



1997 SENATE BILL 370

December 3, 1997 - Introduced by Senator WELCH, cosponsored by Representatives GROTHMAN, BRANDEMUEHL, GREEN, GARD, DOBYNS, ALBERS, HEBL, GUNDERSON, HAHN, MUSSER, KLUSMAN and LORGE. Referred to Committee on Labor, Transportation and Financial Institutions.

1 **AN ACT to amend** 32.05 (1) (a), 32.05 (7) (a), 59.43 (1) (d), 59.43 (8), 83.08 (1), 84.09
2 (1) and 114.33 (6); and **to create** 59.43 (2) (k), 59.43 (5) (b) 4., 84.095 and
3 236.015 of the statutes; **relating to:** transportation project plats.

Analysis by the Legislative Reference Bureau

Under current law, whenever the department of transportation (DOT) or a city, village, town or county (municipality) considers it necessary to acquire private land for a transportation facility, DOT or the municipality must order the acquisition of the lands and in such order or on a map or plat show the old and new locations of the transportation facility and the lands and interests required. DOT or the municipality must file a copy of the order or map with the county clerk of each county in which lands or interests in land affected by the project are located. In general, DOT and municipalities may acquire the needed private lands by negotiated sale or by the process of condemnation. Throughout the acquisition process the land is generally referred to by its legal description or tax parcel identification number.

This bill creates an alternate procedure for identifying private lands necessary for public transportation or transportation-related improvement projects. Under the bill, DOT or a municipality may file or record a plat that depicts an order authorizing a project in the office of the register of deeds, where land records are customarily kept. After filing or recording a plat, private lands or interests in land that are needed for the project may be described adequately in legal documents by referring to the plat and the land's depiction on the plat, rather than to the legal description or tax parcel identification number of the affected lands.

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The bill specifies the required detail, format and contents of the plats, including a description of each right, title or interest in land to be acquired for the project, and the procedures for amending or correcting a plat. The bill requires registers of deeds to accept such plats for filing or recording and to index the plats. The bill prohibits any state agency or municipality from requiring review or approval of the plat as a condition of filing or recording if the plat meets the requirements specified in the bill. The bill requires plats submitted by a municipality to include a certificate of a licensed land surveyor that the plat is an accurate depiction of the project and the lands affected by the project.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 32.05 (1) (a) of the statutes is amended to read:
2 32.05 (1) (a) Except as provided under par. (b), the county board of supervisors
3 (or the county highway committee when so authorized by the board), city council,
4 village board, town board, sewerage commission governing metropolitan sewerage
5 district created by ss. 66.22 or 66.88 to 66.918, secretary of transportation, a
6 commission created by contract under s. 66.30, housing authority under ss. 66.40 to
7 66.404, local exposition district created under subch. II of ch. 229, redevelopment
8 authority under s. 66.431 or community development authority under s. 66.4325
9 shall make an order providing for the laying out, relocation and improvement of the
10 public highway, street, alley, storm and sanitary sewers, watercourses, mass transit
11 facilities, airport, or other transportation facilities, gas or leachate extraction
12 systems to remedy environmental pollution from a solid waste disposal facility,
13 housing project, redevelopment project, exposition center or exposition center
14 facilities which shall be known as the relocation order. This order shall include a map
15 or plat showing the old and new locations and the lands and interests required. A
16 copy of the order shall, within 20 days after its issue, be filed with the county clerk

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1 of the county wherein the lands are located or, in lieu of filing a copy of the order, a
2 plat may be filed or recorded in accordance with s. 84.095.

3 **SECTION 2.** 32.05 (7) (a) of the statutes is amended to read:

4 32.05 (7) (a) The award shall be in writing. It Except as provided in sub. (1)
5 (b), the award shall state that it is made pursuant to relocation order of (name of
6 commission, authority, board or council having jurisdiction to make the
7 improvement) No. dated filed in the office of the County Clerk, County of,
8 except as provided under sub. (1) (b) or pursuant to transportation project plat no.
9 dated filed or recorded in the office of register of deeds, County. If a
10 relocation order is not required under sub. (1) (b), the award shall name the
11 condemnor. It shall name all persons having an interest of record in the property
12 taken and may name the other persons. It shall describe such property by legal
13 description, or by the parcel number shown on a plat filed or recorded under s. 84.095,
14 and state the interest therein sought to be condemned and the date when actual
15 occupancy of the property condemned will be taken by condemnor. The award shall
16 also state the compensation for the taking which shall be an amount at least equal
17 to the amount of the jurisdictional offer. The award shall state that the condemnor
18 has complied with all jurisdictional requirements. An amended award for the
19 purpose of correcting errors wherein the award as recorded differs from the
20 jurisdictional offer may be made, served and recorded as provided by this section.

21 **SECTION 3.** 59.43 (1) (d) of the statutes is amended to read:

22 59.43 (1) (d) Keep the books and indexes mentioned in this section and in s.
23 84.095 in the manner required.

24 **SECTION 4.** 59.43 (2) (k) of the statutes is created to read:

25 59.43 (2) (k) For recording a transportation project plat under s. 84.095, \$25.

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1 **SECTION 5.** 59.43 (5) (b) 4. of the statutes is created to read:

2 59.43 (5) (b) 4. A transportation project plat that conforms to s. 84.095.

3 **SECTION 6.** 59.43 (8) of the statutes is amended to read:

4 59.43 (8) REQUIRED SIGNATURE AND SEAL ON SURVEY DOCUMENT FOR FILING OR
5 RECORDING. It is unlawful for the register of deeds of any county or any proper public
6 authority to file or record a map, plat, survey or other document within the definition
7 of land surveying, which does not have impressed thereon, and affixed thereto, the
8 personal signature and seal of a registered land surveyor under whose responsible
9 charge the map, plat, survey or other document was prepared. This subsection does
10 not apply to any deed, contract or other recordable document prepared by an
11 attorney, or to a transportation project plat that conforms to s. 84.095 and that is
12 prepared by a state agency.

13 **SECTION 7.** 83.08 (1) of the statutes is amended to read:

14 83.08 (1) The county highway committee may acquire by gift, devise, purchase
15 or condemnation any lands or interests therein for the proper improvement,
16 maintenance, relocation or change of any county aid or other highway or street or any
17 bridge thereon which the county is empowered to improve or aid in improving or to
18 maintain. The county highway committee may purchase or accept donation of
19 remnants of tracts or parcels of land remaining at the time or after it has acquired
20 portions of such tracts or parcels by purchase or condemnation where in the
21 judgment of such committee such action would assist in rendering just compensation
22 to a land owner, a part of whose lands have been taken for highway purposes, and
23 would serve to minimize the overall cost of such taking by the public. Whenever the
24 committee deems it necessary to acquire any such lands or interests therein for any
25 such purpose, it shall so order and in such order or on a map or plat show the old and

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1 new locations and the lands or interests required, and shall file a copy of the order
2 and map with the county clerk or, in lieu of filing a copy of the order and map, may
3 file or record a plat in accordance with s. 84.095. The committee shall endeavor to
4 obtain easements or title in fee simple by conveyance of the lands or interests
5 required, at a price, including damages, deemed reasonable by the committee. The
6 instrument of conveyance shall name the county as grantee and shall be filed with
7 the county clerk and recorded in the office of the register of deeds.

8 **SECTION 8.** 84.09 (1) of the statutes is amended to read:

9 84.09 (1) The department may acquire by gift, devise, purchase or
10 condemnation any lands for establishing, laying out, widening, enlarging,
11 extending, constructing, reconstructing, improving and maintaining highways and
12 other transportation related facilities, or interests in lands in and about and along
13 and leading to any or all of the same; and after establishment, layout and completion
14 of such improvements, the department may convey such lands thus acquired and not
15 necessary for such improvements, with reservations concerning the future use and
16 occupation of such lands so as to protect such public works and improvements and
17 their environs and to preserve the view, appearance, light, air and usefulness of such
18 public works. Whenever the department deems it necessary to acquire any such
19 lands or interests therein for any transportation related purpose, it shall so order and
20 in such order or on a map or plat show the old and new locations and the lands and
21 interests required, and shall file a copy of the order and map with the county clerk
22 and county highway committee of each county in which such lands or interests are
23 required or, in lieu of filing a copy of the order and map, may file or record a plat in
24 accordance with s. 84.095. For the purposes of this section the department may
25 acquire private or public lands or interests in such lands. When so provided in the

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1 department's order, such land shall be acquired in fee simple. Unless it elects to
2 proceed under sub. (3), the department shall endeavor to obtain easements or title
3 in fee simple by conveyance of the lands or interests required at a price, including
4 any damages, deemed reasonable by the department. The instrument of conveyance
5 shall name the state as grantee and shall be recorded in the office of the register of
6 deeds. The purchase or acquisition of lands or interests therein under this section
7 is excepted and exempt from s. 20.914 (1). The department may purchase or accept
8 donations of remnants of tracts or parcels of land existing at the time or after it has
9 acquired portions of such tracts or parcels by purchase or condemnation for
10 transportation purposes where in the judgment of the department such action would
11 assist in making whole the landowner, a part of whose lands have been taken for
12 transportation purposes and would serve to minimize the overall costs of such taking
13 by the public.

14 **SECTION 9.** 84.095 of the statutes is created to read:

15 **84.095 Transportation project plats. (1) DEFINITIONS.** In this section:

16 (a) "Parcel" means one or more pieces of land, or interests or rights in land,
17 under the same ownership or control to be acquired for a project and depicted on a
18 plat.

19 (b) "Parcel number" means a unique number assigned to each parcel depicted
20 on a plat.

21 (c) "Plat" means a map that is prepared for a project, or a part of a project, and
22 that consists of a single sheet.

23 (d) "Project" means a public transportation or transportation-related
24 improvement project.

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1 (e) "Project number" means a unique number assigned to the project by the
2 department or the city, village, town or county that is undertaking the project.

3 (f) "Remainder interest" means land, or an interest or right in land, that is not
4 to be acquired for a project, but that is under the ownership or control of a person who
5 owns or controls a parcel.

6 **(2) FILING OR RECORDING PLATS.** (a) The department, or a city, village, town or
7 county, may submit any order or resolution relating to a project in the form of a plat
8 for filing or recording in the office of the register of deeds in the county in which the
9 parcel is located. The plat shall be filed or recorded within 20 days after the plat is
10 signed under sub. (4) (a) 4. The register of deeds shall file or record any plat
11 submitted under this subsection as a transportation project plat. A project
12 authorized by an order or resolution may be described in more than one plat.
13 Whenever a project is described in more than one plat, each plat may be submitted
14 separately for filing or recording.

15 (b) 1. Plats filed or recorded under this section are for parcel delineation
16 purposes only and do not effect a transfer or encumbrance of any title to real or
17 personal property.

18 2. Submitting a plat for filing or recording under this section satisfies the
19 requirements of ss. 32.05 (1), 83.08 (1), 84.09 (1) and 114.33 (6) with respect to filing
20 with the county clerk or county highway committee any orders, resolutions, maps or
21 plats for a project.

22 **(3) AMENDING AND CORRECTING PLATS.** (a) An order, resolution or plat filed or
23 recorded under this section may be amended or vacated only by the entity that
24 submitted the order, resolution or plat for filing or recording. Any amendment or
25 vacation of an order, resolution or plat filed or recorded under this section may be

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1 filed or recorded. The office of the register of deeds shall make suitable notations on
2 the plat affected by an amendment or vacation that is filed or recorded. The register
3 of deeds shall number any amendments to a plat consecutively in the order filed or
4 recorded and shall describe each amendment as follows:

5 Amendment (number) of transportation project plat (project number),
6 recorded in volume (number) of transportation project plats, page (number),
7 on (date), (county name) register of deeds, and located in (quarter section,
8 section, township and range; recorded private claim; or federal reservation).

9 (b) Corrections to a plat may be made only by the entity that submitted the plat
10 for filing or recording and only if the correction does not affect the interests or rights
11 to be acquired. Corrections to a plat shall be made by filing or recording with the
12 register of deeds an affidavit of correction that identifies the affected plat and states
13 the defect in or change to the plat along with the correct information. The register
14 of deeds shall make suitable notations on the plat to which the affidavit refers. The
15 record of the affidavit of correction, or a certified copy of the record, is prima facie
16 evidence of the facts stated in the affidavit.

17 **(4) PLAT DETAIL AND FORMAT.** (a) No plat may be filed or recorded in any office
18 of a register of deeds unless the plat includes a certification that it contains all of the
19 following, either as part of the drawing or written elsewhere on the plat:

20 1. An official order or resolution of the department, city, village, town or county
21 authorizing the project.

22 2. The project number.

23 3. The plat number, the date on which the plat was prepared and the signature
24 of the person under whose direction the plat was prepared.

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- 1 4. The signature of the person authorized by the department or the city, village,
2 town or county to sign the plat.
- 3 5. A scale, north arrow and basis of reference.
- 4 6. The metric conversion factor, if applicable.
- 5 7. The coordinate reference, if applicable.
- 6 8. The existing and new locations of the transportation facility.
- 7 9. The delineation of each parcel. For each parcel, a complete description of the
8 following shall be included:
- 9 a. The parcel number.
- 10 b. The right, title or interest in land to be acquired.
- 11 c. The name of the owner of record.
- 12 d. The approximate area of the parcel.
- 13 10. The approximate area of each remainder interest.
- 14 11. Reference to platted land surveys or other surveys of record and the
15 locations of known monuments established for such surveys.
- 16 12. The locations of known public land survey monuments.
- 17 (b) In addition to the information required under par. (a), a plat for a highway
18 project shall include the following:
- 19 1. The designation of the highway and any adjacent or intersecting streets or
20 highways by name, number or letter.
- 21 2. A description of the reference line for the highway by bearing and distance.
- 22 3. The location of the highway reference line by bearing and distance from a
23 boundary line of a section, if known, or from a recorded private claim or federal
24 reservation.

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1 4. A description of the highway right-of-way boundaries by bearing and
2 distance.

3 5. The locations of existing reference lines and right-of-way lines.

4 (c) Notwithstanding its depiction on a plat, the boundary of a parcel extends
5 to the boundary of the adjoining property parcel or body of water.

6 **(5) SURVEYOR'S CERTIFICATE.** A plat prepared for filing or recording under this
7 section shall include a certificate of a land surveyor registered under s. 443.06 that
8 the plat is a correct representation of the project described and that the identification
9 and location of each parcel can be determined from the plat. This subsection does not
10 apply to plats prepared by the department.

11 **(6) PLAT DIMENSIONS AND PAPER.** (a) No plat may be filed or recorded in the office
12 of a register of deeds unless the plat has a binding margin of 1.5 inches wide and a
13 one-inch margin on all other sides, and is printed on muslin-backed white paper
14 that is 22 inches wide by 30 inches long with nonfading black image or reproduced
15 with photographic silver haloid image on double matt polyester film of not less than
16 4 mil thickness. A plat that is submitted for filing or recording shall contain a blank
17 space at least 2.5 inches by 2.5 inches in size for use by the register of deeds.

18 (b) The requirements of s. 59.43 (2m) do not apply to plats submitted under this
19 section.

20 **(7) DESCRIPTION FOR PARCELS AND REMAINDER INTERESTS.** (a) Whenever a plat has
21 been filed or recorded under this section, any parcel depicted in the plat that is
22 acquired for a project by conveyance or eminent domain proceedings shall be
23 described as follows:

24 Parcel (number) of transportation project plat (project number), recorded
25 in volume (number) of transportation project plats, page (number), on

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1 (date), (county name) register of deeds, and located in (quarter section, section,
2 township and range; recorded private claim; or federal reservation).

3 (b) A description under par. (a) is a sufficient legal description for purposes of
4 s. 32.05 or 706.05 (2m) (a).

5 (c) Subsequent conveyances, mortgages and other instruments concerning a
6 remainder interest may refer to the parcel description in par. (a) as an exception to
7 the conveyance.

8 **(8) INDEXING OF PLATS.** (a) The register of deeds shall index plats filed or
9 recorded under this section in the manner described in s. 59.43 (12m), whether or not
10 the county board has enacted an ordinance requiring such an index.

11 (b) Within 3 working days after the date on which a plat is submitted for
12 recording under this section, the register of deeds shall assign a document number
13 and volume and page of recording for the plat and, if the person submits with the plat
14 a properly addressed postcard for which postage had been paid, shall provide written
15 notice of such information to the person who submitted the plat.

16 **(9) LOCAL REVIEW.** No state agency, city, village, town or county may require the
17 review or approval of a plat as a condition of filing or recording the plat if the plat
18 is prepared in accordance with this section.

19 **SECTION 10.** 114.33 (6) of the statutes is amended to read:

20 114.33 **(6)** For the purposes of carrying out this section and ss. 114.35 and
21 114.37, the secretary may acquire by gift, devise, purchase or condemnation any
22 lands for establishing, protecting, laying out, enlarging, extending, constructing,
23 reconstructing, improving and maintaining airports, or interests in lands in and
24 about airports, and after establishment, layout and completion of such
25 improvements, the secretary may convey as provided in this subsection lands thus

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1 acquired and not necessary for airport improvements, with reservations concerning
2 the future use and occupation of those lands so as to protect the airports and
3 improvements and their environs and to preserve the view, appearance, light, air and
4 usefulness of the airports. Whenever the secretary deems it necessary to acquire any
5 lands or interests in lands for any of those purposes, the secretary shall so order and
6 in the order, or on a map or plat, show the lands and interests required. The secretary
7 shall file a copy of the order and map with the county clerk of each county in which
8 the lands or interests are required or, in lieu of filing a copy of the order and map, may
9 file or record a plat in accordance with s. 84.095. For the purposes of this section the
10 secretary may acquire private or public lands or interests therein. When so provided
11 in the secretary's order, the land shall be acquired in fee simple. Unless the secretary
12 elects to proceed under sub. (3), the secretary shall endeavor to obtain easements or
13 title in fee simple by conveyance of the lands or interests required at a price,
14 including any damages, deemed reasonable by the secretary. The instrument of
15 conveyance shall name the state as grantee and shall be recorded in the office of the
16 register of deeds. The purchase or acquisition of lands or interests therein under this
17 section is excepted and exempt from s. 20.914 (1). The secretary may purchase or
18 accept donations of remnants of tracts or parcels of land existing at the time or after
19 the secretary has acquired portions of tracts or parcels, by purchase or condemnation
20 for airport purposes, where in the judgment of the secretary such action would assist
21 in making whole the land owner, a part of whose lands have been taken for airport
22 purposes and would serve to minimize the overall cost of such taking by the public.

23 **SECTION 11.** 236.015 of the statutes is created to read:

