

House File 619 - Introduced

HOUSE FILE 619
BY COMMITTEE ON GOVERNMENT
OVERSIGHT

(SUCCESSOR TO HSB 223)

A BILL FOR

1 An Act relating to the use of eminent domain authority,
2 modifying and establishing related procedures, and including
3 effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

CONDEMNATION FOR CREATION OF A LAKE — NUMBER OF ACRES

Section 1. Section 6A.22, subsection 2, paragraph c, subparagraph (1), subparagraph division (b), Code 2015, is amended to read as follows:

(b) (i) For purposes of this subparagraph (1), *“number of acres justified as necessary for a surface drinking water source”* means according to guidelines of the United States natural resource conservation service and according to analyses of surface drinking water capacity needs conducted by one or more registered professional engineers. However, the determination of surface drinking water capacity needs shall be limited to the needs of the population of the county where the lake is to be developed or created, according to the most recent federal decennial census.

(ii) For condemnation proceedings for which the application for condemnation pursuant to section 6B.3 was filed on or after July 1, 2012, and on or before January 1, 2015, “number of acres justified as necessary for a surface drinking water source”, as determined under subparagraph subdivision (i) shall not exceed the number of acres that would be necessary to provide the amount of drinking water consumed in the most recently completed calendar year prior to the date on which the application was filed in the county where the lake is to be developed or created.

Sec. 2. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

CONDEMNATION FOR CREATION OF A LAKE — EXISTING SOURCES

Sec. 3. Section 6A.22, subsection 2, paragraph c, subparagraph (1), subparagraph division (a), unnumbered paragraph 1, Code 2015, is amended to read as follows:

If private property is to be condemned for development or creation of a lake, only that number of acres justified

1 as necessary for a surface drinking water source, and not
2 otherwise acquired, may be condemned. ~~In addition~~ However,
3 an acquiring agency shall not have the authority to condemn
4 private property for creation of a lake as a surface drinking
5 water source if an existing drinking water source may be
6 expanded or supplemented for such purpose. If an existing
7 drinking water source is incapable of being expanded or
8 supplemented as a surface drinking water source, the acquiring
9 agency shall conduct a review of prudent and feasible
10 alternatives to provision of a drinking water source prior to
11 making a determination that such lake development or creation
12 is reasonable and necessary. Development or creation of a
13 lake as a surface drinking water source includes all of the
14 following:

15 Sec. 4. EFFECTIVE UPON ENACTMENT. This division of this
16 Act, being deemed of immediate importance, takes effect upon
17 enactment.

18 Sec. 5. APPLICABILITY. This division of this Act applies to
19 projects or condemnation proceedings pending or commenced on or
20 after the effective date of this division of this Act.

21 DIVISION III

22 DISPOSITION OF CONDEMNED PROPERTY

23 Sec. 6. Section 6B.56A, subsection 4, Code 2015, is amended
24 to read as follows:

25 4. This section does not apply to property acquired for
26 street and highway projects undertaken by the state, a county,
27 or a city or to property that is subject to the disposition of
28 property requirements under section 6B.56B.

29 Sec. 7. NEW SECTION. 6B.56B **Disposition of condemned**
30 **property — lake creation.**

31 1. When two years have elapsed since property was condemned
32 for the creation of a lake according to the requirements of
33 section 6A.22, subsection 2, paragraph "c", subparagraph (1),
34 and the property has not been used for the purpose stated
35 in the application filed pursuant to section 6B.3, and the

1 acquiring agency has not taken action to dispose of the
2 property pursuant to section 6B.56, the acquiring agency shall,
3 within sixty days, adopt a resolution offering the property
4 for sale to the prior owner at a price as provided in section
5 6B.56. If the resolution adopted approves an offer of sale to
6 the prior owner, the offer shall be made in writing and mailed
7 by certified mail to the prior owner. The prior owner has one
8 hundred eighty days after the offer is mailed to purchase the
9 property from the acquiring agency.

10 2. If the acquiring agency has not adopted a resolution
11 described in subsection 1 within the sixty-day time period, the
12 prior owner may, in writing, petition the acquiring agency to
13 offer the property for sale to the prior owner at a price as
14 provided in section 6B.56. Within sixty days after receipt of
15 such a petition, the acquiring agency shall adopt a resolution
16 described in subsection 1. If the acquiring agency does not
17 adopt such a resolution within sixty days after receipt of the
18 petition, the acquiring agency is deemed to have offered the
19 property for sale to the prior owner.

20 3. The acquiring agency shall give written notice to the
21 owner of the right to purchase the property under this section
22 at the time damages are paid to the owner.

23 Sec. 8. EFFECTIVE UPON ENACTMENT. This division of this
24 Act, being deemed of immediate importance, takes effect upon
25 enactment.

26 Sec. 9. APPLICABILITY. This division of this Act applies to
27 projects or condemnation proceedings pending or commenced on or
28 after the effective date of this division of this Act.

29 EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill relates to the use of eminent domain authority and
33 modifying and establishing related procedures.

34 Division I of the bill amends provisions of Code section
35 6A.22, relating to the use of condemnation for creation of

1 a lake for drinking water needs. The bill provides that
2 for purposes of determining the number of acres justified
3 as necessary for a surface drinking water source, the
4 determination of surface drinking water capacity needs shall
5 be limited to the needs of the population of the county where
6 the lake is to be developed or created, according to the most
7 recent federal decennial census. The bill also provides
8 that for condemnation proceedings for which the application
9 for condemnation was filed on or after July 1, 2012, and on
10 or before January 1, 2015, the number of acres justified
11 as necessary for a surface drinking water source shall not
12 exceed the number of acres that would be necessary to provide
13 the amount of drinking water consumed in the most recently
14 completed calendar year prior to filing the application, in the
15 county where the lake is to be developed or created.

16 Division I of the bill takes effect upon enactment.

17 Current Code section 6A.22(2)(c)(1) authorizes the use of
18 eminent domain for development or creation of a lake and limits
19 that authority based on the need for surface drinking water.
20 Division II of the bill prohibits an acquiring agency from
21 condemning private property for creation of a lake as a surface
22 drinking water source if an existing drinking water source may
23 be expanded or supplemented for such purpose.

24 Division II of the bill takes effect upon enactment and
25 applies to projects or condemnation proceedings pending or
26 commenced on or after the effective date of the division.

27 Division III of the bill provides that when two years have
28 elapsed since property was condemned for the creation of a lake
29 and the property has not been used for the purpose stated in
30 the application, and the acquiring agency has not taken action
31 to dispose of the property pursuant to Code section 6B.56, the
32 acquiring agency shall, within 60 days, adopt a resolution
33 offering the property for sale to the prior owner at a price
34 as provided in Code section 6B.56. If the acquiring agency
35 has not adopted a resolution within the 60-day time period,

1 the prior owner may petition the acquiring agency to offer the
2 property for sale to the prior owner at a price as provided in
3 Code section 6B.56. The bill requires the acquiring agency to
4 give written notice to the owner at the time damages are paid
5 to the owner of the right to purchase the property under such
6 circumstances.

7 Division III also specifies that current Code section
8 6B.56A, relating to the disposition of condemned property, does
9 not apply to property condemned under Code section 6A.22 for
10 the creation of a lake.

11 Division III of the bill takes effect upon enactment and
12 applies to projects or condemnation proceedings pending or
13 commenced on or after the effective date of division III of the
14 bill.