

Senate File 597 - Introduced

SENATE FILE 597
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 432)

A BILL FOR

1 An Act relating to the rights and obligations of certain state
2 and local government entities in erecting, rebuilding, or
3 repairing partition fences, including the allocation of moneys
4 from accounts in the Iowa resources enhancement and protection
5 fund.

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

unofficial

1 Section 1. NEW SECTION. **350.4A Partition fences.**

2 A county conservation board that controls or manages a tract
3 of land shall have the same rights and obligations as any private
4 landowner when erecting and maintaining a partition fence under
5 chapter 359A.

6 Sec. 2. NEW SECTION. **359A.1B Department of natural
7 resources and county conservation boards.**

8 The department of natural resources or a county conservation
9 board, with respect to the entity's control or management of a
10 tract of land, has the same rights and obligations as any private
11 landowner when erecting and maintaining a partition fence under
12 this chapter.

13 Sec. 3. Section 359A.4, subsection 3, Code 2025, is amended
14 to read as follows:

15 3. Except as provided in subsection 3A, all of the following
16 apply:

17 a. The order shall assign to each owner the ~~part which~~
18 portion that the owner shall must erect, maintain, rebuild,
19 repair, trim, or cut back, or pay for, and fix the value thereof,
20 and prescribe the time within which the same shall be completed
21 or paid for, and, in case of repair, may specify the kind of
22 repairs to be made.

23 b. If the fence is not erected, maintained, rebuilt, or
24 repaired within the time prescribed in the order, the fence
25 viewers shall require the complaining landowner to deposit with
26 the fence viewers an amount of money sufficient to pay for
27 the erecting, maintaining, rebuilding, repairing, trimming, or
28 cutting back or repairing such the fence, together with the fees
29 of the fence viewers and costs. ~~Such~~ The complaining landowner
30 shall be reimbursed as soon as the costs and fees assessed
31 against the party in default are collected as provided in section
32 359A.6.

33 Sec. 4. Section 359A.4, Code 2025, is amended by adding the
34 following new subsection:

35 NEW SUBSECTION. 3A. If the parties to the fence viewers'

1 order are a complaining landowner and either the department of
2 natural resources or a county conservation board, as the entity
3 that controls or manages the adjoining tract of land, all of the
4 following apply:

5 a. The fence viewers' order must assign to each party the
6 portion that the party must erect, maintain, rebuild, repair,
7 trim, or cut back, or pay for, and fix the value thereof, and
8 prescribe the time within which the same shall be completed or
9 paid for, and, in case of repair, may specify the kind of repairs
10 to be made. The order must include each party's portion of the
11 costs and fees imposed by the fence viewers.

12 b. The complaining landowner shall deposit an amount of money
13 sufficient to pay for the party's assigned portion of the costs
14 and fees as prescribed in the order.

15 c. Within thirty days of the issuance of the order, the party
16 that is either the department of natural resources or a county
17 conservation board shall deposit with the fence viewers an amount
18 of money sufficient to pay for the party's assigned portion of
19 costs and fees as prescribed in the order.

20 d. (1) The department of natural resources may finance its
21 contribution using moneys allocated from the open spaces account
22 of the Iowa resources enhancement and protection fund as provided
23 in section 455A.19, subsection 1, paragraph "a".

24 (2) A county conservation board may finance its contribution
25 using moneys allocated from the county conservation account of
26 the Iowa resources enhancement and protection fund as provided in
27 section 455A.19, subsection 1, paragraph "b".

28 Sec. 5. Section 359A.5, Code 2025, is amended to read as
29 follows:

30 **359A.5 Contribution postponed.**

31 In case a landowner desires to erect a partition hedge or
32 fence when the owner of the adjoining land is not liable to
33 contribute thereto, the fence viewers may assign to each owner
34 the ~~part which~~ portion that the owner shall erect, maintain,
35 rebuild, ~~and~~ repair, trim, or cut back, by pursuing the method

1 provided in sections 359A.3 and 359A.4; ~~but.~~ However, the
2 adjoining owner shall not be required to contribute thereto until
3 the adjoining owner becomes liable ~~se~~ to do so, as provided
4 elsewhere in this chapter ~~provided~~.

5 Sec. 6. Section 455A.19, subsection 1, paragraph a, Code
6 2025, is amended by adding the following new subparagraph:

7 NEW SUBPARAGRAPH. (4) Unencumbered and unobligated moneys
8 in the open spaces account are allocated to the department as
9 necessary to contribute to the costs of erecting, rebuilding,
10 trimming, cutting back, or repairing a partition fence, including
11 the costs and fees of the fence viewers, as provided in chapter
12 359A.

13 Sec. 7. Section 455A.19, subsection 1, paragraph b, Code
14 2025, is amended by adding the following new subparagraph:

15 NEW SUBPARAGRAPH. (08) Upon request by a county conservation
16 board, unencumbered and unobligated moneys in the county
17 conservation account shall be allocated to a county conservation
18 board as necessary to contribute to the costs of erecting,
19 rebuilding, trimming, cutting back, or repairing a partition
20 fence, including the costs and fees of the fence viewers, as
21 provided in chapter 359A.

22 Sec. 8. NEW SECTION. **456A.39 Partition fences.**

23 The department of natural resources, as the entity that
24 controls or manages a tract of land, shall have the same rights
25 and obligations as any private landowner when erecting and
26 maintaining a partition fence under chapter 359A.

27 **EXPLANATION**

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

30 **BACKGROUND — IOWA RESOURCES ENHANCEMENT AND PROTECTION**

31 **FUND.** The Iowa resources enhancement and protection fund (REAP)
32 consists of various accounts to carry out a policy to protect
33 the state's natural resource heritage of air, soils, waters, and
34 wildlife (Code chapter 455A, subchapter II). Twenty-eight percent
35 of moneys in REAP are allocated to the open spaces account, which

1 supports programs of the department of natural resources (DNR)
2 including the acquisition of land. Thirty percent of moneys in
3 REAP are allocated to the county conservation account to support
4 county conservation projects.

5 BACKGROUND — IOWA'S FENCE LAW. Iowa's fence law (Code chapter
6 359A) in part governs the construction or maintenance of fences
7 existing on the property boundary lines between adjoining land
8 of different owners, referred to as a partition fence. Either
9 owner may erect a partition fence and demand the other owner
10 share in the expenses (referred to as contribution) (Code
11 section 359A.1A). An owner may apply to a panel of fence viewers
12 to decide a controversy between the owners which may result
13 in an investigation and a form of adjudication (Code section
14 359A.22). The fence viewers are the trustees of the township
15 where the property boundary is located (Code sections 359A.3
16 through 359A.11). The fence viewers must issue an order to the
17 parties assigning each party their portion of the amount required
18 to erect or maintain (rebuild, trim, cut back, or repair) the
19 fence, which may be in the form of a monetary contribution. If
20 the fence is not erected, rebuilt, or repaired within the time
21 prescribed in the order, the complaining landowner must deposit
22 an amount sufficient to pay for the work subject to reimbursement
23 by the other landowner.

24 BILL'S PROVISIONS. The bill provides that DNR or a county
25 conservation board (board), with respect to the entity's control
26 or management of a tract of land, has the same rights
27 and obligations as any private landowner when erecting and
28 maintaining a partition fence. The bill provides that after
29 fence viewers issue an order, the two parties must deposit an
30 amount with the fence viewers sufficient to pay for that party's
31 portion of the costs plus the fence viewers' expenses. DNR may
32 make its contribution from moneys in REAP's open spaces account
33 and a board may make its contribution from moneys in REAP's
34 county conservation account.