

House File 2351 - Reprinted

HOUSE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2120)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to government authority, including eminent domain
2 authority and condemnation procedures, and other properly
3 related matters, and including effective and applicability
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 HF 2351
7 sc/es/25

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1 1 Section 1. Section 6A.4, subsection 2, unnumbered
1 2 paragraph 1, Code 2005, is amended to read as follows:
1 3 Upon the owner or lessee of lands, which have no public or
1 4 private way to the lands, for the purpose of providing a
1 5 public way, ~~not exceeding forty feet in width~~, which will
1 6 connect with an existing public road. The condemned public
1 7 way shall not exceed forty feet in width when such lands are
1 8 agricultural or have a single residence located on them. For
1 9 all other uses, the condemned public way shall not exceed
1 10 sixty-six feet. The condemned public way shall be located on
1 11 a division, subdivision or "forty" line, or immediately
1 12 adjacent thereto, and along the line which is the nearest
1 13 feasible route to an existing public road, or along a route
1 14 established for a period of ten years or more by an easement
1 15 of record or by use and travel to and from the property by the
1 16 owner and the general public. The public way shall not
1 17 interfere with buildings, orchards, or cemeteries. When
1 18 passing through enclosed lands, the public way shall be fenced
1 19 on both sides by the condemner upon request of the owner of
1 20 the condemned land. The condemner or the condemner's
1 21 assignee, shall provide easement for access to the owner of
1 22 property severed by the condemnation. The public way shall be
1 23 maintained by the condemner or the condemner's assignee, and
1 24 shall not be considered any part of the primary or secondary
1 25 road systems.
1 26 Sec. 2. Section 6A.21, subsection 2, Code 2005, is amended
1 27 to read as follows:
1 28 2. The limitation on the definition of public use, public
1 29 purpose, or public improvement does not apply to ~~a slum area~~
1 30 ~~or blighted area as defined in section 403.17, or to~~
1 31 ~~agricultural land acquired for industry as that term is~~
1 32 ~~defined in section 260E.2, or to the establishment,~~
1 33 relocation, or improvement of a road pursuant to chapter 306,
1 34 or to the establishment of a railway under the supervision of
1 35 the department of transportation as provided in section
2 1 327C.2, or to an airport as defined in section 328.1, or to
2 2 land acquired in order to replace or mitigate land used in a
2 3 road project when federal law requires replacement or
2 4 mitigation. This limitation also does not apply to utilities
2 5 or persons under the jurisdiction of the Iowa utilities board
2 6 in the department of commerce or to any other utility
2 7 conferred the right by statute to condemn private property or
2 8 to otherwise exercise the power of eminent domain.
2 9 Sec. 3. NEW SECTION. 6A.22 ADDITIONAL LIMITATIONS ON
2 10 EXERCISE OF POWER == DEFINITIONS.
2 11 1. In addition to the limitations in section 6A.21, the
2 12 authority of an acquiring agency to condemn any private
2 13 property through eminent domain may only be exercised for a
2 14 public purpose, public use, or public improvement. However,
2 15 if the owner of the property consents to the condemnation, the
2 16 property may be condemned for any purpose.

2 17 2. a. "Public use", "public purpose", or "public
2 18 improvement" means one or more of the following:
2 19 (1) The possession, occupation, and enjoyment of property
2 20 by the general public or governmental entities.
2 21 (2) The acquisition of any interest in property necessary
2 22 to the function of a public or private utility, common
2 23 carrier, or airport or airport system.
2 24 (3) Private use that is incidental to the public use of
2 25 the property, provided that no property shall be condemned
2 26 solely for the purpose of facilitating such incidental private
2 27 use.
2 28 (4) The acquisition of property pursuant to chapter 455H.
2 29 (5) The acquisition of property in that portion of an
2 30 urban renewal area designated as a slum or blighted area if
2 31 each parcel, or any improvements thereon, for which
2 32 condemnation is sought is determined by the governing body of
2 33 the municipality to be in a slum or blighted condition.
2 34 However, for a project or acquisition plan adopted by the
2 35 governing body of a city or county after due deliberation and
3 1 public input, if seventy-five percent or more of the assessed
3 2 value of the property included in the plan consists of
3 3 property that is determined to be in a slum or blighted
3 4 condition at the time the plan was established, the entire
3 5 project or acquisition plan area is subject to condemnation by
3 6 the municipality.
3 7 In any action contesting a determination made pursuant to
3 8 this subparagraph (5), the burden of proof is on the
3 9 municipality to prove by clear and convincing evidence that it
3 10 did not abuse its discretion in making such a determination.
3 11 For purposes of this subparagraph (5), "blighted condition"
3 12 means the presence of a substantial number of slum or
3 13 deteriorated structures; faulty lot layout in relation to
3 14 size, adequacy, or accessibility; insanitary or unsafe
3 15 conditions; excessive and uncorrected deterioration of site or
3 16 other improvements; tax or special assessment delinquency
3 17 exceeding the fair value of the land; defective or unusual
3 18 conditions of title; or the existence of conditions which
3 19 endanger life or property by fire and other causes; or the
3 20 existence of conditions which retard the provision of housing
3 21 accommodations for low or moderate income families, or is a
3 22 menace to the public health and safety in its present
3 23 condition and use.
3 24 For purposes of this subparagraph (5), "slum condition"
3 25 means a condition conducive to ill health, transmission of
3 26 disease, infant mortality, juvenile delinquency, or crime, or
3 27 detrimental to the public health and safety due to a
3 28 predominance of buildings or improvements, whether residential
3 29 or nonresidential, by reason of the following: by reason of
3 30 dilapidation, deterioration that is excessive and uncorrected,
3 31 age or obsolescence; by reason of inadequate provision for
3 32 ventilation, light, air, sanitation, or open spaces; by reason
3 33 of high density of population and overcrowding; by reason of
3 34 the existence of conditions which endanger life or property by
3 35 fire and other causes; or by reason of any combination of such
4 1 factors.
4 2 For purposes of this subparagraph (5), in no case shall
4 3 land that is agricultural land be determined to be in a slum
4 4 condition or blighted condition.
4 5 b. Except as specifically included in the definition in
4 6 paragraph "a", "public use" or "public purpose" or "public
4 7 improvement" does not mean economic development activities
4 8 resulting in increased tax revenues, increased employment
4 9 opportunities, privately owned or privately funded housing and
4 10 residential development, privately owned or privately funded
4 11 commercial or industrial development or, the lease of publicly
4 12 owned property to a private party.
4 13 c. Notwithstanding paragraph "a":
4 14 (1) Private property shall not be condemned for
4 15 development or creation of a lake as a surface drinking water
4 16 source or for recreational use, or for construction of sewer
4 17 treatment facilities, unless the acquiring agency demonstrates
4 18 that no other prudent and feasible alternative exists to
4 19 accomplish its purpose.
4 20 (2) Private property shall not be condemned to develop or
4 21 create a park or recreational facility unless the acquiring
4 22 agency demonstrates that a good faith effort has been made to
4 23 purchase a prudent and feasible location from a willing seller
4 24 for the park or facility.
4 25 (3) Private property shall not be condemned for
4 26 construction of a landfill unless the property to be condemned
4 27 is located immediately adjacent to an existing landfill.

4 28 (4) The use of eminent domain authority to acquire private
4 29 property in the unincorporated area of a county for use as an
4 30 airport, airport system, or aviation facilities is prohibited,
4 31 notwithstanding any provision of the law to the contrary, if
4 32 the property to be condemned is located outside the geographic
4 33 boundaries of the city or county operating the airport,
4 34 airport system, or aviation facilities or outside the
4 35 geographic boundaries of the member municipalities of the
5 1 commission or authority. However, an acquiring agency may
5 2 proceed with condemnation of property under these
5 3 circumstances if the board of supervisors of the county where
5 4 the property for which condemnation is sought is located holds
5 5 a public hearing on the matter and subsequent to the hearing
5 6 approves, by resolution, the condemnation action.

5 7 3. In any action contesting whether eminent domain
5 8 authority is being exercised for a public use, public purpose,
5 9 or public improvement, the burden of proof is on the acquiring
5 10 agency to prove by clear and convincing evidence that the
5 11 proposed use of the property meets the definition of public
5 12 use, public purpose, or public improvement in subsection 2 and
5 13 that there is no prudent and feasible alternative to
5 14 condemnation of the property.

5 15 Sec. 4. Section 6B.2A, subsection 1, unnumbered paragraph
5 16 1, Code 2005, is amended to read as follows:

5 17 An acquiring agency shall provide written notice of a
5 18 public hearing to each owner and any contract purchaser of
5 19 record of ~~agricultural land private property~~ that may be the
5 20 subject of condemnation. The authority under this chapter is
5 21 not conferred and condemnation proceedings shall not begin
5 22 unless a good faith effort is made to mail and publish the
5 23 notice as provided in this section on the owner and any
5 24 contract purchaser of record of the property subject to
5 25 condemnation. The notice shall be mailed by ordinary mail,
5 26 not less than thirty days before the date the hearing is held,
5 27 to the owner and any contract purchaser of record of each
5 28 property or property interest at the owner's and contract
5 29 purchaser's last known address as shown in the records of the
5 30 county auditor not less than seven days nor more than fourteen
5 31 days prior to the date of mailing. A change in ownership of
5 32 any such property which is not reflected in the records of the
5 33 county auditor during the period those records are searched as
5 34 above provided shall not affect the validity of the notice or
5 35 any condemnation proceeding commenced on the basis of such
6 1 notice. The notice shall be given and the public hearing held
6 2 before adoption of the ordinance, resolution, motion, or other
6 3 declaration of intent to fund the final site-specific design
6 4 for the public improvement, to make the final selection of the
6 5 route or site location for the public improvement, or to
6 6 acquire or condemn, if necessary, all or a portion of the
6 7 property or an interest in the property for the public
6 8 improvement. If the location of the public improvement is
6 9 changed or expanded after the decision has been made to
6 10 proceed with the public improvement, a notice shall be mailed
6 11 by ordinary mail no less than thirty days before the adoption
6 12 of the ordinance, resolution, motion, or other declaration of
6 13 intent to proceed with a change in the location of the public
6 14 improvement to the owner and any contract purchaser of record
6 15 of the ~~land property~~ to be acquired or condemned, if
6 16 necessary, in the new location of the public improvement
6 17 affected by the change. The mailed notice shall, at a
6 18 minimum, include the following information:

6 19 Sec. 5. Section 6B.2A, subsection 2, unnumbered paragraph
6 20 1, Code 2005, is amended to read as follows:

6 21 The acquiring agency shall cause a notice to be published
6 22 once in a newspaper of general circulation in the county or
6 23 city where the ~~agricultural land property to be acquired or~~
6 24 ~~condemned~~ is located. The acquiring agency shall also post
6 25 the notice in a conspicuous place on the property. The notice
6 26 shall be published and posted at least four but no more than
6 27 twenty days before the public hearing is held as referred to
6 28 in subsection 1. The ~~published~~ notice shall, at a minimum,
6 29 include the following information:

6 30 Sec. 6. Section 6B.2A, subsection 4, Code 2005, is amended
6 31 to read as follows:

6 32 4. This section shall apply to the state department of
6 33 transportation only when the property to be condemned by or on
6 34 behalf of the department is agricultural land. However, this
6 35 section shall not apply to a condemnation of property
7 1 agricultural land by the state department of transportation or
7 2 a county for right-of-way that is contiguous to an existing
7 3 road right-of-way and necessary for the maintenance, safety

7 4 improvement, repair, or upgrade of the existing road.
7 5 Notwithstanding section 6B.2C, a condemnation of property by
7 6 the state department of transportation pursuant to this
7 7 subsection shall be approved by the director of the department
7 8 of transportation. For purposes of this subsection, "upgrade"
7 9 means to bring a road or bridge up to currently acceptable
7 10 standards, including improved geometrics, passing lanes,
7 11 turning lanes, climbing lanes, and improved shoulders.
7 12 "Upgrade" does not include expanding a highway from two lanes
7 13 to four lanes.

7 14 Sec. 7. Section 6B.2B, Code 2005, is amended to read as
7 15 follows:

7 16 6B.2B ACQUISITION NEGOTIATION ~~STATEMENT OF RIGHTS~~.

7 17 The acquiring agency shall make a good faith effort to
7 18 negotiate with the owner to purchase the private property or
7 19 property interest before filing an application for
7 20 condemnation or otherwise proceeding with the condemnation
7 21 process. An acquiring agency shall not make an offer to
7 22 purchase the property or property interest that is less than
7 23 the fair market value the acquiring agency has established for
7 24 the property or property interest pursuant to the appraisal
7 25 required in section 6B.45 or less than the value determined
7 26 under the acquiring agency's waiver procedure established
7 27 pursuant to section 6B.54, subsection 2, for acquisition of
7 28 property with a low fair market value. A purchase offer made
7 29 by an acquiring agency shall include provisions for payment to
7 30 the owner of expenses, including relocation expenses, expenses
7 31 listed in section 6B.54, subsection 10, and other expenses
7 32 required by law to be paid by an acquiring agency to a
7 33 condemnee. However, ~~an~~ in the alternative, the acquiring
7 34 agency may offer, and the owner may accept, a purchase offer
7 35 from the acquiring agency that is an amount equal to one
8 1 hundred twenty-five percent of the appraisal amount plus
8 2 payment to the owner of expenses listed in section 6B.54,
8 3 subsection 10, once those expenses have been determined. If
8 4 the owner accepts such a purchase offer, the owner is barred
8 5 from claiming payment from the acquiring agency for any other
8 6 expenses allowed by law. An acquiring agency need not make an
8 7 offer in excess of that amount ~~the amounts described in this~~
8 8 section in order to satisfy the requirement to negotiate in
8 9 good faith. ~~An acquiring agency is deemed to have met the~~
8 10 requirements of this section if the acquiring agency complies
8 11 with section 6B.54.

8 12 Sec. 8. Section 6B.3, subsection 1, paragraph d, Code
8 13 2005, is amended to read as follows:

8 14 d. The purpose for which condemnation is sought. ~~For~~
8 15 ~~purposes of section 6B.4A, if condemnation of agricultural~~
8 16 ~~land is sought by a city or county, or an agency of a city or~~
8 17 ~~county, for location of an industry as that term is defined in~~
8 18 ~~section 260E.2, the application shall so state. However, the~~
8 19 ~~city or county shall not be required to disclose information~~
8 20 ~~on an industrial prospect with which the city or county is~~
8 21 ~~currently negotiating.~~

8 22 Sec. 9. Section 6B.3, subsection 2, unnumbered paragraph
8 23 1, Code 2005, is amended to read as follows:

8 24 The applicant shall mail a copy of the application by
8 25 certified mail to the owner at the owner's last known address
8 26 and to any record lienholder or encumbrancer of the property
8 27 at the lienholder's or encumbrancer's last known address. The
8 28 applicant shall also cause the application to be published
8 29 once in a newspaper of general circulation in the county, not
8 30 less than four nor more than twenty days before the meeting of
8 31 the compensation commission to assess the damages. Service of
8 32 the application by publication shall be deemed complete on the
8 33 day of publication. The applicant shall also post a copy of
8 34 the application in a conspicuous place on the property not
8 35 less than four nor more than twenty days before the meeting of
9 1 the compensation commission to assess the damages.

9 2 Sec. 10. Section 6B.3, subsection 3, unnumbered paragraph
9 3 2, Code 2005, is amended to read as follows:

9 4 When indexed, the proceeding is considered pending so as to
9 5 charge all persons not having an interest in the property with
9 6 notice of its pendency, and while pending no interest can be
9 7 acquired by the third parties in the property against the
9 8 rights of the applicant. If the appraisal of damages by
9 9 the commission pursuant to section 6B.14 is not made within
9 10 one hundred twenty days of indexing, the proceedings
9 11 instituted under this section are terminated and all rights
9 12 and interests of the applicant arising out of the application
9 13 for condemnation terminate. The applicant may reinstitute a
9 14 new condemnation proceeding at any time. The reinstituted

9 15 proceedings are entirely new proceedings and not a revival of
9 16 the terminated proceeding.

9 17 Sec. 11. NEW SECTION. 6B.3A CHALLENGE BY OWNER.

9 18 An owner of property described in an application for
9 19 condemnation may bring an action to challenge the exercise of
9 20 eminent domain authority or the condemnation proceedings in
9 21 the district court of the county in which the private property
9 22 is situated. The action shall be brought within thirty days
9 23 from the date of mailing the notice of appraisal of damages
9 24 under section 6B.18. Notice of the action shall be given as
9 25 provided in section 6B.18.

9 26 Sec. 12. Section 6B.8, Code 2005, is amended to read as
9 27 follows:

9 28 6B.8 NOTICE OF ASSESSMENT.

9 29 The applicant, or the owner or any lienholder or
9 30 encumbrancer of any land described in the application, may, at
9 31 any time after the appointment of the commissioners, have the
9 32 damages to the lands of any such owner assessed by giving the
9 33 other party, if a resident of this state, thirty days' notice,
9 34 in writing. The notice shall specify the day and the hour
9 35 when the compensation commission will meet, view the premises,
10 1 and assess the damages. The notice shall be personally served
10 2 upon all necessary parties in the same manner provided by the
10 3 Iowa rules of civil procedure for the personal service of
10 4 original notice. ~~If a city or county, or an agency of a city~~
~~10 5 or county, is seeking to condemn agricultural land for an~~
~~10 6 industry as that term is defined in section 260E.2, the notice~~
~~10 7 shall inform the landowner that the landowner may request that~~
~~10 8 the compensation commission review the application as provided~~
~~10 9 in section 6B.4A.~~

10 10 Sec. 13. Section 6B.14, unnumbered paragraph 2, Code 2005,
10 11 is amended to read as follows:

10 12 Prior to the meeting of the commission, the commission or a
10 13 commissioner shall not communicate with the applicant,
10 14 property owner, or tenant, or their agents, regarding the
10 15 condemnation proceedings. The commissioners shall meet in
10 16 open session to view the property and to receive evidence, ~~but~~
~~10 17 may and shall deliberate in closed open session. However, if~~
~~10 18 the acquiring agency is the state department of~~
~~10 19 transportation, the commission may deliberate in closed~~
~~10 20 session.~~ After deliberations commence, the commission and
10 21 each commissioner is prohibited from communicating with any
10 22 party to the proceeding, unless such communication occurs in
10 23 the presence of or with the consent of the property owner and
10 24 the other parties who appeared before the commission. The
10 25 commission shall keep minutes of all its meetings showing the
10 26 date, time, and place, the members present, and the action
10 27 taken at each meeting. The minutes shall show the results of
10 28 each vote taken and information sufficient to indicate the
10 29 vote of each member present. The vote of each member present
10 30 shall be made public at the open session. The minutes shall
10 31 be public records open to public inspection.

10 32 Sec. 14. Section 6B.14, Code 2005, is amended by adding
10 33 the following new unnumbered paragraph after unnumbered
10 34 paragraph 2:

10 35 NEW UNNUMBERED PARAGRAPH. In determining fair market value
11 1 of property, the commissioners shall not consider only the
11 2 assessed value assigned to such property for purposes of
11 3 property taxation.

11 4 Sec. 15. Section 6B.42, subsection 1, paragraph a, Code
11 5 2005, is amended to read as follows:

11 6 a. The acquiring agency shall provide to the person, in
11 7 addition to any other sums of money in payment of just
11 8 compensation, the payments and assistance required by law, in
11 9 accordance with chapter 316, ~~as if the acquiring agency were a~~
~~11 10 displacing agency under that chapter.~~

11 11 Sec. 16. Section 6B.45, Code 2005, is amended to read as
11 12 follows:

11 13 6B.45 MAILING COPY OF APPRAISAL.

11 14 When any real property or interest in real property is to
11 15 be purchased, or in lieu thereof to be condemned, the
11 16 acquiring agency or its agent shall submit to the person,
11 17 corporation, or entity whose property or interest in the
11 18 property is to be taken, by ordinary mail, at least ten days
11 19 prior to the date upon which the acquiring agency or its agent
11 20 contacts the property owner to commence negotiations, a copy
11 21 of the appraisal in its entirety upon such real property or
11 22 interest in such real property prepared for the acquiring
11 23 agency or its agent, which shall include, at a minimum, an
11 24 itemization of the appraised value of the real property or
11 25 interest in the property, any buildings on the property, all

11 26 other improvements including fences, severance damages, and
11 27 loss of access. In determining fair market value of property,
11 28 the commissioners shall not consider only the assessed value
11 29 assigned to such property for purposes of property taxation.
11 30 The appraisal sent to the condemnee shall be that appraisal
11 31 upon which the condemnor will rely to establish an amount
11 32 which the condemnor believes to be just compensation for the
11 33 real property. All other appraisals made on the property as a
11 34 result of the condemnation proceeding shall be made available
11 35 to the condemnee upon request. In lieu of an appraisal, a
12 1 utility or person under the jurisdiction of the utilities
12 2 board of the department of commerce, or any other utility
12 3 conferred the right by statute to condemn private property,
12 4 shall provide in writing by certified mail to the owner of
12 5 record thirty days prior to negotiations, the methods and
12 6 factors used in arriving at an offered price for voluntary
12 7 easements including the range of cash amount of each
12 8 component. An acquiring agency may obtain a signed written
12 9 waiver from the landowner to allow negotiations to commence
12 10 prior to the expiration of the applicable waiting period for
12 11 the commencement of negotiations.
12 12 Only the appraisal prepared under this section shall be
12 13 forwarded to the compensation commission by the acquiring
12 14 agency.

12 15 Sec. 17. Section 6B.54, Code 2005, is amended to read as
12 16 follows:

12 17 6B.54 ~~FEDERALLY ASSISTED PROJECT AND DISPLACING ACTIVITIES~~
12 18 ~~== ACQUISITION POLICIES FOR ACQUIRING AGENCIES.~~

12 19 For any project or displacing activity that has received or
12 20 will receive federal financial assistance as defined in
12 21 section 316.1, for any state-funded projects, or for any other
12 22 public use, public purpose, or public improvement for which
12 23 condemnation is sought, an acquiring agency shall, at a
12 24 minimum, satisfy the following policies:

12 25 1. Every reasonable and good faith effort shall be made to
12 26 acquire expeditiously real property by negotiation as provided
12 27 in section 6B.2B.

12 28 2. Real property shall be appraised as required by section
12 29 6B.45 before the initiation of negotiations, and the owner or
12 30 the owner's designated representative shall be given an
12 31 opportunity to accompany at least one appraiser of the
12 32 acquiring agency during an inspection of the property, except
12 33 that an acquiring agency may prescribe a procedure to waive
12 34 the appraisal in cases involving the acquisition of property
12 35 with a low fair market value. In lieu of an appraisal, a
13 1 utility or person under the jurisdiction of the utilities
13 2 board of the department of commerce, or any other utility
13 3 conferred the right by statute to condemn private property,
13 4 shall provide in writing by certified mail to the owner of
13 5 record thirty days before negotiations, the methods and
13 6 factors used in arriving at an offered price for voluntary
13 7 easements including the range of cash amount of each
13 8 component.

13 9 3. Before the initiation of negotiations for real
13 10 property, the acquiring agency shall establish an amount which
13 11 it believes to be just compensation for the real property, and
13 12 shall make a prompt offer to acquire the property for the full
13 13 amount established by the agency. In no event shall the
13 14 amount be less than the lowest appraisal of the fair market
13 15 value of the acquiring agency has established for the property
13 16 or property interest pursuant to the appraisal required in
13 17 section 6B.45 or less than the value determined under the
13 18 acquiring agency's waiver procedure established pursuant to
13 19 subsection 2. A purchase offer made by an acquiring agency
13 20 shall include provisions for payment to the owner of expenses,
13 21 including relocation expenses, expenses listed in subsection
13 22 10, and other expenses required by law to be paid by an
13 23 acquiring agency to a condemnee. However, in the alternative,
13 24 the acquiring agency may offer, and the owner may accept, a
13 25 purchase offer from the acquiring agency that is an amount
13 26 equal to one hundred twenty-five percent of the appraisal
13 27 amount plus payment to the owner of expenses listed in
13 28 subsection 10, once those expenses have been determined. If
13 29 the owner accepts such a purchase offer, the owner is barred
13 30 from claiming payment from the acquiring agency for any other
13 31 expenses allowed by law. In the case of a utility or person
13 32 under the jurisdiction of the utilities board of the
13 33 department of commerce, or any other utility conferred the
13 34 right by statute to condemn private property, the amount shall
13 35 not be less than the amount indicated by the methods and
14 1 factors used in arriving at an offered price for a voluntary

14 2 easement.

14 3 4. The construction or development of a public improvement
14 4 shall be so scheduled that, to the greatest extent
14 5 practicable, no person lawfully occupying real property shall
14 6 be required to move from a dwelling or to move the person's
14 7 business or farm operation without at least ninety days'
14 8 written notice of the date by which the move is required.

14 9 5. If after damages have been finally determined and paid,
14 10 an owner or tenant is permitted to occupy the real property
14 11 acquired on a rental basis for a short term or for a period
14 12 subject to termination on short notice, the amount of rent
14 13 required shall not exceed the fair rental value of the
14 14 property to a short-term occupier.

14 15 6. In no event shall the time of condemnation be advanced,
14 16 or negotiations or condemnation and the deposit of funds in
14 17 court for the use of the owner be deferred, or any other
14 18 coercive action be taken to compel an agreement on the price
14 19 to be paid for the property.

14 20 7. If an interest in real property is to be acquired by
14 21 exercise of the power of eminent domain, formal condemnation
14 22 proceedings shall be instituted. The acquiring agency shall
14 23 not intentionally make it necessary for an owner to institute
14 24 legal proceedings to prove the fact of the taking of the
14 25 owner's real property.

14 26 8. If the acquisition of only a portion of property would
14 27 leave the owner with an uneconomical remnant, the acquiring
14 28 agency shall offer to acquire that remnant. For the purposes
14 29 of this chapter, an "uneconomical remnant" is a parcel of real
14 30 property in which the owner is left with an interest after the
14 31 partial acquisition of the owner's property, where the
14 32 acquiring agency determines that the parcel has little or no
14 33 value or utility to the owner.

14 34 9. A person whose real property is being acquired in
14 35 accordance with this chapter, after the person has been fully
15 1 informed of the person's right to receive just compensation
15 2 for the property, may donate the property, any part of the
15 3 property, any interest in the property, or any compensation
15 4 paid for it as the person may determine.

15 5 10. As soon as practicable after the date of payment of
15 6 the purchase price or the date of deposit in court of funds to
15 7 satisfy the award of compensation in a condemnation proceeding
15 8 to acquire real property, whichever is earlier, the acquiring
15 9 agency shall reimburse the owner, to the extent the acquiring
15 10 agency deems fair and reasonable, for expenses the owner
15 11 necessarily incurred for all of the following:

15 12 a. Recording fees, transfer taxes, and similar expenses
15 13 incidental to conveying the real property to the acquiring
15 14 agency.

15 15 b. Penalty costs for full or partial prepayment of any
15 16 preexisting recorded mortgage entered into in good faith
15 17 encumbering the real property.

15 18 c. Reasonable attorney fees and reasonable costs,
15 19 including expert witness fees and fees relating to appraisal
15 20 of the property.

15 21 Payments and expenditures under this subsection are
15 22 incident to and arise out of the program or project for which
15 23 the acquisition activity takes place. Such payments and
15 24 expenditures may be made from the funds made available for the
15 25 program or project.

15 26 A person aggrieved by a determination as to the eligibility
15 27 for or amount of a reimbursement may apply to have the matter
15 28 reviewed by the acquiring agency or in accordance with section
15 29 316.9 if applicable.

15 30 11. An owner shall not be required to surrender possession
15 31 of real property before the acquiring agency concerned pays
15 32 the agreed purchase price.

15 33 12. After damages have been finally determined and paid,
15 34 the acquiring agency may offer, and the owner may accept, an
15 35 amount equal to twenty-five percent of the amount of damages
16 1 plus payment to the owner of expenses listed in subsection 10,
16 2 once those expenses have been determined. If the owner
16 3 accepts such an offer, the owner is barred from claiming
16 4 payment from the acquiring agency for any other expenses
16 5 allowed by law.

16 6 Sec. 18. Section 6B.55, unnumbered paragraph 1, Code 2005,
16 7 is amended to read as follows:

16 8 For any ~~program or project that has received or will~~
16 9 ~~receive federal financial assistance as defined in section~~
16 10 ~~316.1, for any state-funded projects, or for any other public~~
16 11 ~~use, public purpose, or public improvement for which~~
16 12 condemnation is sought, an acquiring agency shall at a minimum

16 13 satisfy the following policies:

16 14 Sec. 19. Section 6B.56, subsection 2, Code 2005, is
16 15 amended to read as follows:

16 16 2. Before the real property may be offered for sale to the
16 17 general public, the condemner shall notify the prior owner of
16 18 the real property condemned in writing of the condemner's
16 19 intent to dispose of the real property, of the current
16 20 appraised value of the real property, and of the prior owner's
16 21 right to purchase the real property within sixty days from the
16 22 date the notice is served at a price equal to the current
16 23 appraised value of the real property or the fair market value
16 24 of the property at the time it was acquired by the acquiring

16 25 agency from the prior owner, whichever is less. The notice
16 26 sent by the condemner as provided in this subsection shall be
16 27 filed with the office of the recorder in the county in which
16 28 the real property is located.

16 29 Sec. 20. NEW SECTION. 6B.56A DISPOSITION OF CONDEMNED
16 30 PROPERTY == ACTION TO RECLAIM.

16 31 When five years have elapsed since property was condemned
16 32 and the property has not been used for the purpose stated in
16 33 the application filed pursuant to section 6B.3 and the
16 34 acquiring agency has not taken action to dispose of the
16 35 property pursuant to section 6B.56, the previous owner may
17 1 bring an action in the district court where the property is
17 2 located to reclaim title to the property. The action shall be
17 3 brought within one hundred eighty days after the five-year
17 4 time period has elapsed. Upon the filing of the action with
17 5 the court, the previous owner shall pay to the county sheriff
17 6 that portion of the damages which reflected the fair market
17 7 value of the property at the time of acquisition. After
17 8 notice of the action has been served on the acquiring agency,
17 9 the previous owner shall also file a copy of the notice with
17 10 the county recorder for recording. Thirty days after service
17 11 of the notice, and upon proof of payment to the sheriff being
17 12 filed with the court, the court shall order that title to the
17 13 property be transferred to the previous owner.

17 14 An acquiring agency shall give written notice to the owner
17 15 of the right to reclaim title under this section at the time
17 16 damages are paid to the owner.

17 17 This section does not apply to property acquired by the
17 18 state department of transportation.

17 19 Sec. 21. NEW SECTION. 6B.60 RENTAL CHARGES PROHIBITED.

17 20 Rent for property for which damages have been determined
17 21 shall not be charged and shall not accrue against the property
17 22 owner until such damages have been finally determined and paid
17 23 and all court challenges related to the condemnation have been
17 24 finally adjudicated.

17 25 Sec. 22. NEW SECTION. 6B.61 APPROVAL OF LOCAL ELECTED
17 26 OFFICIALS REQUIRED.

17 27 Notwithstanding any provision of law to the contrary, any
17 28 entity created by or on behalf of one or more political
17 29 subdivisions and granted, by statute, eminent domain authority
17 30 to acquire property shall not exercise such authority without
17 31 first presenting the proposal to acquire property by eminent
17 32 domain to the governing body of each political subdivision
17 33 that created the entity or on whose behalf the entity was
17 34 created and such proposal receives the approval, by
17 35 resolution, of each governing body. This section does not
18 1 apply to a multistate entity created to provide drinking water
18 2 which has received or is receiving federal funds.

18 3 This section does not apply to a person issued a
18 4 certificate of public convenience, use, and necessity under
18 5 chapter 476A.

18 6 Sec. 23. NEW SECTION. 6B.62 PROPERTY TAXES ON CERTAIN
18 7 REPLACEMENT PROPERTY.

18 8 Notwithstanding any other provision to the contrary, for
18 9 ten fiscal years following condemnation, property taxes on
18 10 replacement property acquired by a prior owner within the same
18 11 county where the condemned property is located shall not
18 12 exceed the lesser of the amount of property taxes levied
18 13 against the condemned property during the fiscal year in which
18 14 the property was acquired by the acquiring agency or the
18 15 amount of property taxes levied against the replacement
18 16 property for the current fiscal year.

18 17 Sec. 24. Section 28F.11, Code 2005, is amended to read as
18 18 follows:

18 19 28F.11 EMINENT DOMAIN.

18 20 Any public agency participating in an agreement authorizing
18 21 the joint exercise of governmental powers pursuant to this
18 22 chapter may exercise its power of eminent domain to acquire
18 23 interests in property, under provisions of law then in effect

18 24 and applicable to the public agency, for the use of the entity
18 25 created to carry out the agreement, provided that the power of
18 26 eminent domain is not used to acquire interests in property
18 27 which is part of a system of facilities in existence, under
18 28 construction, or planned, for the generation, transmission or
18 29 sale of electric power. In the exercise of the power of
18 30 eminent domain, the public agency shall proceed in the manner
18 31 provided by chapter 6B. Any interests in property acquired
18 32 are acquired for a public purpose, as defined in chapter 6A,
18 33 of the condemning public agency, and the payment of the costs
18 34 of the acquisition may be made pursuant to the agreement or to
18 35 any separate agreement between the public agency and the
19 1 entity or the other public agencies participating in the
19 2 entity or any of them. Upon payment of costs, any property
19 3 acquired is the property of the entity.
19 4 Sec. 25. Section 316.4, subsection 1, Code 2005, is
19 5 amended to read as follows:
19 6 1. If a program or project undertaken by a displacing
19 7 agency will result in the displacement of a person, the
19 8 displacing agency shall make a payment to the displaced
19 9 person, upon proper application as approved by the displacing
19 10 agency, for actual reasonable and necessary expenses incurred
19 11 in moving the person, the person's family, business, farm
19 12 operation, or other personal property subject to rules and
19 13 limits established by the department. The payment may also
19 14 provide for actual direct losses of tangible personal
19 15 property, purchase of substitute personal property, business
19 16 reestablishment expenses, storage expenses, and expenses
19 17 incurred in searching for a replacement business or farm. If
19 18 relocation of a business or farm operation is not economically
19 19 feasible, the displaced person may also apply for payment of
19 20 the loss of existing business relationships because of the
19 21 inability to relocate the business or farm operation to a
19 22 location similar in economic advantage to the location from
19 23 which the business or farm operation was moved.
19 24 Sec. 26. Section 327I.7, subsection 4, Code 2005, is
19 25 amended to read as follows:
19 26 4. Exercise the power of eminent domain consistent with
19 27 the provisions of chapters 6A and 6B.
19 28 Sec. 27. Section 330A.8, subsection 11, Code 2005, is
19 29 amended to read as follows:
19 30 11. To have the power of eminent domain, ~~such power to be~~
19 31 ~~exercised in the manner provided by law for municipal~~
19 32 ~~corporations of this state but only as provided in section~~
19 33 ~~330A.13.~~
19 34 Sec. 28. Section 346.27, subsection 9, paragraph b, Code
19 35 2005, is amended to read as follows:
20 1 b. To acquire in the corporate name of the authority the
20 2 fee simple title to the real property located within the area
20 3 by purchase, gift, devise, or by the exercise of the power of
20 4 eminent domain consistent with the provisions of chapters 6A
20 5 and 6B, or to take possession of real estate by lease.
20 6 Sec. 29. Section 364.4, subsection 1, Code 2005, is
20 7 amended to read as follows:
20 8 1. Acquire, hold, and dispose of property outside the city
20 9 in the same manner as within. However, the power of a city to
20 10 acquire property outside the city does not include the power
20 11 to acquire property outside the city by eminent domain, except
20 12 for the following, but only to the extent the city had this
20 13 power prior to July 1, 2006:
20 14 a. The operation of a city utility as defined in section
20 15 362.2.
20 16 b. The operation of a city franchise conferred the
20 17 authority to condemn private property under section 364.2.
20 18 c. The operation of a combined utility system as defined
20 19 in section 384.80.
20 20 d. The operation of a municipal airport.
20 21 Sec. 30. Section 389.3, unnumbered paragraph 2, Code 2005,
20 22 is amended to read as follows:
20 23 A joint water utility is a political subdivision and an
20 24 instrumentality of municipal government. The statutory
20 25 powers, duties, and limitations conferred upon a city utility
20 26 apply to a joint water utility, except that title to property
20 27 of a joint water utility may be held in the name of the joint
20 28 water utility. The joint water utility board shall have all
20 29 powers and authority of a city with respect to property which
20 30 is held by the joint water utility. A joint water utility
20 31 shall have the power of eminent domain, including the powers,
20 32 duties, and limitations conferred upon a city in chapters 6A
20 33 and 6B, for the purposes of constructing and operating a joint
20 34 water utility.

20 35 Sec. 31. Section 403.2, subsection 4, Code 2005, is
21 1 amended to read as follows:
21 2 4. It is further found and declared that the powers
21 3 conferred by this chapter are for public uses and purposes for
21 4 which public money may be expended and for which the power of
21 5 eminent domain, to the extent authorized, and police power
21 6 exercised; and that the necessity in the public interest for
21 7 the provisions herein enacted is hereby declared as a matter
21 8 of legislative determination.

21 9 Sec. 32. Section 403.5, subsection 4, paragraph b,
21 10 subparagraph (2), Code 2005, is amended to read as follows:

21 11 (2) If it is to be developed for nonresidential uses, the
21 12 local governing body shall determine that such nonresidential
21 13 uses are necessary and appropriate to facilitate the proper
21 14 growth and development of the community in accordance with
21 15 sound planning standards and local community objectives.

21 16 PARAGRAPH DIVIDED. The acquisition of open land authorized
21 17 in subparagraphs (1) and (2) may require the exercise of
21 18 governmental action, as provided in this chapter, because of
21 19 defective or unusual conditions of title, diversity of
21 20 ownership, tax delinquency, improper subdivisions, outmoded
21 21 street patterns, deterioration of site, economic disuse,
21 22 unsuitable topography or faulty lot layouts, or because of the
21 23 need for the correlation of the area with other areas of a
21 24 municipality by streets and modern traffic requirements, or
21 25 any combination of such factors or other conditions which
21 26 retard development of the area. If such governmental action
21 27 involves the exercise of eminent domain authority, the
21 28 municipality is subject to the limitations of this chapter and
21 29 chapters 6A and 6B.

21 30 Sec. 33. Section 403.5, subsection 4, unnumbered paragraph
21 31 2, Code 2005, is amended by striking the unnumbered paragraph.

21 32 Sec. 34. Section 403.6, subsection 3, Code 2005, is
21 33 amended to read as follows:

21 34 3. Within its area of operation, to enter into any
21 35 building or property in any urban renewal area in order to
22 1 make inspections, surveys, appraisals, soundings or test
22 2 borings, and to obtain an order for this purpose from a court
22 3 of competent jurisdiction in the event entry is denied or
22 4 resisted; to acquire by purchase, lease, option, gift, grant,
22 5 bequest, devise, eminent domain or otherwise, any real
22 6 property, or personal property for administrative purposes,
22 7 together with any improvements thereon; to hold, improve,
22 8 clear or prepare for redevelopment any such property; to
22 9 mortgage, pledge, hypothecate or otherwise encumber or dispose
22 10 of any real property; to insure or provide for the insurance
22 11 of any real or personal property or operations of the
22 12 municipality against any risks or hazards, including the power
22 13 to pay premiums on any such insurance; and to enter into any
22 14 contracts necessary to effectuate the purposes of this
22 15 chapter; ~~Provided, however, that no statutory provision with~~
22 16 ~~respect to the acquisition, clearance or disposition of~~
22 17 ~~property by public bodies shall restrict a municipality or~~
22 18 ~~other public body exercising powers hereunder in the exercise~~
22 19 ~~of such functions with respect to an urban renewal project,~~
22 20 ~~unless the legislature shall specifically so state. A~~
22 21 ~~municipality or other public body exercising powers under this~~
22 22 ~~chapter with respect to the acquisition, clearance, or~~
22 23 ~~disposition of property shall not be restricted by any other~~
22 24 ~~statutory provision in the exercise of such powers unless such~~
22 25 ~~statutory provision specifically states its application to~~
22 26 ~~this chapter or unless this chapter specifically applies~~
22 27 ~~restrictions contained in another statutory provision to the~~
22 28 ~~powers that may be exercised under this chapter.~~

22 29 Sec. 35. Section 403.7, Code 2005, is amended to read as
22 30 follows:

22 31 403.7 CONDEMNATION OF PROPERTY.

22 32 1. A municipality shall have the right to acquire by
22 33 condemnation any interest in real property, including a fee
22 34 simple title thereto, which it may deem necessary for or in
22 35 connection with an urban renewal project under this chapter,
23 1 subject to the limitations on eminent domain authority in
23 2 chapter 6A. However, a municipality shall not condemn
23 3 agricultural land included within an economic development area
23 4 for any use unless the owner of the agricultural land consents
23 5 to condemnation or unless the agricultural land is to be
23 6 acquired for industry as that term is defined in section
23 7 260E.2 the municipality determines that the land is necessary
23 8 or useful for any of the following:

23 9 a. The operation of a city utility as defined in section
23 10 362.2.

23 11 b. The operation of a city franchise conferred the
23 12 authority to condemn private property under section 364.2.

23 13 c. The operation of a combined utility system as defined
23 14 in section 384.80.

23 15 2. A municipality ~~may~~ shall exercise the power of eminent
23 16 domain in the manner provided in chapter 6B, ~~and Acts~~
23 17 ~~amendatory to that chapter or supplementary to that chapter,~~
23 18 ~~or it may exercise the power of eminent domain in the manner~~
23 19 ~~now or which may be hereafter provided by any other statutory~~
23 20 ~~provisions for the exercise of the power of eminent domain.~~
23 21 Property already devoted to a public use may be acquired in
23 22 like manner. However, real property belonging to the state,
23 23 or any political subdivision of this state, shall not be
23 24 acquired without its consent, and real property or any right
23 25 or interest in the property owned by any public utility
23 26 company, pipeline company, railway or transportation company
23 27 vested with the right of eminent domain under the laws of this
23 28 state, shall not be acquired without the consent of the
23 29 company, or without first securing, after due notice to the
23 30 company and after hearing, a certificate authorizing
23 31 condemnation of the property from the board, commission, or
23 32 body having the authority to grant a certificate authorizing
23 33 condemnation.

23 34 3. In a condemnation proceeding, if a municipality
23 35 proposes to take a part of a lot or parcel of real property,
24 1 the municipality shall also take the remaining part of the lot
24 2 or parcel if requested by the owner.

24 3 Sec. 36. Section 403A.3, subsection 4, Code 2005, is
24 4 amended to read as follows:

24 5 4. To lease or rent any dwellings, accommodations, lands,
24 6 buildings, structures or facilities embraced in any project
24 7 and (subject to the limitations contained in this chapter with
24 8 respect to the rental of dwellings in housing projects) to
24 9 establish and revise the rents or charges therefor; to own,
24 10 hold and improve real or personal property; to purchase,
24 11 lease, obtain options upon, acquire by gift, grant, bequest,
24 12 devise or otherwise any real or personal property or any
24 13 interest therein; to acquire by the exercise of the power of
24 14 eminent domain any real property subject to section 403A.20;
24 15 to sell, lease, exchange, transfer, assign, pledge or dispose
24 16 of any real or personal property or any interest therein; to
24 17 insure or provide for the insurance, in any stock or mutual
24 18 company of any real or personal property or operations of the
24 19 municipality against any risks or hazards; to procure or agree
24 20 to the procurement of federal or state government insurance or
24 21 guarantees of the payment of any bonds or parts thereof issued
24 22 by a municipality, including the power to pay premiums on any
24 23 such insurance.

24 24 Sec. 37. Section 403A.20, Code 2005, is amended to read as
24 25 follows:

24 26 403A.20 CONDEMNATION OF PROPERTY.

24 27 A municipality shall have the right to acquire by
24 28 condemnation any interest in real property, including a fee
24 29 simple title thereto, which it may deem necessary for or in
24 30 connection with a municipal housing project under this
24 31 chapter, subject to the limitations on eminent domain

24 32 authority in chapter 6A. A municipality ~~may~~ shall exercise
24 33 the power of eminent domain in the manner provided in chapter
24 34 6B, ~~and acts amendatory thereof or supplementary thereto, or~~
24 35 ~~it may exercise the power of eminent domain in the manner now~~
25 1 ~~or which may be hereafter provided by any other statutory~~
25 2 ~~provisions for the exercise of the power of eminent domain.~~

25 3 Property already devoted to a public use may be acquired in
25 4 like manner: ~~Provided, that no.~~ However, real property
25 5 belonging to the state, or any political subdivision thereof,
25 6 ~~may shall not~~ be acquired without its consent, provided
25 7 ~~further that no and~~ real property or any right or interest
25 8 ~~therein in the property~~ owned by any public utility company,
25 9 pipeline company, railway or transportation company vested
25 10 with the right of eminent domain under the laws of this state,
25 11 shall ~~not~~ be acquired without the consent of such the company,
25 12 or without first securing, after due notice to such the
25 13 company and after hearing, a certificate authorizing
25 14 condemnation of such property from the board, commission, or
25 15 body having the authority to grant a certificate authorizing
25 16 condemnation.

25 17 In a condemnation proceeding, if a municipality proposes to
25 18 take a part of a lot or parcel of real property, the
25 19 municipality shall also take the remaining part of the lot or
25 20 parcel if requested by the owner.

25 21 Sec. 38. Section 422.7, Code Supplement 2005, is amended

25 22 by adding the following new subsection:
25 23 NEW SUBSECTION. 45. Subtract, to the extent included, the
25 24 amount of ordinary or capital gain realized by the taxpayer as
25 25 a result of the involuntary conversion of property due to
25 26 eminent domain. However, if the total amount of such realized
25 27 ordinary or capital gain is not recognized because the
25 28 converted property is replaced with property that is similar
25 29 to, or related in use to, the converted property, the amount
25 30 of such realized ordinary or capital gain shall not be
25 31 subtracted under this subsection until the remaining realized
25 32 ordinary or capital gain is subject to federal taxation or
25 33 until the time of disposition of the replacement property as
25 34 provided under rules of the director. The subtraction allowed
25 35 under this subsection shall not alter the basis as established
26 1 for federal tax purposes of any property owned by the
26 2 taxpayer.

26 3 Sec. 39. Section 422.35, Code Supplement 2005, is amended
26 4 by adding the following new subsection:

26 5 NEW SUBSECTION. 22. Subtract, to the extent included, the
26 6 amount of ordinary or capital gain realized by the taxpayer as
26 7 a result of the involuntary conversion of property due to
26 8 eminent domain. However, if the total amount of such realized
26 9 ordinary or capital gain is not recognized because the
26 10 converted property is replaced with property that is similar
26 11 to, or related in use to, the converted property, the amount
26 12 of such realized ordinary or capital gain shall not be
26 13 subtracted under this subsection until the remaining realized
26 14 ordinary or capital gain is subject to federal taxation or
26 15 until the time of disposition of the replacement property as
26 16 provided under rules of the director. The subtraction allowed
26 17 under this subsection shall not alter the basis as established
26 18 for federal tax purposes of any property owned by the
26 19 taxpayer.

26 20 Sec. 40. Section 422.73, Code 2005, is amended by adding
26 21 the following new subsection:

26 22 NEW SUBSECTION. 3. Notwithstanding subsection 1, a claim
26 23 for credit or refund of the income tax paid on the gain
26 24 realized from the involuntary conversion of property due to a
26 25 condemnation action is timely filed with the department as
26 26 provided in this subsection if the taxpayer's claim is the
26 27 result of the reacquisition by the taxpayer, as the prior
26 28 owner, of the property condemned pursuant to section 6B.56,
26 29 subsection 2, or section 6B.56A. The claim under this
26 30 subsection shall be timely filed only if the claim is made
26 31 prior to the end of the sixth month following the month in
26 32 which the reacquisition occurs.

26 33 Sec. 41. Section 468.128, Code 2005, is amended to read as
26 34 follows:

26 35 468.128 IMPOUNDING AREAS AND EROSION CONTROL DEVICES.

27 1 Levee and drainage districts are empowered to construct
27 2 impounding areas and other flood and erosion control devices
27 3 to protect lands of the district and drainage structures and
27 4 may provide ways for access to improvements for the operation
27 5 or protection thereof, where the cost is not excessive in
27 6 consideration of the value to the district. Necessary lands
27 7 or easements may be acquired within or without the district by
27 8 purchase, lease or agreement, or by exercise of the right of
27 9 eminent domain as provided for in chapter 6B and may be
27 10 procured and construction undertaken either independently or
27 11 in co-operation with other districts, individuals, or any
27 12 federal or state agency or political subdivision.

27 13 Sec. 42. Section 468.146, subsection 1, Code 2005, is
27 14 amended to read as follows:

27 15 1. When a drainage district is established and a
27 16 satisfactory outlet cannot be obtained except through lands in
27 17 an adjoining county, or when an improved outlet cannot be
27 18 obtained except through lands downstream from the district
27 19 boundary, the board shall have the power to purchase a right
27 20 of way, to construct and maintain such outlets, and to pay all
27 21 necessary costs and expenses out of the district funds. The
27 22 board shall have similar authority relative to the
27 23 construction and maintenance of silt basins upstream from the
27 24 district boundary. In case the board and the owners of the
27 25 land required for such outlet or silt basin cannot agree upon
27 26 the price to be paid as compensation for the land taken or
27 27 used, the board is hereby empowered to exercise the right of
27 28 eminent domain as provided for in chapter 6B in order to
27 29 procure such necessary right of way.

27 30 Sec. 43. Section 468.366, Code 2005, is amended to read as
27 31 follows:

27 32 468.366 SETTLING BASIN == CONDEMNATION.

27 33 If, before a district operating a pumping plant is
27 34 completed and accepted, it appears that portions of the lands
27 35 within said district are wet or nonproductive by reason of the
28 1 floods or overflow waters from one or more streams running
28 2 into, through, or along said district and that said district
28 3 or some other district of which such district shall have
28 4 formed a part, shall have provided a settling basin to care
28 5 for the said floods and overflow waters of said stream or
28 6 watercourse, but no channel to said settling basin has been
28 7 provided, said board or boards are hereby empowered to lease,
28 8 buy, or condemn the necessary lands within or without the
28 9 district for such channel. Proceedings to condemn shall be as
28 10 provided in chapter 6B for the exercise of the right of
28 11 eminent domain.

28 12 Sec. 44. CODE EDITOR DIRECTIVE.

28 13 1. The Code editor is directed to make the following
28 14 transfers:

28 15 a. Section 6B.10 to become subsection 2 of section 6B.9.
28 16 b. Section 6B.20 to become subsection 4 of section 6B.18.
28 17 c. Section 6B.27 to become subsection 2 of section 6B.26.
28 18 d. Sections 6B.39 and 6B.41 to become subsections 3 and 4,
28 19 respectively, of section 6B.38.
28 20 e. Section 6B.43 to become unnumbered paragraph 3 of
28 21 section 6B.4.
28 22 f. Sections 6B.47 through 6B.51 to become subsections 2
28 23 through 6, respectively, of section 6B.46.
28 24 g. Section 6B.58 to become subsection 2 of section 6B.1.
28 25 2. The Code editor is directed to correct internal
28 26 references in the Code as necessary due to enactment of this
28 27 section.

28 28 Sec. 45. Section 6B.4A, Code 2005, is repealed.

28 29 Sec. 46. EFFECTIVE AND APPLICABILITY DATES.

28 30 1. The section of this Act enacting section 422.73,
28 31 subsection 3, being deemed of immediate importance, takes
28 32 effect upon enactment and applies to reacquisitions of
28 33 property occurring on or after the effective date of this Act.

28 34 2. The sections of this Act enacting section 422.7,
28 35 subsection 45, and section 422.35, subsection 22, apply
29 1 retroactively to January 1, 2006, for tax years beginning on
29 2 or after that date.

29 3 3. The remainder of this Act, being deemed of immediate
29 4 importance, takes effect upon enactment and applies to
29 5 condemnation actions initiated on or after the effective date
29 6 of this Act.

29 7 HF 2351

29 8 sc:rj/es/25