

FEB 24 1999
TRANSPORTATION

HOUSE FILE 393
BY WELTER

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

A BILL FOR

1 An Act relating to railroad rights of way acquired by persons
2 other than a railroad and providing for assessment of costs.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 393

1 Section 1. Section 317.9, Code 1999, is amended to read as
2 follows:

3 317.9 DUTY OF BOARD TO ENFORCE.

4 The responsibility for the enforcement of the provisions of
5 this chapter shall be vested in the board of supervisors as to
6 all farm lands_{7i}; railroad lands_{7i}; railroad rights of way
7 acquired pursuant to section 327G.81i; abandoned cemeteries_{7i};
8 state lands and state parks_{7i}; primary and secondary roads; and
9 roads, streets, and other lands within cities unless otherwise
10 provided.

11 Sec. 2. Section 317.14, subsection 3, Code 1999, is
12 amended to read as follows:

13 3. That unless said the order is complied with, the weed
14 commissioner shall cause said the weeds to be destroyed and
15 the cost thereof will be taxed against the real estate on
16 which the noxious weeds are destroyed, regardless of whether
17 the real estate is exempt from property taxation.

18 Sec. 3. Section 317.21, subsection 1, Code 1999, is
19 amended to read as follows:

20 1. Annually, after the weed commissioner has completed the
21 program of destruction of weeds by reason of noncompliance by
22 persons responsible for the destruction, the board of
23 supervisors shall determine as to each tract of real estate
24 the actual cost of labor and materials used by the
25 commissioner in cutting, burning, or otherwise destroying the
26 weeds, the cost of serving notice, and of special meetings or
27 proceedings, if any. To the total of all sums expended, the
28 board shall add an amount equal to twenty-five percent of that
29 total to compensate for the cost of supervision and
30 administration and assess the resulting sum against the tract
31 of real estate by a special tax, which shall be certified to
32 the county auditor and county treasurer by the clerk of the
33 board of supervisors, and shall be placed upon the tax books,
34 and collected, with interest after delinquent, in the same
35 manner as other unpaid taxes, regardless of whether the real

1 estate is exempt from property taxation. The tax shall be due
2 on March 1 after assessment, and shall be delinquent from
3 April 1 after due, including those instances when the last day
4 of March is a Saturday or Sunday. When collected, the moneys
5 shall be paid into the fund from which the costs were
6 originally paid. An appropriation by a county for purposes of
7 the county weed commissioner shall be deemed payment of any
8 tax assessed against the county pursuant to this subsection.

9 Sec. 4. Section 359A.3, Code 1999, is amended to read as
10 follows:

11 | 359A.3 POWERS OF FENCE VIEWERS.

12 The fence viewers ~~shall have power to~~ may determine any
13 controversy arising under this chapter, including
14 controversies arising over fences along rights of way acquired
15 pursuant to section 327G.81, upon giving five days' notice in
16 writing to the opposite party or parties, prescribing the time
17 and place of meeting to hear and determine the matter named in
18 ~~said~~ the notice. Upon request of any landowner, the fence
19 viewers shall give such notice to all adjoining landowners
20 liable for the erection, maintenance, rebuilding, trimming, or
21 cutting back, or repairing of a partition fence, or to pay for
22 an existing hedge or fence.

23 Sec. 5. Section 465B.4, Code 1999, is amended by adding
24 the following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. An award, disbursement, or
26 expenditure of funds shall not be made by the state department
27 of transportation for recreation trails acquired, constructed,
28 or improved on a railroad right of way unless the person in
29 control of the railroad right of way is in compliance with
30 section 327G.81.

31 EXPLANATION

32 This bill makes several changes in Code language relating
33 to railroad rights of way which are acquired by a person other
34 than a railroad.

35 The bill amends Code section 317.9, relating to the duty of

1 a county board of supervisors to enforce provisions regulating
2 noxious weeds, to specify that county boards of supervisors
3 are responsible for enforcing such provisions in regard to
4 railroad rights of way acquired by persons other than a
5 railroad.

6 Code section 317.14 is amended to specify that notice to
7 property owners of an order issued by a county board of
8 supervisors providing a program of weed control shall state
9 that the costs of weed destruction by order of the weed
10 commissioner shall be taxed against the property on which the
11 weeds were destroyed, regardless of the property's tax-exempt
12 status, if the property owner did not comply with the program.
13 Currently, the Code does not specify that such costs shall be
14 taxed against the property regardless of the property's tax-
15 exempt status.

16 The bill also amends Code section 317.21, relating to
17 assessment of the costs of weed destruction against landowners
18 who fail to comply with a program of weed control, to provide
19 that such costs shall be assessed regardless of whether the
20 real estate is exempt from property taxation. However, an
21 appropriation by a county for purposes of the county weed
22 commissioner shall be deemed payment of any such assessment of
23 costs against the county.

24 Code section 359A.3, relating to powers of fence viewers,
25 is amended to specify that fence viewers may determine a
26 controversy arising over a fence located along a railroad
27 right of way if the railroad right of way was acquired by a
28 person other than a railroad.

29 The bill also amends Code section 465B.4 to provide that
30 any award, disbursement, or expenditure of funds shall not be
31 made by the department of transportation for recreation trails
32 acquired, constructed, or improved on a railroad right of way
33 unless the person in control of the railroad right of way
34 complies with the requirements of Code section 327G.81. Code
35 section 327G.81 requires a person who acquires a railroad

1 right of way for a purpose other than farming to be
2 responsible for fences, crossings, drainage, and weed control
3 in relation to the right of way.

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