

# House File 368 - Introduced

HOUSE FILE 368

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## A BILL FOR

1 An Act relating to specified utility construction project  
2 requirements, and including effective date and applicability  
3 provisions.

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

1 Section 1. Section 479A.11, Code 2023, is amended to read  
2 as follows:

3 **479A.11 Damages.**

4 1. A pipeline company operating pipelines or underground  
5 storage shall be given reasonable access to the pipelines and  
6 storage areas for the purpose of constructing, operating,  
7 maintaining, or locating their pipes, pumps, pressure  
8 apparatus, or other stations, wells, devices, or equipment used  
9 in or upon a pipeline or storage area, but shall pay the owner  
10 of the lands for the right of entry and the owner of crops on  
11 the land all damages caused by entering, using, or occupying  
12 the lands for these purposes; and shall pay to the owner of the  
13 lands, after the completion of construction of the pipeline or  
14 storage, all damages caused by settling of the soil along and  
15 above the pipeline, and wash or erosion of the soil along the  
16 pipeline due to the construction of the pipeline. However,  
17 this section does not prevent the execution of an agreement  
18 with other terms between the pipeline company and the owner of  
19 the land or crops with reference to their use.

20 2. A claim for crop yield loss damages pursuant to this  
21 section shall not be precluded from renegotiation under section  
22 6B.52 on the grounds that the damages were apparent at the time  
23 of settlement.

24 Sec. 2. Section 479B.4, Code 2023, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 7. The board shall not issue a permit, or  
27 conduct a contested case proceeding relating to the issuance  
28 of a permit, for a liquefied carbon dioxide pipeline until the  
29 federal pipeline and hazardous materials safety administration  
30 provides new rules updating the safety standards for liquefied  
31 carbon dioxide pipelines, including requirements related to  
32 emergency preparedness and response.

33 Sec. 3. Section 479B.9, Code 2023, is amended to read as  
34 follows:

35 **479B.9 Final order — condition.**

1 The board may grant a permit in whole or in part upon  
2 terms, conditions, and restrictions as to location and route  
3 as it determines to be just and proper. A permit shall not be  
4 granted to a pipeline company unless the board determines that  
5 the proposed services will promote the public convenience and  
6 necessity. The board shall not grant a permit to construct  
7 a liquefied carbon dioxide pipeline unless such a permit is  
8 expressly conditioned upon the pipeline company obtaining  
9 all other applicable permits, including federal and state  
10 regulatory permits, state and local highway and road crossing  
11 permits, and local zoning permits.

12 Sec. 4. Section 479B.16, subsection 1, Code 2023, is amended  
13 to read as follows:

14 1. A pipeline company granted a pipeline permit shall,  
15 subject to subsections 4 and 5, be vested with the right of  
16 eminent domain, to the extent necessary and as prescribed and  
17 approved by the board, not exceeding seventy-five feet in  
18 width for right-of-way and not exceeding one acre in any one  
19 location in addition to right-of-way for the location of pumps,  
20 pressure apparatus, or other stations or equipment necessary  
21 to the proper operation of its pipeline. The board may grant  
22 additional eminent domain rights where the pipeline company  
23 has presented sufficient evidence to adequately demonstrate  
24 that a greater area is required for the proper construction,  
25 operation, and maintenance of the pipeline or for the location  
26 of pumps, pressure apparatus, or other stations or equipment  
27 necessary to the proper operation of its pipeline.

28 Sec. 5. Section 479B.16, Code 2023, is amended by adding the  
29 following new subsections:

30 NEW SUBSECTION. 4. The board shall not grant a liquefied  
31 carbon dioxide pipeline company the right of eminent domain  
32 under this chapter for an interstate hazardous liquid pipeline  
33 project unless the company acquires at least ninety percent of  
34 the affected route miles through voluntary easements or through  
35 preexisting easements. The company shall submit regular

1 reports on its progress in acquiring voluntary easements as  
2 determined by the board.

3 NEW SUBSECTION. 5. The board shall not grant a liquefied  
4 carbon dioxide pipeline company the right of eminent domain  
5 under this chapter for an interstate hazardous liquid pipeline  
6 project unless the company first acquires all applicable  
7 pipeline construction and zoning permits from the other states  
8 the project will be constructed in.

9 Sec. 6. Section 479B.20, subsection 5, Code 2023, is amended  
10 to read as follows:

11 5. If the pipeline company or its contractor does not  
12 comply with the requirements of [this section](#), with the land  
13 restoration plan or line location, or with an independent  
14 agreement on land restoration executed in accordance with  
15 subsection 10, the county board of supervisors may petition the  
16 board for an order requiring corrective action to be taken. In  
17 addition, the county board of supervisors or a landowner may  
18 file a complaint with the board seeking imposition of civil  
19 penalties under [section 479B.21](#). A landowner may supply a copy  
20 of the complaint to the county board of supervisors where the  
21 complaint originated.

22 Sec. 7. Section 479B.20, Code 2023, is amended by adding the  
23 following new subsection:

24 NEW SUBSECTION. 13. For the purposes of this section,  
25 "*landowner*" also includes a farm tenant.

26 Sec. 8. Section 479B.29, Code 2023, is amended to read as  
27 follows:

28 **479B.29 Particular damage claims.**

29 1. Compensable losses shall include, but are not limited to,  
30 all of the following:

31 a. Loss or reduced yield of crops or forage on the pipeline  
32 right-of-way, whether caused directly by construction or from  
33 disturbance of usual farm operations.

34 b. Loss or reduced yield of crops or yield from land near  
35 the pipeline right-of-way resulting from lack of timely access

1 to the land or other disturbance of usual farm operations,  
2 including interference with irrigation or drainage.

3 *c.* Fertilizer, lime, or organic material applied by the  
4 landowner to restore land disturbed by construction to full  
5 productivity.

6 *d.* Loss of or damage to trees of commercial or other value  
7 that occurs at the time of construction, restoration, or at the  
8 time of any subsequent work by the pipeline company.

9 *e.* The cost of or losses in moving or relocating livestock,  
10 and the loss of gain by or the death or injury of livestock  
11 caused by the interruption or relocation of normal feeding.

12 *f.* Erosion and soil compaction on lands attributable to  
13 pipeline construction.

14 *g.* Damage to farm equipment caused by striking a pipeline,  
15 debris, or other material reasonably associated with pipeline  
16 construction while engaged in normal farming operations as  
17 defined in [section 480.1](#).

18 *h.* Damage to soil or water conservation structures caused  
19 by construction, restoration, or subsequent work by the  
20 pipeline company including but not limited to terraces, grassed  
21 waterways, water and sediment control basins, ponds, saturated  
22 buffers, and biofilters.

23 *i.* Damage to irrigation or drainage systems caused by  
24 construction, restoration, or subsequent work by the pipeline  
25 company.

26 2. A claim for ~~damage for future crop deficiency within~~  
27 ~~the easement strip~~ damages incurred under this section shall  
28 not be precluded from renegotiation under [section 6B.52](#) on  
29 the grounds that it was apparent at the time of settlement  
30 ~~unless the settlement expressly releases the pipeline company~~  
31 ~~from claims for damage to the productivity of the soil.~~ The  
32 landowner shall notify the pipeline company in writing fourteen  
33 days prior to harvest in each year to assess crop deficiency.

34 3. For the purposes of this section, "landowner" also  
35 includes a farm tenant.



1 permits, state and local highway and road crossing permits, and  
2 local zoning permits.

3 The bill requires a liquefied carbon dioxide pipeline  
4 company seeking to use eminent domain to first acquire at  
5 least 90 percent of the affected route miles through voluntary  
6 easements or through preexisting easements. The bill prohibits  
7 the board from granting a liquefied carbon dioxide pipeline  
8 company the right of eminent domain for an interstate hazardous  
9 liquid pipeline project unless the company first acquires all  
10 applicable pipeline construction and zoning permits from the  
11 other states the project will be constructed in. The company  
12 shall submit regular progress reports regarding easement  
13 acquisition as determined by the board within the utilities  
14 division of the department of commerce.

15 The bill allows a landowner to file a complaint with the  
16 board and to notify the relevant county board of supervisors of  
17 a violation of land restoration standards. The bill expands  
18 the meaning of "landowner" under Code section 479B.20 to  
19 include a farm tenant.

20 The bill expands damages that constitute compensable  
21 loss under Code section 479B.29 to include soil compaction,  
22 damage to soil or water conservation structures, and damage  
23 to irrigation or drainage systems, and adds "farm tenant" to  
24 the definition of landowner. The bill expands the claims a  
25 landowner can bring and receive compensation for to include any  
26 identifiable compensable loss resulting from pipeline activity.  
27 A landowner may file an action for relief in small claims or  
28 district court against a pipeline company for a violation of  
29 Code section 479B.29.

30 The bill modifies the definition of damages for purposes  
31 of construction damages under Code section 479B.30 to include  
32 compensable losses listed under Code section 479B.29.

33 The bill takes effect upon enactment.

34 The bill applies retroactively to all applications for a  
35 permit to construct a pipeline pursuant to Code chapter 479B

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1 filed with the board on or after July 1, 2021. The bill applies  
2 to permits issued by the board on or after the effective date  
3 of the bill.