
17 real property within sixty days from the date the notice is
18 served at a price equal to the fair market value of the real
19 property. The notice sent by the condemner as provided in
20 this subsection shall be filed with the office of the recorder
21 in the county in which the real property is located.

22 3. If the prior owner elects to purchase the real property
23 at the price established in subsection 2, the prior owner
24 shall notify the condemner in writing of this intention and
25 file a copy of this notice with the office of the recorder in
26 the county in which the real property is located, before the
27 expiration of the sixty-day period.

28 4. The provisions of this section do not apply to the sale
29 of unused right-of-way property as provided in chapter 306.

30 Sec. 2. Section 306.23, Code 1997, is amended to read as
31 follows:

32 306.23 NOTICE -- PREFERENCE OF SALE.

33 For the sale of unused right-of-way, notice of intention to
34 sell the tract, parcel, or piece of land, or part thereof,
35 must shall be sent, not less than ten days prior to the sale,

1 by certified mail, by the agency in control of the land, to
2 the last known address of the ~~present-owner-of-adjacent-land~~
3 ~~from-which~~ person who presently owns the land which originally
4 included the tract, parcel, piece of land, or part thereof,
5 was-originally which was bought or condemned for highway
6 purposes, to the person who conveyed the land which originally
7 included the tract, parcel, or piece of land bought or
8 condemned for highway purposes, and if located in a city, to
9 the mayor. ~~The~~ If the tract, parcel, or piece of land was
10 acquired by purchase and not through condemnation, the notice
11 shall contain an appraisal of the parcel and shall give an
12 opportunity to the present owner of adjacent property and to
13 the past owner who conveyed the property to be heard and make
14 offers for the tract, parcel, or piece of land to be sold, and
15 if the offer is equal to or exceeds in amount any other offer
16 received, it shall be given preference by the agency in
17 control of the land. If the tract, parcel, or piece of land
18 was acquired through condemnation, the notice shall also
19 provide that the present owner of adjacent property from which
20 the tract, parcel, or piece of land was condemned or the
21 immediate^o past owner who conveyed the tract, parcel, or piece
22 of land may purchase the tract, parcel, or piece of land,
23 prior to the sale, for an amount at least equal to the damages
24 awarded through condemnation for the tract, parcel, or piece
25 of land through a bid process. Neglect or failure for any
26 reason, to comply with the notice, does not prevent the giving
27 of a clear title to the purchaser of the tract, parcel, or
28 piece of land.

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EXPLANATION

30 This bill provides that a prior owner of real property
31 condemned by the state department of transportation shall be
32 given 60 days to reacquire that property if the condemner has
33 not used the property for the purpose of the condemnation and
34 if the department seeks to otherwise dispose of the property
35 to the public. The bill provides that the prior owner can

1 reacquire the property at the fair market value of the
2 property. The bill does not apply to the sale of unused
3 right-of-way property as provided in chapter 306.

4 The bill provides that the past owner who conveyed a parcel
5 of land which is an unused right-of-way may buy the parcel if
6 the property was not acquired by condemnation. The bill also
7 provides that when land acquired for a right-of-way through
8 condemnation is not needed for that purpose and will be sold,
9 the present owner and past owner who conveyed adjacent
10 property shall be notified and allowed to purchase the
11 property for an amount equal to the damages awarded for the
12 condemnation of the property.

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