

House File 2320 - Introduced

HOUSE FILE 2320

BY JENEARY

A BILL FOR

1 An Act relating to certain actions of utility companies and the
2 Iowa utilities board and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 6A.21, subsection 2, Code 2022, is
2 amended to read as follows:

3 2. The limitation on the definition of public use,
4 public purpose, or public improvement does not apply to the
5 establishment, relocation, or improvement of a road pursuant
6 to chapter 306, or to the establishment of a railway under the
7 supervision of the department of transportation as provided
8 in section 327C.2, or to an airport as defined in section
9 328.1, or to land acquired in order to replace or mitigate land
10 used in a road project when federal law requires replacement
11 or mitigation, or a project undertaken by a public utility
12 as defined in section 476.1, subsection 3. ~~This limitation~~
13 ~~also does not apply to utilities, persons, companies, or~~
14 ~~corporations under the jurisdiction of the Iowa utilities~~
15 ~~board in the department of commerce or to any other utility~~
16 ~~conferred the right by statute to condemn private property or~~
17 ~~to otherwise exercise the power of eminent domain, except to~~
18 ~~the extent such purpose includes construction of aboveground~~
19 ~~merchant lines.~~

20 Sec. 2. Section 6A.22, subsection 2, paragraph a,
21 subparagraph (2), Code 2022, is amended to read as follows:

22 (2) The acquisition of any interest in property necessary to
23 the function of a public ~~or private~~ utility to the extent such
24 purpose does not include construction of aboveground merchant
25 lines, or necessary to the function of a ~~common carrier or an~~
26 airport or airport system.

27 Sec. 3. Section 479B.2, Code 2022, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 4A. *"Public convenience and necessity"*
30 means that the services to be provided by the pipeline are
31 necessary to assure an economical and reliable supply of the
32 hazardous liquid and that those services benefit members of
33 the general public who will be served by the product being
34 transported in the pipeline.

35 Sec. 4. APPLICABILITY. The following apply to projects or

1 condemnation proceedings commenced on or after July 1, 2022:

2 1. The section of this Act amending section 6A.21,
3 subsection 2.

4 2. The section of this Act amending section 6A.22,
5 subsection 2, paragraph "a", subparagraph (2).

6 Sec. 5. APPLICABILITY. The following applies to permit
7 petitions filed under chapter 479B on or after July 1, 2022:

8 The section of this Act amending section 479B.2.

9

EXPLANATION

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

12 This bill relates to certain actions of utility companies
13 and the Iowa utilities board.

14 Generally, under Code chapter 6A, the authority of an
15 acquiring agency to condemn any private property through
16 eminent domain may only be exercised for a public purpose,
17 public use, or public improvement. However, Code section
18 6A.21 provides that "public use" or "public purpose" or
19 "public improvement" does not include the authority to
20 condemn agricultural land for private development purposes
21 unless the owner of the agricultural land consents to the
22 condemnation. Under current law, this limitation on the
23 definition of "public use" or "public purpose" or "public
24 improvement" does not apply to utilities, persons, companies,
25 or corporations under the jurisdiction of the Iowa utilities
26 board or to any other utility conferred the right by statute
27 to condemn private property or to otherwise exercise the power
28 of eminent domain, except to the extent such purpose includes
29 construction of aboveground merchant lines. The bill strikes
30 this exclusion relating to utilities and persons or entities
31 under the jurisdiction of the Iowa utilities board and instead
32 provides that the limitation on the definition of "public
33 use" or "public purpose" or "public improvement" relating
34 to the prohibition against condemnation of agricultural
35 property does not apply to a project undertaken by a public

1 utility, as defined in Code section 476.1. The prohibition
2 on the condemnation of agricultural land for the construction
3 of aboveground merchant lines remains by operation of the
4 definition of "private development purposes" in Code section
5 6A.21.

6 The bill also amends the portion of the definition of "public
7 use", "public purpose", or "public improvement" under Code
8 section 6A.22 to exclude the acquisition of any interest in
9 property necessary to the function of a private utility or a
10 common carrier.

11 The bill adds a definition of "public convenience and
12 necessity" to Code chapter 479B, which governs the granting of
13 permits for a pipeline company doing business in this state
14 to construct, maintain, and operate a pipeline. Under Code
15 section 479B.9, the Iowa utilities board shall not grant a
16 permit unless the board determines that the proposed services
17 will promote the public convenience and necessity.

18 The bill includes applicability provisions.