

Senate File 192 - Introduced

SENATE FILE 192

BY BOWMAN

A BILL FOR

1 An Act relating to flood prevention by providing for the
2 alteration of a water channel in connection with a project
3 for highway construction or improvement.

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

1 Section 1. Section 306.27, Code 2013, is amended to read as
2 follows:

3 **306.27 Changes for safety, economy, and utility, and flood**
4 **prevention.**

5 1. The state department of transportation as to primary
6 roads and the boards of supervisors as to secondary roads on
7 their own motion may change the course of any part of any
8 road or stream, watercourse, or dry run and may pond water in
9 order to avoid the construction and maintenance of bridges,
10 or to avoid grades, or railroad crossings, or to straighten a
11 road, or to cut off dangerous corners, turns or intersections
12 on the highway, or to widen a road above statutory width, or
13 for the purpose of preventing the encroachment of a stream,
14 watercourse, or dry run upon the highway. The department and
15 the board of supervisors shall conduct their proceedings under
16 this subsection in the manner and form prescribed in chapter
17 6B, except that the board of supervisors may use the form
18 prescribed in sections 306.28 to 306.37 for the condemnation of
19 right-of-way that is contiguous to existing road right-of-way
20 and necessary for the maintenance, safety improvement, or
21 upgrade of the existing secondary road.

22 2. The department of transportation as to primary roads and
23 the boards of supervisors as to secondary roads may straighten,
24 deepen, or otherwise improve any channel, river, stream, or
25 other watercourse as necessary to prevent future flooding
26 of property in the path of the channel, river, stream, or
27 watercourse which may occur as a result of a highway project.
28 The department and the board of supervisors shall conduct
29 their proceedings under this subsection in the manner and form
30 prescribed in chapter 6B.

31 3. Changes made under this section are subject to chapter
32 455B and chapter 459, subchapters II and III.

33 Sec. 2. Section 331.304, subsection 8, Code 2013, is amended
34 to read as follows:

35 8. The power to take private property for public use shall

1 only be exercised by counties for public purposes which are
2 reasonable and necessary as an incident to the powers and
3 duties conferred upon counties, and in accordance with chapters
4 6A and 6B. Section 306.19 is also applicable to condemnation
5 of right-of-way for secondary roads. ~~Sections~~ Section 306.27,
6 subsection 1, and sections 306.28 through 306.37 are applicable
7 to the condemnation of right-of-way that is contiguous to
8 existing road right-of-way and necessary for the maintenance,
9 safety improvement, or upgrade of the existing secondary road.

10

EXPLANATION

11 Under current law, the department of transportation as
12 to primary roads and county boards of supervisors as to
13 secondary roads are authorized to change the course of any
14 stream, watercourse, or dry run and to pond water in order to
15 facilitate a highway project, to improve a highway, or to avoid
16 flooding of a highway. Changes made to any watercourse by the
17 department or a board of supervisors are subject to existing
18 statutes and rules under the purview of the department of
19 natural resources.

20 This bill allows the department or a board of supervisors to
21 straighten, deepen, or otherwise improve any channel, river,
22 stream, or other watercourse if a highway project results in
23 a situation that might contribute to flooding in areas that
24 are not part of the highway right-of-way. The department and
25 boards of supervisors are authorized to use procedures under
26 eminent domain for this purpose.