

HOUSE FILE _____
BY TYMESON, GRASSLEY, and
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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to eminent domain authority exercised for certain
2 lake projects and including effective date and applicability
3 date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1410YH 83
6 md/sc/8

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1 1 Section 1. Section 6A.22, subsection 2, paragraph c,
1 2 subparagraph (1), Code 2009, is amended to read as follows:
1 3 (1) (a) If private property is to be condemned for
1 4 development or creation of a lake, only that number of acres
1 5 justified as reasonable and necessary for a surface drinking
1 6 water source, and not otherwise acquired, may be condemned.
1 7 ~~In addition Prior to making a determination that such a lake~~
1 8 ~~development or creation is reasonable and necessary, the~~
1 9 ~~acquiring agency shall conduct a review of demonstrate by~~
1 10 ~~clear and convincing evidence that no other prudent and~~
1 11 ~~feasible alternatives to alternative for provision of a~~
1 12 ~~drinking water source prior to making a determination that~~
1 13 ~~such lake development or creation is reasonable and necessary~~
1 14 exists. Development or creation of a lake as a surface
1 15 drinking water source includes all of the following:
1 16 (i) Construction of the dam, including sites for suitable
1 17 borrow material and the auxiliary spillway.
1 18 (ii) The water supply pool.
1 19 (iii) The sediment pool.
1 20 (iv) The flood control pool.
1 21 (v) The floodwater retarding pool.
1 22 (vi) The surrounding area upstream of the dam no higher in
1 23 elevation than the top of the dam's elevation.
1 24 (vii) The appropriate setback distance required by state
1 25 or federal laws and regulations to protect drinking water
1 26 supply.
1 27 (b) For purposes of this subparagraph (1), "number of
1 28 acres justified as reasonable and necessary for a surface
1 29 drinking water source" means according to guidelines of the
1 30 United States natural resource conservation service and
1 31 according to analyses of ~~surface~~ drinking water capacity needs
1 32 conducted by one or more registered professional engineers
1 33 using standards alternative to the federal guidelines. Any
1 34 guidelines or analyses related to future drinking water
1 35 capacity needs shall be based on the current rate of drinking
2 1 water usage in the area to be served by the surface drinking
2 2 water source.
2 3 (c) Guidelines relating to drinking water capacity needs
2 4 in time of drought shall not be used in any analysis performed
2 5 pursuant to this subparagraph (1). An analysis performed
2 6 pursuant to this subparagraph (1) shall include information on
2 7 groundwater resources in the area and the potential for the
2 8 use of such resources to meet drinking water capacity needs.
2 9 (d) A second review or analysis may be requested by any
2 10 landowner affected by the proposed condemnation action, and
2 11 the engineer shall be selected by a committee of private
2 12 landowners affected by the proposed condemnation action. The
2 13 acquiring agency shall be responsible for paying the fees and
2 14 expenses of such an engineer.
2 15 (e) A landowner affected by the proposed condemnation
2 16 action may request a public hearing regarding the influence of
2 17 a federal agency on the lake creation or development project,
2 18 on the proposed condemnation actions related to the project.

2 19 and on the use of federal guidelines in analyzing drinking
2 20 water capacity needs. The hearing shall be conducted by a
2 21 person who is not involved with the lake creation or
2 22 development, and the services of such person in conducting the
2 23 hearing shall be paid by the acquiring agency.

2 24 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
2 25 immediate importance, takes effect upon enactment and applies
2 26 to projects or condemnation proceedings pending or commenced
2 27 on or after that date.

2 28 EXPLANATION

2 29 This bill makes changes relating to eminent domain
2 30 authority in relation to development or creation of a lake.

2 31 The bill provides that, prior to making a determination
2 32 that creation or development of a lake is reasonable and
2 33 necessary, an acquiring agency must demonstrate by clear and
2 34 convincing evidence that no other prudent and feasible
2 35 alternative for provision of a drinking water source exists.

3 1 The bill also provides that when determining the number of
3 2 acres necessary for a surface drinking water source, any
3 3 guidelines or analyses related to future drinking water
3 4 capacity needs shall be based on the current rate of drinking
3 5 water usage in the area to be served by the surface drinking
3 6 water source. The bill provides that an engineer conducting
3 7 an analysis of drinking water capacity shall use standards
3 8 alternative to the federal guidelines and shall include
3 9 information on groundwater resources in the area and the
3 10 potential for their use as a drinking water source. The bill
3 11 also provides that when federal guidelines are used, they
3 12 shall not include guidelines relating to drinking water
3 13 capacity needs in time of drought.

3 14 The bill provides that a landowner affected by the proposed
3 15 condemnation action may request a second review or analysis,
3 16 and the engineer shall be selected by a committee of private
3 17 landowners affected by the proposed condemnation action. The
3 18 bill further provides that the acquiring agency shall pay for
3 19 the services of such an engineer. The bill further provides
3 20 that an affected landowner may request a public hearing,
3 21 conducted by a neutral party, on the influence of a federal
3 22 agency on the lake project, on the proposed condemnation
3 23 actions, and on the use of federal guidelines in analyzing
3 24 drinking water capacity needs. The services of the person
3 25 conducting the hearing shall be paid by the acquiring agency.

3 26 The bill takes effect upon enactment and applies to
3 27 projects or condemnation proceedings pending or commenced on
3 28 or after that date.

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