

2001 DRAFTING REQUEST

Bill

Received: **01/25/2002**

Received By: **grantpr**

Wanted: **As time permits**

Identical to LRB:

For: **Russell Decker (608) 266-2502**

By/Representing: **Pat Walsh**

This file may be shown to any legislator: **NO**

Drafter: **grantpr**

May Contact:

Addl. Drafters:

Subject: **Eminent Domain - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Decker@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Condemnation by electric utility

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	grantpr 02/04/2002	rschluet 02/26/2002		_____			
/1			jfrantze 02/26/2002	_____	lrb_docadmin 02/26/2002	lrb_docadmin 03/05/2002	

FE Sent For:

none
needed

<END>

2001 DRAFTING REQUEST

Bill

Received: **01/25/2002**

Received By: **grantpr**

Wanted: **As time permits**

Identical to LRB:

For: **Russell Decker (608) 266-2502**

By/Representing: **Pat Walsh**

This file may be shown to any legislator: **NO**

Drafter: **grantpr**

May Contact:

Addl. Drafters:

Subject: **Eminent Domain - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Decker@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Condemnation by electric utility

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	grantpr 02/04/2002	rschluet 02/26/2002		_____			
/1			jfrantze 02/26/2002	_____	lrb_docadmin 02/26/2002		

(called)

per
Patrick
in
Decker's
office
3/5

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 01/25/2002

Received By: grantpr

Wanted: As time permits

Identical to I.R.B.:

For: Russell Decker (608) 266-2502

By/Representing: Pat Walsh

This file may be shown to any legislator: NO

Drafter: grantpr

May Contact:

Addl. Drafters:

Subject: Eminent Domain - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Sen.Decker@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Condemnation by electric utility

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	grantpr	<i>3-4-2</i> <i>1/25 jld</i>	<i>2/26</i>	<i>6/26</i>			

FE Sent For:

<END>

MEMO

Date: January 25, 2002
To: Peter Grant
From: Patrick Walsh, Legislative Aide State Senator Russ Decker
Regarding: Minnesota eminent domain policy

Mr. Grant I was told that Minnesota has a "buy the farm" provision that allows framers, homeowners and businesses the option of selling their property to a utility rather than receiving compensation from the utility for an easement on their property. I believe the provision is contained in section 116C.63 subdivision 4 of the Minnesota Statutes. However, I could use some assistance in order to make sure I'm interpreting the section correct. If the section were being interpreted correctly Senator Decker would like a bill drafted to copy Minnesota 's law contained in subdivision 4. If I'm misinterpreting the section please let me know.

Enclosed are the relevant sections of the Minnesota Statues. Please call if you have any questions. Thank you for your help.

Patrick Walsh
Legislative Aide
Senator Decker
266-2502

Minnesota Statutes 2001, Table of ChaptersTable of contents for Chapter 116C**116C.63 Eminent domain powers; right of condemnation.**

Subdivision 1. Nothing in this section shall invalidate the right of eminent domain vested in utilities by statute or common law existing as of May 24, 1973, except to the extent modified herein. The right of eminent domain shall continue to exist for utilities and may be used according to law to accomplish any of the purposes and objectives of sections 116C.51 to 116C.69, including acquisition of the right to utilize existing high voltage transmission facilities which are capable of expansion or modification to accommodate both existing and proposed conductors. Notwithstanding any law to the contrary, all easement interests shall revert to the then fee owner if a route is not used for high voltage transmission line purposes for a period of five years.

Subd. 2. In eminent domain proceedings by a utility for the acquisition of real property proposed for construction of a route or a site, the proceedings shall be conducted in the manner prescribed in chapter 117, except as otherwise specifically provided in this section.

Subd. 3. When such property is acquired by eminent domain proceedings or voluntary purchase and the amount the owner shall receive for the property is finally determined, the owner who is entitled to payment may elect to have the amount paid in not more than ten annual installments, with interest on the deferred installments, at the rate of eight percent per annum on the unpaid balance, by submitting a written request to the utility before any payment has been made. After the first installment is paid the petitioner may make its final certificate, as provided by law, in the same manner as though the entire amount had been paid.

Subd. 4. When private real property that is an agricultural or nonagricultural homestead, nonhomestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 is proposed to be acquired for the construction of a site or route by eminent domain proceedings, the fee owner, or when applicable, the fee owner with the written consent of the contract for deed vendee, or the contract for deed vendee with the written consent of the fee owner, shall have the option to require the utility to condemn a fee interest in any amount of contiguous commercially viable land which the owner or vendee wholly owns or has contracted to own in undivided fee and elects in writing to transfer to the utility within 60 days after receipt of the notice of the objects of the petition filed pursuant to section 117.055. Commercial viability shall be determined without regard to the presence of the utility route or site. The owner or, when applicable, the contract vendee shall have only one such option and may not expand or otherwise modify an election without the consent of the utility. The

by a utility (any interest in the property)

*see
116C.52*

emf

entire

required acquisition of land pursuant to this subdivision shall be considered an acquisition for a public purpose and for use in the utility's business, for purposes of chapter 117 and section 500.24, respectively; provided that a utility shall divest itself completely of all such lands used for farming or capable of being used for farming not later than the time it can receive the market value paid at the time of acquisition of lands less any diminution in value by reason of the presence of the utility route or site. Upon the owner's election made under this subdivision, the easement interest over and adjacent to the lands designated by the owner to be acquired in fee, sought in the condemnation petition for a high voltage transmission line right-of-way shall automatically be converted into a fee taking.

Subd. 5. A utility shall notify by certified mail each person who has transferred any interest in real property to the utility after July 1, 1974, but prior to the effective date of Laws 1977, chapter 439, for the purpose of a site or route that the person may elect in writing within 90 days after receipt of notice to require the utility to acquire any remaining contiguous parcel of land pursuant to this section or to return any payment to the utility and require it to make installment payments pursuant to this section.

HIST: 1973 c 591 s 13; 1977 c 439 s 17; 1978 c 674 s 15; 1980 c 614 s 87; 1Sp1985 c 14 art 4 s 15; 1986 c 444; 1Sp1986 c 1 art 4 s 7; 1987 c 268 art 6 s 1

Copyright 2001 by the Office of Revisor of Statutes, State of Minnesota.

John Hienz
Minn. env. quality bd.
651-296-2871

John Helland
House research
651-296-5039

Larry Hartman?
Minn. EQB
651-296-5089

116-17-178
SEP 11 11 AM '97

Sam Rankin

Minnesota Statutes 2001, Table of ChaptersTable of contents for Chapter 116C**116C.52 Definitions.**

Subdivision 1. **Applicability.** As used in sections 116C.51 to 116C.68, the terms defined in this section have the meanings given them, unless otherwise provided or indicated by the context.

Subd. 2. **Board.** "Board" shall mean the Minnesota environmental quality board.

Subd. 3. MS 1990 Renumbered subd 4

Subd. 3. **Construction.** "Construction" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Subd. 4. MS 1990 Renumbered subd 5

Subd. 4. **High voltage transmission line.** "High voltage transmission line" means a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more.

Subd. 5. MS 1990 Renumbered subd 7

Subd. 5. **Large electric power generating plant.** "Large electric power generating plant" shall mean electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.

Subd. 6. MS 1990 Renumbered subd 10

Subd. 6. **Large electric power facilities.** "Large electric power facilities" means high voltage transmission lines and large electric power generating plants.

Subd. 7. MS 1990 Renumbered subd 3

Subd. 7. **Person.** "Person" shall mean an individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subd. 8. **Route.** "Route" means the location of a high voltage transmission line between two end points. The route may have a variable width of up to 1.25 miles.

Subd. 9. **Site.** "Site" means the location of a large electric power generating plant.

Subd. 10. MS 1990 Renumbered subd 6

Subd. 10. **Utility.** "Utility" shall mean any entity engaged or intending to engage in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipally owned utility.

HIST: 1973 c 591 s 2; 1975 c 271 s 6; 1977 c 439 s 1-5; 2001 c 212 art 7 s 1,2

Copyright 2001 by the Office of Revisor of Statutes, State of Minnesota.

Minnesota Statutes 2001, Table of ChaptersTable of contents for Chapter 273**273.13 Classification of property.**

Subdivision 1. **How classified.** All real and personal property subject to a general property tax and not subject to any gross earnings or other in-lieu tax is hereby classified for purposes of taxation as provided by this section.

- Subd. 2. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 2a. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 3. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 4. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 5. Repealed, Ex1971 c 31 art 22 s 5
- Subd. 5a. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 6. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 6a. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 7. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 7a. Repealed, 1988 c 719 art 5 s 81
- Subd. 7b. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 7c. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 7d. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 8. Repealed, Ex1967 c 32 art 4 s 3
- Subd. 8a. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 9. Repealed, 1988 c 719 art 5 s 81
- Subd. 10. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 11. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 12. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 13. Repealed, 1974 c 313 s 1
- Subd. 14. Repealed, 1984 c 593 s 46
- Subd. 14a. Repealed, 1Sp1985 c 14 art 4 s 98
- Subd. 15. Repealed, Ex1971 c 31 art 36 s 2
- Subd. 15a. Repealed, 1988 c 719 art 5 s 81

Subd. 15b. Repealed, 1983 c 342 art 2 s 30

Subd. 16. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17a. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17b. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17c. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 17d. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 18. Repealed, 1983 c 222 s 45

Subd. 19. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 20. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 21. Repealed, 1Sp1985 c 14 art 4 s 98

Subd. 21a. **Class rate.** In this section, wherever the "class rate" of a class of property is specified without qualification as to whether it is the property's "net class rate" or its "gross class rate," the "net class rate" and "gross class rate" of that property are the same as its "class rate."

Subd. 21b. **Tax capacity.** (a) Gross tax capacity means the product of the appropriate gross class rates in this section and market values.

(b) Net tax capacity means the product of the appropriate net class rates in this section and market values.

Subd. 22. **Class 1.** (a) Except as provided in subdivision 23 and in paragraphs (b) and (c), real estate which is residential and used for homestead purposes is class 1a. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first \$500,000 of market value of class 1a property has a net class rate of one percent of its market value; and the market value of class 1a property that exceeds \$500,000 has a class rate of 1.25 percent of its market value.

(b) Class 1b property includes homestead real estate or homestead manufactured homes used for the purposes of a homestead by

(1) any blind person, or the blind person and the blind person's spouse; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and

regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total household income, as defined in section 290A.03, subdivision 5, from

(A) aid from any state as a result of that disability; or

(B) supplemental security income for the disabled; or

(C) workers' compensation based on a finding of total and permanent disability; or

(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(E) aid under the federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability; or

(G) pension, annuity, or other income paid as a result of that disability from a private pension or disability plan, including employer, employee, union, and insurance plans and

(iii) has household income as defined in section 290A.03, subdivision 5, of \$50,000 or less; or

(4) any person who is permanently and totally disabled and whose household income as defined in section 290A.03, subdivision 5, is 275 percent or less of the federal poverty level.

Property is classified and assessed under clause (4) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph.

Property is classified and assessed pursuant to clause (1) only if the commissioner of economic security certifies to the assessor that the homestead occupant satisfies the requirements of this paragraph.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first \$32,000 market value of class 1b property has a net class rate of .45 percent of its market value. The remaining market value of class 1b property has a class rate using the rates for class 1a or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort or a partner in a partnership that owns the resort, even if the title to the homestead is held by the corporation or partnership. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy. The first \$500,000 of market value of class 1c property has a class rate of one percent, and the remaining market value of class 1c property has a class rate of one percent, with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore. If any portion of the class 1c resort property is classified as class 4c under subdivision 25, the entire property must meet the requirements of subdivision 25, paragraph (d), clause (1), to qualify for class 1c treatment under this paragraph.

(d) Class 1d property includes structures that meet all of the following criteria:

(1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;

(2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;

(3) the structure meets all applicable health and safety requirements for the appropriate season; and

(4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same class rates as class 1a property under paragraph (a).

Subd. 23. **Class 2.** (a) Class 2a property is

agricultural land including any improvements that is homesteaded. The market value of the house and garage and immediately surrounding one acre of land has the same class rates as class 1a property under subdivision 22. The value of the remaining land including improvements up to and including \$600,000 market value has a net class rate of 0.55 percent of market value. The remaining property over \$600,000 market value has a class rate of one percent of market value.

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products; (2) real estate that is not improved with a structure and is used exclusively for growing trees for timber, lumber, and wood and wood products, if the owner has participated or is participating in a cost-sharing program for afforestation, reforestation, or timber stand improvement on that particular property, administered or coordinated by the commissioner of natural resources; (3) real estate that is nonhomestead agricultural land; or (4) a landing area or public access area of a privately owned public use airport. Class 2b property has a net class rate of one percent of market value.

(c) Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising or cultivation of agricultural products or enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law Number 99-198. Contiguous acreage on the same parcel, or contiguous acreage on an immediately adjacent parcel under the same ownership, may also qualify as agricultural land, but only if it is pasture, timber, waste, unusable wild land, or land included in state or federal farm programs. Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

(d) Real estate, excluding the house, garage, and immediately surrounding one acre of land, of less than ten acres which is exclusively and intensively used for raising or cultivating agricultural products, shall be considered as agricultural land.

Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes.

Classification under this subdivision is not determinative for qualifying under section 273.111.

The property classification under this section supersedes, for property tax purposes only, any locally administered agricultural policies or land use restrictions that define minimum or maximum farm acreage.

(e) The term "agricultural products" as used in this

subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock described in sections 18.44 to 18.61, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;

(6) insects primarily bred to be used as food for animals;

(7) trees, grown for sale as a crop, and not sold for timber, lumber, wood, or wood products; and

(8) maple syrup taken from trees grown by a person licensed by the Minnesota department of agriculture under chapter 28A as a food processor.

(f) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),

the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm

buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

(g) To qualify for classification under paragraph (b), clause (4), a privately owned public use airport must be licensed as a public airport under section 360.018. For purposes of paragraph (b), clause (4), "landing area" means that part of a privately owned public use airport properly cleared, regularly maintained, and made available to the public for use by aircraft and includes runways, taxiways, aprons, and sites upon which are situated landing or navigational aids. A landing area also includes land underlying both the primary surface and the approach surfaces that comply with all of the following:

(i) the land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for servicing, repair, or maintenance of aircraft is not included as a landing area;

(ii) the land is part of the airport property; and

(iii) the land is not used for commercial or residential purposes.

The land contained in a landing area under paragraph (b), clause (4), must be described and certified by the commissioner of transportation. The certification is effective until it is modified, or until the airport or landing area no longer meets the requirements of paragraph (b), clause (4). For purposes of paragraph (b), clause (4), "public access area" means property used as an aircraft parking ramp, apron, or storage hangar, or an arrival and departure building in connection with the airport.

Subd. 24. **Class 3.** (a) Commercial and industrial property and utility real and personal property is class 3a.

(1) Except as otherwise provided, each parcel of commercial, industrial, or utility real property has a class rate of 1.5 percent of the first tier of market value, and 2.0 percent of the remaining market value. In the case of contiguous parcels of property owned by the same person or entity, only the value equal to the first-tier value of the contiguous parcels qualifies for the reduced class rate, except that contiguous parcels owned by the same person or entity shall be eligible for the first-tier value class rate on each separate business operated by the owner of the property, provided the business is housed in a separate structure. For the purposes of this subdivision, the first tier means the first \$150,000 of market value. Real property owned in fee by a utility for transmission line right-of-way shall be classified at the class rate for the higher tier.

For purposes of this subdivision, parcels are considered to be contiguous even if they are separated from each other by a road, street, waterway, or other similar intervening type of property. Connections between parcels that consist of power lines or pipelines do not cause the parcels to be contiguous. Property owners who have contiguous parcels of property that

constitute separate businesses that may qualify for the first-tier class rate shall notify the assessor by July 1, for treatment beginning in the following taxes payable year.

(2) All railroad operating property and all property that is: (i) part of an electric generation, transmission, or distribution system; or (ii) part of a pipeline system transporting or distributing water, gas, crude oil, or petroleum products; and (iii) not described in clause (3), has a class rate as provided under clause (1) for the first tier of market value and the remaining market value. In the case of multiple parcels in one county that are owned by one person or entity, only one first tier amount is eligible for the reduced rate.

(3) The entire market value of personal property that is: (i) tools, implements, and machinery of an electric generation, transmission, or distribution system; (ii) tools, implements, and machinery of a pipeline system transporting or distributing water, gas, crude oil, or petroleum products; or (iii) the mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, has a class rate as provided under clause (1) for the remaining market value in excess of the first tier.

(b) Employment property defined in section 469.166, during the period provided in section 469.170, shall constitute class 3b. The class rates for class 3b property are determined under paragraph (a).

Subd. 24a. Repealed, 1Sp2001 c 5 art 3 s 96

Subd. 25. **Class 4.** (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. The market value of class 4a property has a class rate of 1.8 percent for taxes payable in 2002, 1.5 percent for taxes payable in 2003, and 1.25 percent for taxes payable in 2004 and thereafter, except that class 4a property consisting of a structure for which construction commenced after June 30, 2001, has a class rate of 1.25 percent of market value for taxes payable in 2003 and subsequent years.

(b) Class 4b includes:

(1) residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential, and recreational;

(2) manufactured homes not classified under any other provision;

(3) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b) containing two or three units;

(4) unimproved property that is classified residential as determined under subdivision 33.

The market value of class 4b property has a class rate of 1.5 percent for taxes payable in 2002, and 1.25 percent for taxes payable in 2003 and thereafter.

(c) Class 4bb includes:

(1) nonhomestead residential real estate containing one unit, other than seasonal residential, and recreational; and

(2) a single family dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b).

Class 4bb property has the same class rates as class 1a property under subdivision 22.

Property that has been classified as seasonal recreational residential property at any time during which it has been owned by the current owner or spouse of the current owner does not qualify for class 4bb.

(d) Class 4c property includes:

(1) except as provided in subdivision 22, paragraph (c), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property is used for residential occupancy, and a fee is charged for residential occupancy. In order for a property to be classified as class 4c, seasonal recreational residential for commercial purposes, at least 40 percent of the annual gross lodging receipts related to the property must be from business conducted during 90 consecutive days and either (i) at least 60 percent of all paid bookings by lodging guests during the year must be for periods of at least two consecutive nights; or (ii) at least 20 percent of the annual gross receipts must be from charges for rental of fish houses, boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina services, launch services, and guide services, or the sale of bait and fishing tackle. For purposes of this determination, a paid booking of five or more nights shall be counted as two bookings. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 250 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in this clause also includes the remainder of class 1c resorts provided that the entire property including that portion of the property classified as class 1c also meets the requirements for class 4c under this clause; otherwise the

entire property is classified as class 3. Owners of real property devoted to temporary and seasonal residential occupancy for recreation purposes and all or a portion of which was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 1c or 4c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located will be designated class 1c or 4c as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located will be designated as class 3a. The owner of property desiring designation as class 1c or 4c property must provide guest registers or other records demonstrating that the units for which class 1c or 4c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, and (4) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes shall not qualify for class 1c or 4c;

(2) qualified property used as a golf course if:

(i) it is open to the public on a daily fee basis. It may charge membership fees or dues, but a membership fee may not be required in order to use the property for golfing, and its green fees for golfing must be comparable to green fees typically charged by municipal courses; and

(ii) it meets the requirements of section 273.112, subdivision 3, paragraph (d).

A structure used as a clubhouse, restaurant, or place of refreshment in conjunction with the golf course is classified as class 3a property;

(3) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1990. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or 3.2 percent malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for

revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity;

(4) post-secondary student housing of not more than one acre of land that is owned by a nonprofit corporation organized under chapter 317A and is used exclusively by a student cooperative, sorority, or fraternity for on-campus housing or housing located within two miles of the border of a college campus;

(5) manufactured home parks as defined in section 327.14, subdivision 3;

(6) real property that is actively and exclusively devoted to indoor fitness, health, social, recreational, and related uses, is owned and operated by a not-for-profit corporation, and is located within the metropolitan area as defined in section 473.121, subdivision 2; and

(7) a leased or privately owned noncommercial aircraft storage hangar not exempt under section 272.01, subdivision 2, and the land on which it is located, provided that:

(i) the land is on an airport owned or operated by a city, town, county, metropolitan airports commission, or group thereof; and

(ii) the land lease, or any ordinance or signed agreement restricting the use of the leased premise, prohibits commercial activity performed at the hangar.

If a hangar classified under this clause is sold after June 30, 2000, a bill of sale must be filed by the new owner with the assessor of the county where the property is located within 60 days of the sale.

Class 4c property has a class rate of 1.5 percent of market value, except that (i) each parcel of seasonal residential recreational property not used for commercial purposes has the same class rates as class 4bb property, (ii) manufactured home parks assessed under clause (5) have the same class rate as class 4b property, (iii) commercial-use seasonal residential recreational property has a class rate of one percent for the first \$500,000 of market value, which includes any market value receiving the one percent rate under subdivision 22, and 1.25 percent for the remaining market value, (iv) the market value of property described in clause (4) has a class rate of one percent, and (v) the market value of property described in clauses (2) and (6) has a class rate of 1.25 percent.

(e) Class 4d property is qualifying low-income rental housing certified to the assessor by the housing finance agency under sections 273.126 and 462A.071. Class 4d includes land in proportion to the total market value of the building that is qualifying low-income rental housing. For all properties

qualifying as class 4d, the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents.

Class 4d property has a class rate of 0.9 percent for taxes payable in 2002, and one percent for taxes payable in 2003 and 1.25 percent for taxes payable in 2004 and thereafter.

Subd. 25a. **Elderly assisted living facility property.**

"Elderly assisted living facility property" means residential real estate containing more than one unit held for use by the tenants or lessees as a residence for periods of 30 days or more, along with community rooms, lounges, activity rooms, and related facilities, designed to meet the housing, health, and financial security needs of the elderly. The real estate may be owned by an individual, partnership, limited partnership, for-profit corporation or nonprofit corporation exempt from federal income taxation under United States Code, title 26, section 501(c)(3) or related sections.

An admission or initiation fee may be required of tenants. Monthly charges may include charges for the residential unit, meals, housekeeping, utilities, social programs, a health care alert system, or any combination of them. On-site health care may be provided by in-house staff or an outside health care provider.

The assessor shall classify elderly assisted living facility property, depending upon the property's ownership, occupancy, and use. The applicable class rates shall apply based on its classification, if taxable.

Subd. 26. Repealed, 1987 c 268 art 6 s 53

Subd. 27. Repealed, 1987 c 268 art 6 s 53

Subd. 28. Repealed, 1987 c 268 art 6 s 53

Subd. 29. Repealed, 1987 c 268 art 6 s 53

Subd. 30. Repealed, 1988 c 719 art 5 s 81

Subd. 31. **Class 5.** Class 5 property includes:

(1) unmined iron ore and low-grade iron bearing formations as defined in section 273.14; and

(2) all other property not otherwise classified.

Class 5 property has a class rate of 2.0 percent of market value.

Subd. 32. Repealed, 1998 c 389 art 2 s 21

Subd. 33. **Classification of unimproved property.** (a) All real property that is not improved with a structure must be classified according to its current use.

(b) Real property that is not improved with a structure and for which there is no identifiable current use must be

classified according to its highest and best use permitted under the local zoning ordinance. If the ordinance permits more than one use, the land must be classified according to the highest and best use permitted under the ordinance. If no such ordinance exists, the assessor shall consider the most likely potential use of the unimproved land based upon the use made of surrounding land or land in proximity to the unimproved land.

HIST: (1993) 1913 c 483 s 1; 1923 c 140; 1933 c 132; 1933 c 359; 1937 c 365 s 1; Ex1937 c 86 s 1; 1939 c 48; 1941 c 436; 1941 c 437; 1941 c 438; 1943 c 172 s 1; 1943 c 648 s 1; 1945 c 274 s 1; 1945 c 527 s 1; 1947 c 537 s 1; 1949 c 723 s 1; 1951 c 510 s 1; 1951 c 585 s 1; 1953 c 358 s 1,2; 1953 c 400 s 1; 1953 c 747 s 1,2; 1955 c 751 s 1,2; 1957 c 866 s 1; 1957 c 959 s 1; 1959 c 40 s 1; 1959 c 338 s 1; 1959 c 541 s 1; 1959 c 562 s 3; Ex1959 c 70 art 1 s 2; 1961 c 243 s 1; 1961 c 322 s 1; 1961 c 340 s 3; 1961 c 475 s 1; 1961 c 710 s 1; 1963 c 426 s 1; 1965 c 259 s 1; 1967 c 606 s 1; Ex1967 c 32 art 1 s 2-4; art 4 s 1; art 9 s 1,2; 1969 c 251 s 1; 1969 c 399 s 49; 1969 c 407 s 1; 1969 c 417 s 1; 1969 c 422 s 1,2; 1969 c 709 s 4,5; 1969 c 760 s 1; 1969 c 763 s 1; 1969 c 965 s 2; 1969 c 1126 s 2; 1969 c 1128 s 1,2; 1969 c 1132 s 1; 1969 c 1137 s 1; 1971 c 226 s 1; 1971 c 427 s 3-12,16,17; 1971 c 747 s 1; 1971 c 791 s 1; 1971 c 797 s 3,4; Ex1971 c 31 art 9 s 1; art 22 s 1,2,4,6,7,8; Ex1971 c 31 art 36 s 1; 1973 c 355 s 1,2; 1973 c 456 s 1; 1973 c 492 s 14; 1973 c 582 s 3; 1973 c 590 s 1; 1973 c 650 art 14 s 1,2; art 20 s 3; art 24 s 3; 1973 c 774 s 1; 1974 c 545 s 3; 1974 c 556 s 16; 1975 c 46 s 3; 1975 c 339 s 9; 1975 c 359 s 23; 1975 c 376 s 1; 1975 c 395 s 1; 1975 c 437 art 1 s 25,27,28; 1976 c 2 s 96,159-161,170; 1976 c 181 s 2; 1976 c 245 s 1; 1977 c 319 s 1,2; 1977 c 347 s 43,44; 1977 c 423 art 3 s 5-8; 1978 c 767 s 7-11; 1979 c 303 art 2 s 11-17; art 10 s 5; 1979 c 334 art 1 s 25; 1980 c 437 s 5; 1980 c 562 s 1; 1980 c 607 art 2 s 7-15; art 4 s 4; 1981 c 188 s 1; 1981 c 356 s 248; 1981 c 365 s 9; 1Sp1981 c 1 art 2 s 7-11; art 5 s 2; 1Sp1981 c 3 s 1; 1Sp1981 c 4 art 2 s 27; 2Sp1981 c 1 s 6; 3Sp1981 c 1 art 1 s 2; 1982 c 523 art 6 s 1; art 14 s 1; art 23 s 2; 1982 c 642 s 9; 1983 c 216 art 1 s 43,44; 1983 c 222 s 11-13; 1983 c 342 art 2 s 9-18; art 8 s 1; 1984 c 502 art 3 s 9-14; art 7 s 1,2; 1984 c 522 s 2; 1984 c 593 s 22-28; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1985 c 300 s 6; 1Sp1985 c 14 art 3 s 5-12; art 4 s 45-56; 1986 c 444; 1Sp1986 c 1 art 4 s 18-21; 1987 c 268 art 5 s 4; art 6 s 18,20-23; 1987 c 291 s 208-209; 1987 c 384 art 1 s 25; 1988 c 719 art 5 s 13-19; 1989 c 277 art 2 s 28,29; 1989 c 304 s 137; 1Sp1989 c 1 art 2 s 1-8,11; 1990 c 480 art 7 s 7; 1990 c 604 art 3 s 16-19; 1991 c 249 s 31; 1991 c 291 art 1 s 20-25; 1992 c 363 art 1 s 12; 1992 c 511 art 2 s 17,18; art 4 s 4,5; 1993 c 224 art 1 s 27; 1993 c 375 art 3 s 16; art 5 s 23-26; 1994 c 416 art 1 s 18,19; 1994 c 483 s 1; 1994 c 587 art 5 s 10,11; 1995 c 264 art 3 s 9,10; 1996 c 471 art 3 s 10-12; 1997 c 231 art 1 s 6-10; art 2 s 20,21; 3Sp1997 c 3 s 28; 1998 c 254 art 1 s 74; 1998 c 389 art 2 s 8-12; 1999 c 243 art 5 s 15-20; 1999 c 249 s 18; 1999 c 249 s 22; 2000 c 490 art 5 s 12,13; 1Sp2001 c 5 art 3 s 32-36

Copyright 2001 by the Office of Revisor of Statutes, State of Minnesota.

Minnesota Statutes 2001, Table of ChaptersTable of contents for Chapter 117**117.055 Petition and notice.**

In all cases a petition, describing the desired land, stating by whom and for what purposes it is proposed to be taken, and giving the names of all persons appearing of record or known to the petitioner to be the owners thereof shall be presented to the district court of the county in which the land is situated praying for the appointment of commissioners to appraise the damages which may be occasioned by such taking. Notice of the objects of the petition and of the time and place of presenting the same shall be served at least 20 days before such time of presentation upon all persons named in the petition as owners as defined in section 117.025, subdivision 3, and upon all occupants of such land in the same manner as a summons in a civil action. If any such owner be not a resident of the state, or the owner's place of residence be unknown to the petitioner, upon the filing of an affidavit of the petitioner or the petitioner's agent or attorney, stating that the petitioner believes that such owner is not a resident of the state, and that the petitioner has mailed a copy of the notice to the owner at the owner's place of residence, or that after diligent inquiry the owner's place of residence cannot be ascertained by the affiant, then service may be made upon such owner by three weeks' published notice. If the state be an owner, the notice shall be served upon the attorney general. Any owner not served as herein provided shall not be bound by such proceeding except upon voluntarily appearing therein. Any owner shall be furnished a right of way map or plat of all that part of land to be taken upon written demand, provided that the petitioner shall have ten days from the receipt of the demand within which to furnish the same. Any plans or profiles which the petitioner has shall be made available to the owner for inspection.

HIST: 1971 c 595 s 8; 1986 c 444

Copyright 2001 by the Office of Revisor of Statutes, State of Minnesota.

2001

Date (time) needed

Med.
2/27

LRB - 4835, 1

PK : rs :
+ jld

BILL

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the statutes; relating to: acquisition of residential or agricultural property by an electric utility.

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

(attached) ✓

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

SECTION #.



ANALYSIS

This bill provides that, whenever electric
an utility seeks to acquire an interest
(for example, an easement) in residential or ~~farm~~ agricultural property for the
construction of a large electric power
generating facility or a high voltage
transmission line, the ~~area of the property~~ must
as much of ~~may require~~ the utility to ~~acquire~~ acquire
the owner's property as the owner wishes if
commercially viable and
~~at~~ all such property is contiguous to the
property sought by the utility. The owner
must transfer the property to the utility
within 60 days. The bill requires the utility
to divest itself of ^{all acquired} the property ~~acquire~~ that is
farmed or capable of being farmed as soon as it

~~as reported during in many cases~~

~~while a large amount~~

is able to receive in payment for the property
as much as it paid for the property, less
any diminutions in value ~~as by reason~~ due
to the presence of the power plant or
transmission line.

(end analysis)

SEC. CR. 32.065[✓] (B)

32.065 = Condemnation by electric utility.
the

120 P (1) The legislature finds that acquisition
of property by a utility under this
section is an acquisition for a public
purpose.

✓ P (2) In this section ✓

ANS. A →

SEC. CR. 32.065

32.065 Condemnation by electric utility.
(1) In this section:

¶ (b) "High voltage transmission line" means a conductor of electric energy designed for operation at a nominal voltage of 100 kilovolts or more. ✓

¶ (c) "Large electric ^{power} generating facility" means electric generating equipment and associated facilities designed for nominal operation at a capacity of 50 megawatts or more. ✓

(B) →

¶ (e) "Route" means the location of a high voltage transmission line between 2 end points with a width of up to 1.25 miles. ✓

¶ (f) "Site" means the location of a large electric power generating facility. ✓

§ (g) "Utility" means a person engaged or
intending to engage in this state in the
generation, transmission, or distribution of
electric energy. ✓

③
§ (3) Whenever a utility seeks to acquire
an interest in residential property, ~~farm~~ or agricultural
~~recreational property~~ for the construction of a

site or route, all of the following apply:
§ (a) The utility may not serve the

jurisdictional offer under s. 32.06(3) for 60

days ~~from~~ after the utility provides the

owner with the appraisal under s. 32.06(2)(b).

57 (b) Whenever a utility seeks to acquire an interest in residential property, farm property, or recreational property for the construction of a site or route, ~~the owner of the property may~~ ^{shall} ~~acquire~~ The utility shall acquire in fee simple ✓

is as much of the owner's property as the

owner wishes if all such property is commercially viable and

contiguous to the property in which the utility

seeks an interest and the owner agrees to

transfer the property to the utility within

60 days after receipt of the appraisal under

s. 32.06(2)(b) ✓

~~the utility shall purchase~~

7 (4) ^(B) ~~Acquisition of property by a utility~~

~~under sub. (2)(b) is an acquisition for a~~

~~public purpose. If a utility acquires~~

property ^{under sub. (3)(b)}, it shall divest itself completely of all

such property that is ^{farmed} ~~used for~~ or capable of ~~as soon as~~

being ~~farmed~~ ^{when} it ~~can~~ is able to ^{for the property}

receive ~~its~~ payment ^{as much} as it received

paid for the property, less any diminution in

value by reason of the presence of the route of
site.

INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # [93]. **Initial applicability;**

(#1) ()

The treatment of sections ..

of the statutes

first applies to

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ^{auto #} . **Initial applicability**.....

under section 32.06 (2)(b) of the statutes

(#1) *vw* This act first applies to *acquisitions of property under section 32.06 of the statutes, commenced with appraisals provided on the effective date of this subsection.*

that are

(End) ✓

A INS

7 (a) ~~any~~ Agricultural property means property classified as agricultural for property tax purposes under s. 70.32.

→ end ins A ←

B INS

7 (d) "Residential property" means property classified as residential for property tax purposes under s. 70.32.

→ end ins B ←

Basford, Sarah

From: Basford, Sarah
Sent: Thursday, February 28, 2002 12:27 PM
To: Walsh, Patrick
Subject: LRB -4835/1 (attached)



01-4835/1

Sarah Basford

Program Assistant
State of Wisconsin
Legislative Reference Bureau
PH: (608) 266-3561/FAX: (608) 264-6948
sarah.basford@legis.state.wi.us