

House File 565 - Reprinted

HOUSE FILE 565
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 368)

(As Amended and Passed by the House March 22, 2023)

A BILL FOR

1 An Act relating to specified utility construction project
2 requirements, establishing an interim study committee, and
3 including effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

PIPELINE PROJECTS

1
2
3 Section 1. Section 479.25, Code 2023, is amended to read as
4 follows:

5 **479.25 Damages.**

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

21 2. A claim for crop yield loss damages pursuant to this
22 section shall not be precluded from renegotiation under section
23 6B.52 on the grounds that the damages were apparent at the time
24 of settlement or on the grounds that more than five years have
25 elapsed since the date of the settlement.

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

28 **479A.11 Damages.**

29 1. A pipeline company operating pipelines or underground
30 storage shall be given reasonable access to the pipelines and
31 storage areas for the purpose of constructing, operating,
32 maintaining, or locating their pipes, pumps, pressure
33 apparatus, or other stations, wells, devices, or equipment used
34 in or upon a pipeline or storage area, but shall pay the owner
35 of the lands for the right of entry and the owner of crops on

1 the land all damages caused by entering, using, or occupying
2 the lands for these purposes; and shall pay to the owner of the
3 lands, after the completion of construction of the pipeline or
4 storage, all damages caused by settling of the soil along and
5 above the pipeline, and wash or erosion of the soil along the
6 pipeline due to the construction of the pipeline. However,
7 this section does not prevent the execution of an agreement
8 with other terms between the pipeline company and the owner of
9 the land or crops with reference to their use.

10 2. A claim for crop yield loss damages pursuant to this
11 section shall not be precluded from renegotiation under section
12 6B.52 on the grounds that the damages were apparent at the time
13 of settlement or on the grounds that more than five years have
14 elapsed since the date of the settlement.

15 Sec. 3. Section 479B.16, subsection 1, Code 2023, is amended
16 to read as follows:

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

31 Sec. 4. Section 479B.16, Code 2023, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 4. The board shall not grant a liquefied
34 carbon dioxide pipeline company the right of eminent domain
35 under this chapter for an interstate hazardous liquid pipeline

1 project unless the company acquires at least ninety percent of
2 the affected route miles through voluntary easements or through
3 preexisting easements. The company shall submit regular
4 reports on its progress in acquiring voluntary easements as
5 determined by the board.

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

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

19 Sec. 6. Section 479B.29, Code 2023, is amended to read as
20 follows:

21 **479B.29 Particular damage claims.**

22 1. Compensable losses shall include~~r~~, but are not limited to~~r~~
23 all of the following:

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

27 b. Loss or reduced yield of crops or yield from land near
28 the pipeline right-of-way resulting from lack of timely access
29 to the land or other disturbance of usual farm operations,
30 including interference with irrigation or drainage.

31 c. Fertilizer, lime, or organic material applied by the
32 landowner to restore land disturbed by construction to full
33 productivity.

34 d. Loss of or damage to trees of commercial or other value
35 that occurs at the time of construction, restoration, or at the

1 time of any subsequent work by the pipeline company.

2 e. The cost of or losses in moving or relocating livestock,
3 and the loss of gain by or the death or injury of livestock
4 caused by the interruption or relocation of normal feeding.

5 f. Erosion and soil compaction on lands attributable to
6 pipeline construction.

7 g. Damage to farm equipment caused by striking a pipeline,
8 debris, or other material reasonably associated with pipeline
9 construction while engaged in normal farming operations as
10 defined in [section 480.1](#).

11 h. Damage to soil or water conservation structures caused
12 by construction, restoration, or subsequent work by the
13 pipeline company including but not limited to terraces, grassed
14 waterways, water and sediment control basins, ponds, saturated
15 buffers, and biofilters.

16 i. Damage to irrigation or drainage systems caused by
17 construction, restoration, or subsequent work by the pipeline
18 company.

19 2. A claim for ~~damage for future crop deficiency within~~
20 ~~the easement strip~~ damages incurred under this section shall
21 not be precluded from renegotiation under [section 6B.52](#) on the
22 grounds that it was apparent at the time of settlement ~~unless~~
23 ~~the settlement expressly releases the pipeline company from~~
24 ~~claims for damage to the productivity of the soil~~ or on the
25 grounds that more than five years have elapsed since the date
26 of the settlement. The landowner shall notify the pipeline
27 company in writing fourteen days prior to harvest in each year
28 to assess crop deficiency.

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

31 4. A landowner that incurred damage under this section is
32 eligible for compensation for damages. A landowner may file an
33 action for relief against a pipeline company in small claims
34 or district court for a violation of this section or pursue
35 remedies under section 479B.30, subsection 7.

1 Sec. 7. Section 479B.30, subsection 7, Code 2023, is amended
2 to read as follows:

3 7. As used in this section, “*damages*” means compensation for
4 damages to the land, crops, and other personal property caused
5 by the construction of a pipeline and its attendant structures
6 or underground storage facility, or a compensable loss as
7 defined in section 479B.29, subsection 1, but does not include
8 compensation for a property interest, and “*landowner*” includes
9 a farm tenant.

10 Sec. 8. EFFECTIVE DATE. This division of this Act, being
11 deemed of immediate importance, takes effect upon enactment.

12 Sec. 9. APPLICABILITY. This division of this Act applies to
13 all applications for a permit to construct a pipeline pursuant
14 to chapter 479B filed with the Iowa utilities board on or after
15 July 1, 2021, and to permits issued on or after the effective
16 date of this division of this Act.

17 DIVISION II

18 EMINENT DOMAIN INTERIM STUDY

19 Sec. 10. EMINENT DOMAIN INTERIM STUDY.

20 1. The legislative council is requested to authorize a
21 study committee to evaluate eminent domain practices and
22 procedures applicable under Iowa law. The study committee
23 shall make recommendations that the committee believes will
24 improve eminent domain policy in the state including all of the
25 following:

26 a. Standards for entering land for land surveying purposes.

27 b. Review of land restoration standards.

28 c. Review of eminent domain public benefit and private-use
29 tests.

30 d. Engineering study analysis, including all of the
31 following:

32 (1) Engineering study standards, authority, and
33 composition.

34 (2) Analysis of the process of company selection.

35 e. Land compensation practices and procedures.

1 f. Review of eminent domain processes and procedures.

2 g. Iowa utilities board perspectives.

3 2. The study committee shall consist of five members of
4 the senate, three of whom shall be appointed by the majority
5 leader of the senate and two of whom shall be appointed by
6 the minority leader of the senate, and five members of the
7 house of representatives, three of whom shall be appointed by
8 the speaker of the house of representatives and two of whom
9 shall be appointed by the minority leader of the house of
10 representatives. The legislative council is encouraged to
11 appoint to the interim study committee public members or direct
12 the study committee to seek input from or to appoint members
13 of the public.

14 3. The study committee shall meet during the 2023
15 legislative interim and submit a report containing
16 recommendations to the members of the general assembly by
17 December 15, 2023.