

Senate File 2160 - Introduced

SENATE FILE 2160

BY J. TAYLOR

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. Section 479B.11, subsection 1, Code 2022, is amended

1 to read as follows:

2 1. If the board enters into agreements with the United
3 States department of transportation pursuant to section
4 479B.23, a pipeline company shall pay an annual fee of ~~fifty~~
5 ~~cents~~ one dollar per mile of pipeline or fraction thereof for
6 each inch of diameter of the pipeline located in the state.
7 The inspection fee shall be paid to the board between January 1
8 and February 1 for the calendar year.

9 Sec. 5. APPLICABILITY. The following apply to projects or
10 condemnation proceedings commenced on or after July 1, 2022:

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

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

15 Sec. 6. APPLICABILITY. The following applies to decisions
16 of the utilities board under chapter 479B on or after July 1,
17 2022:

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

19 Sec. 7. APPLICABILITY. The following applies to fees
20 imposed under section 479B.11, subsection 1, on or after July
21 1, 2022:

22 The section of this Act amending section 479B.11, subsection
23 1.

24 EXPLANATION

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

27 This bill relates to certain actions of utility companies
28 and the Iowa utilities board.

29 Generally, under Code chapter 6A, the authority of an
30 acquiring agency to condemn any private property through
31 eminent domain may only be exercised for a public purpose,
32 public use, or public improvement. However, Code section
33 6A.21 provides that "public use" or "public purpose" or
34 "public improvement" does not include the authority to
35 condemn agricultural land for private development purposes

1 unless the owner of the agricultural land consents to the
2 condemnation. Under current law, this limitation on the
3 definition of "public use" or "public purpose" or "public
4 improvement" does not apply to utilities, persons, companies,
5 or corporations under the jurisdiction of the Iowa utilities
6 board or to any other utility conferred the right by statute
7 to condemn private property or to otherwise exercise the power
8 of eminent domain, except to the extent such purpose includes
9 construction of aboveground merchant lines. The bill strikes
10 this exclusion relating to utilities and persons or entities
11 under the jurisdiction of the Iowa utilities board and instead
12 provides that the limitation on the definition of "public
13 use" or "public purpose" or "public improvement" relating
14 to the prohibition against condemnation of agricultural
15 property does not apply to a project undertaken by a public
16 utility, as defined in Code section 476.1. The prohibition
17 on the condemnation of agricultural land for the construction
18 of aboveground merchant lines remains by operation of the
19 definition of "private development purposes" in Code section
20 6A.21.

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

26 The bill adds a definition of "public convenience and
27 necessity" to Code chapter 479B, which governs the granting of
28 permits for a pipeline company doing business in this state
29 to construct, maintain, and operate a pipeline. Under Code
30 section 479B.9, the Iowa utilities board shall not grant a
31 permit unless the board determines that the proposed services
32 will promote the public convenience and necessity.

33 If the utilities board enters into agreements with the
34 United States department of transportation for the inspection
35 of pipelines to determine compliance with certain standards,

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1 Code section 479B.11 requires each pipeline company to pay an
2 annual fee of \$0.50 per mile of pipeline or fraction thereof
3 for each inch of diameter of the pipeline located in this
4 state. The bill increases the rate of the fee from \$0.50 to
5 \$1.00.

6 The bill includes applicability provisions.