

2005 DRAFTING REQUEST

Bill

Received: **11/23/2005**

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Joyce Waldrop (aide)**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting DOT from acquiring development rights with transportation fund moneys

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>
/?				_____			State
/P1	agary 12/16/2005	jdye 12/23/2005	chaugen 12/28/2005	_____	sbasford 12/28/2005		State
/P2	agary 01/09/2006	jdye 01/09/2006	pgreensl 01/09/2006	_____	sbasford 01/09/2006		State
/1	agary 01/17/2006	jdye 01/17/2006	rschluet 01/17/2006	_____	sbasford 01/17/2006	sbasford 02/08/2006	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

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/P2	agary 01/09/2006	jdyer 01/09/2006	pgreensl 01/09/2006	_____	sbasford 01/09/2006		

FE Sent For:

1/17/06
[Signature]
1176

2005 DRAFTING REQUEST

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Received By: **agary**

Wanted: **Soon**

Identical to LRB:

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May Contact:

Addl. Drafters:

Subject: **Transportation - highways**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.state.wi.us**

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No specific pre topic given

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/?							State
/P1	agary 12/16/2005	jdyer 12/23/2005	chaugen 12/28/2005	<u>1/9</u> <u>1/9</u>	sbasford 12/28/2005		
FE Sent For:		<i>P2/1/12</i>	<i>1/9</i> <i>P8</i>	<i>P8/1/15</i> <END>			

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Wanted: **Soon**

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/?	agary	PI 12/23 JLD	ch 12/28	ch 12/28			State

FE Sent For:

<END>

Gary, Aaron

From: Waldrop, Joyce
Sent: Monday, December 05, 2005 9:23 AM
To: Gary, Aaron
Subject: RE: Draft Request

Yes.

Joyce Waldrop
Chief of Staff/Committee Clerk
jwaldrop@legis.state.wi.us

Representative Sheryl Albers
50th Assembly District
Property Rights and Land Management
15 North State Capitol
PO Box 8952
Madison, WI 53708
Ph. 608/266-8531
Fax 608/282-3650

From: Gary, Aaron
Sent: Monday, December 05, 2005 9:19 AM
To: Patronsky, Mark; Waldrop, Joyce
Cc: Rep.Albers
Subject: RE: Draft Request

Mark, Thank you very much.

Joyce, And is the intent of the draft that DOT can't use moneys from the Transportation Fund to obtain development rights?

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Patronsky, Mark
Sent: Saturday, December 03, 2005 11:16 AM

12/05/2005

To: Gary, Aaron
Cc: Rep.Albers; Waldrop, Joyce
Subject: FW: Draft Request

Hi Gary----

Rep. Albers asked me to consult with you about the definition of development rights. I think this definition from Rep. Albers' AB 265 is a good starting point:

AB265, s. 8 - continued

Pg3Ln16 77.21 (1b) "Development rights" means any device by which the development
Pg3Ln17 potential of real property is severed from the real property's title and made available
Pg3Ln18 for acquisition by a person who is not the owner of the property.

I think the term "development rights" is confusing because in a real property transaction, the holder of the development rights has a right to prevent development of the property, not the right to develop the property.

I think that in most cases development rights are going to be in the form of an easement---see s. 700.40, stats., especially where we are talking about purchase of development rights by an agency, nonprofit entity, local gov't, or individual. There are some good notes from the Uniform Laws Commission with the original draft of s. 700.40.

Development rights could also be a reservation in a deed, such as where the whole property is purchased and development rights are reserved in the subsequent conveyance of title.

Also, development rights can be part of a regulatory program, usually called a transfer of development rights program, but I don't think there is a TDR program anywhere in WI. In a TDR program, the land within an area is assigned development credits which can be sold (by an owner who wants to keep land in less intensive use, such as farming) and transferred to another (an owner who has land and wants to build on it, and needs more development credits to do so).

This is where some of the confusion on development rights comes into play---in a TDR program, the owner of development rights has a right to develop the property---just the opposite of the easement/reservation described above. I don't know if the definition can be clarified to encompass both of these concepts. The AB 265 definition seems to relate more to the TDR concept than the easement.

I hope this helps.

Mark Patronsky

From: Sheryl Albers [mailto:skalbers@mwt.net]
Sent: Friday, December 02, 2005 1:26 PM
To: Waldrop, Joyce
Cc: Patronsky, Mark
Subject: RE: Draft Request

Ask that he work with Mark Patronsky on this. I would guess that other states like Pennsylvania have definitions already. Development rights include the rights to improve the property from its current state by constructing improvements, adding structures, or modifying use of the land/property to some type of active commercial venture in which land and labor are mixed to produce/generate income. Development rights do not include the land itself. The right to exclude is unaffected. Development right is the right to develop; may include the right to till untilled soil; right to mine; but does not include the right to farm if the property is already being tilled/cropped.

From: Waldrop, Joyce [mailto:Joyce.Waldrop@legis.state.wi.us]
Sent: Monday, November 28, 2005 5:07 PM
To: Sheryl Albers
Subject: FW: Draft Request

12/05/2005

Sheryl,

Could you define "development rights" for the DOT draft?

Joyce

From: Gary, Aaron
Sent: Wednesday, November 23, 2005 1:10 PM
To: Waldrop, Joyce
Subject: RE: Draft Request

Also, I might as well ask now: I'll need some clarification of what you mean by "development rights" here. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Gary, Aaron
Sent: Wednesday, November 23, 2005 9:50 AM
To: Waldrop, Joyce
Subject: RE: Draft Request

Hi Joyce,

As discussed in my e-mail below, Transportation Fund monies, once deposited, are commingled and cannot again be differentiated by source of revenue. We could prevent DOT from using *any* moneys from the Transportation Fund for these expenditures. However, if you want to *allow* DOT to use certain moneys (based upon source of the revenues) from the Transportation Fund for these expenditures, but prohibit the use of other moneys (based upon source of the revenues) from the Transportation Fund for these expenditures (as the original e-mail suggests), then we would need to do something like what I suggest in my e-mail below. Am I interpreting your request right? Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Waldrop, Joyce

12/05/2005

Sent: Wednesday, November 23, 2005 9:24 AM
To: Gary, Aaron
Subject: FW: Draft Request

Aaron,

Please see Representative Albers' response to your inquiry below. If you wish to communicate via e-mail use skalbers@mwt.net.

Joyce

From: Sheryl Albers [mailto:skalbers@mwt.net]
Sent: Wednesday, November 23, 2005 7:01 AM
To: Waldrop, Joyce
Subject: RE: Draft Request

Why cannot we preclude DOT from using fuel taxes for purchase of any development rights where the land doesn't come with it, and it will not be used strictly for Transportation needs. Yes, he can contact fiscal bureau....SA

From: Waldrop, Joyce [mailto:Joyce.Waldrop@legis.state.wi.us]
Sent: Tuesday, November 22, 2005 2:06 PM
To: Sheryl Albers
Subject: FW: Draft Request

What would you like me to tell Aaron?

From: Gary, Aaron
Sent: Tuesday, November 22, 2005 12:32 PM
To: Waldrop, Joyce
Cc: Kreye, Joseph
Subject: RE: Draft Request

Hi Joyce,

I will probably be the primary drafter on this.

It is my understanding that all revenues deposited in the transportation fund are commingled, so that it would be impossible to carry out the intent of this draft with the existing structure of the transportation fund. I believe the easiest solution to achieve the intent of the draft would be to require a separate account within the transportation fund for motor fuel tax revenues. Would that be acceptable to Rep. Albers? Also, this may be rather technical with regard to the funding issues - would I be authorized to contact Jon Dyck at the Fiscal Bureau for assistance as needed? Thanks. Aaron

Aaron R. Gary

Legislative Attorney

12/05/2005

Legislative Reference Bureau

608.261.6926 (voice)

608.264.6948 (fax)

aaron.gary@legis.state.wi.us

From: Waldrop, Joyce

Sent: Monday, November 21, 2005 3:16 PM

To: LRB.Legal

Subject: Draft Request

Please draft a bill that would prohibit the Department of Transportation from using fuel tax to get development rights.

Thank you.

Sheryl

Sheryl K. Albers
State Representative
50th Assembly District

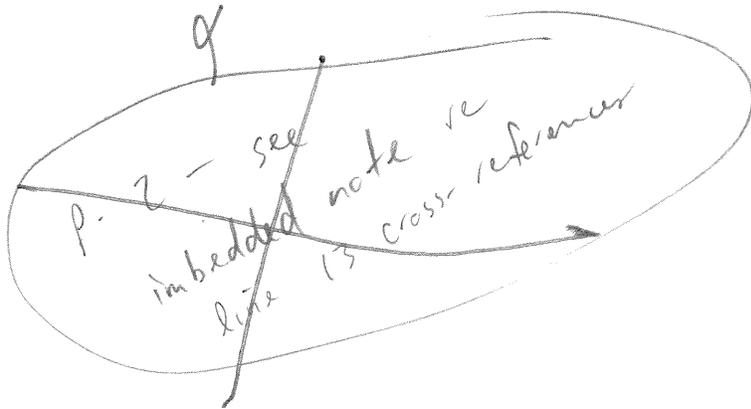
15 North State Capitol
Madison, WI 53708
Ph 608/266-8531
Fax 608/283-3650

Seen

in 12/16

D-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



Gen

- 1 AN ACT ...; relating to: the acquisition of development rights in land by the
- 2 Department of Transportation. ✓

Analysis by the Legislative Reference Bureau

Current law generally prohibits the Department of Transportation (DOT), after October 28, 1999, from encumbering or expending highway program moneys for purposes related to the purchase of land, easements, or development rights in land, unless the land or interest in land is purchased in association with a highway project and the land or interest in land is located within one-quarter mile of the highway. However, this prohibition does not apply to the purchase of any land that is acquired as compensatory mitigation for another wetland that will suffer an adverse impact by degradation or destruction as part of a highway project. Under current law, "development rights" is not defined for purposes of this prohibition. Also under current law, DOT highway programs are funded from the transportation fund.

This bill prohibits DOT, beginning on the effective date of the bill, from encumbering or expending moneys from the transportation fund for the acquisition of development rights in land. The bill defines "development rights," for purposes of this new prohibition and current law provisions, as any device, including a conservation easement or a deed reservation, by which the development potential of real property is severed from the real property's title and made available for acquisition by a person who is not the owner of the real property.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 86.255 (title) of the statutes is amended to read:

2 86.255 (title) **Limitation on moneys used to purchase development**
3 **rights, land remote from highway project.**

History: 1999 a. 9.

4 SECTION 2. 86.255 (1) of the statutes is renumbered 86.255 (1m).

5 SECTION 3. 86.255 (1c) of the statutes is created to read:

6 86.255 (1c) In this section, “development rights” means any device, including
7 a conservation easement under s. 700.40 or a deed reservation, by which the
8 development potential of real property is severed from the real property’s title and
9 made available for acquisition by a person who is not the owner of the real property.

10 SECTION 4. 86.255 (2) (intro.) of the statutes is amended to read:

11 86.255 (2) (intro.) Subsection (1) (1m) does not apply to any of the following:

History: 1999 a. 9.

12 SECTION 5. 86.255 (3) of the statutes is created to read:

13 (3) Notwithstanding subs. (1) and (2) and ss. 25.40 (3) (b), 84.09, and 86.25,
14 beginning on the effective date of this subsection ... [revisor inserts date], the
15 department may not encumber or expend any moneys from the transportation fund
16 for the acquisition of development rights in land.

***NOTE: Section 25.40 (3) (b) is created in SA3 to SB-331. If SB-331 is vetoed by the governor, this cross-reference will need to be removed.

17 SECTION 6. **Effective date.**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4140/P1dn

ARG:.....

Jed

ATTN: Joyce Waldrop

Please review the attached draft carefully to ensure that it is consistent with your intent.✓

The definition of "development rights" is based upon the information provided by Mark Patronsky.✓

The draft prohibits DOT from using transportation fund moneys✓ to acquire development rights. Theoretically, this provision would not prohibit moneys from the general fund or other sources from being appropriated for purposes of DOT's acquisition of development rights; however, no such appropriation exists under current law so, as a practical matter, this provision completely bars DOT from acquiring such development rights after the bill's effective date.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.✓

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4140/P1dn
ARG:jld:ch

December 28, 2005

ATTN: Joyce Waldrop

Please review the attached draft carefully to ensure that it is consistent with your intent.

The definition of "development rights" is based upon the information provided by Mark Patronsky.

The draft prohibits DOT from using transportation fund moneys to acquire development rights. Theoretically, this provision would not prohibit moneys from the general fund or other sources from being appropriated for purposes of DOT's acquisition of development rights; however, no such appropriation exists under current law so, as a practical matter, this provision completely bars DOT from acquiring such development rights after the bill's effective date.

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Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Rosenak, Mary Jan
Sent: Thursday, January 05, 2006 12:05 PM
To: Gary, Aaron
Cc: Waldrop, Joyce
Subject: Lrb 4140

Attachments: Scan001.PDF

Rep. Albers has some changes she would like on the draft. If you have trouble reading the changes give the office a call.

Rep. Albers is in a hurry to introduce this.

Thanks,

Mary Jan



Scan001.PDF (133
KB)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4140/P1dn
ARG:jld:ch

December 28, 2005

ATTN: Joyce Waldrop

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The definition of "development rights" is based upon the information provided by Mark Patronsky.

The draft prohibits DOT from using transportation fund moneys to acquire development rights. Theoretically, this provision would not prohibit moneys from the general fund or other sources from being appropriated for purposes of DOT's acquisition of development rights; however, no such appropriation exists under current law so, as a practical matter, this provision completely bars DOT from acquiring such development rights after the bill's effective date.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

*See changes
Redraft*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 AN ACT *to renumber* 86.255 (1); *to amend* 86.255 (title) and 86.255 (2) (intro.);
2 and *to create* 86.255 (1c) and 86.255 (3) of the statutes; **relating to:** the
3 acquisition of development rights in land by the Department of Transportation.
-

Analysis by the Legislative Reference Bureau

Current law generally prohibits the Department of Transportation (DOT), after October 28, 1999, from encumbering or expending highway program moneys for purposes related to the purchase of land, easements, or development rights in land, unless the land or interest in land is purchased in association with a highway project and the land or interest in land is located within one-quarter mile of the highway. However, this prohibition does not apply to the purchase of any land that is acquired as compensatory mitigation for another wetland that will suffer an adverse impact by degradation or destruction as part of a highway project. Under current law, "development rights" is not defined for purposes of this prohibition. Also under current law, DOT highway programs are funded from the transportation fund.

This bill prohibits DOT, beginning on the effective date of the bill, from encumbering or expending moneys from the transportation fund for the acquisition of development rights in land. The bill defines "development rights," for purposes of this new prohibition and current law provisions, as any device, including a conservation easement or a deed reservation, by which the development potential of real property is severed from the real property's title and made available for acquisition by a person who is not the owner of the real property.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 86.255 (title) of the statutes is amended to read:

86.255 (title) Limitation on moneys used to purchase development rights, land ^{outside of} remote from highway project ^{right of way}.

SECTION 2. 86.255 (1) of the statutes is renumbered 86.255 (1m).

SECTION 3. 86.255 (1c) of the statutes is created to read:

86.255 (1c) In this section, "development rights" means any device, including a conservation easement under s. 700.40 or a deed reservation, by which the development potential of real property is severed from the real property's title and made available for acquisition by a ^{person or entity?} person who is not the owner of the real property.

SECTION 4. 86.255 (2) (intro.) of the statutes is amended to read:

86.255 (2) (intro.) Subsection (1) (1m) does not apply to any of the following:

SECTION 5. 86.255 (3) of the statutes is created to read:

86.255 (3) Notwithstanding subs. (1m) and (2) and ss. 25.40 (3) (b), 84.09, and 86.25, beginning on the effective date of this subsection [revisor inserts date], the

department may not encumber or expend any moneys from the transportation fund ~~for the acquisition of development rights in land~~ ^{and may not transfer funds to any other unit of government} ~~or~~ ^{for the purpose of that unit of government to} acquire ^{development} rights.

****NOTE: Section 25.40 (3) (b) is created in SA 3 to SB-331. If SB-331 is vetoed by the governor, this cross-reference will need to be removed.

SECTION 6. Effective date.

(1) This act takes effect on the first day of the 2nd month beginning after publication.

(END)

Need to include other units of government - counties/cities/villages/town not just a person - because the state shouldn't be buying + then transferring ownership

Gary, Aaron

From: Sheryl Albers [skalbers@mwt.net]
Sent: Saturday, January 07, 2006 3:43 PM
To: Gary, Aaron
Subject: RE: Lrb 4140

change the title and make corresponding changes to s. 86.255 (1) in the bill?

From: Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]
Sent: Friday, January 06, 2006 4:41 PM
To: Sheryl Albers
Subject: RE: Lrb 4140

Representative Albers:

Please see my response to item 1. below and let me know how you wish to proceed.

I can redraft the bill to incorporate the necessary changes.

Thanks. Have a good weekend. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Sheryl Albers [mailto:skalbers@mwt.net]
Sent: Friday, January 06, 2006 4:27 PM
To: Gary, Aaron
Subject: RE: Lrb 4140

From: Gary, Aaron [mailto:Aaron.Gary@legis.state.wi.us]
Sent: Thursday, January 05, 2006 12:23 PM
To: Rosenak, Mary Jan
Cc: Waldrop, Joyce
Subject: RE: Lrb 4140

Mary Jan,

With regard to these changes:

1. I cannot make the handwritten change to the title (p. 2, line 3) because handwritten portions relate to

01/09/2006

current law that is not affected by this draft. IN REGARD TO THIS POINT – DO I THEN NEED A NEW DRAFT TO INCLUDE THIS CHANGE?

[ARG response]: Page 2, lines 2 and 3 are the title of the statutory section. The two underlined words are the change that I am making to the title based upon this draft. Your handwritten changes are made to part of the title that are not affected by the bill. Making these changes to the title will create a disconnect with the text of the existing statute that is not being affected by this bill. For me to make these changes to the title, I would need to make matching changes to the existing law in s. 86.255 (1). Do you want me to leave the title "as is" or do you want me to change the title and make corresponding changes to s. 86.255 (1) in the bill?

2. With respect to the comment at p. 2, line 9, "person" is defined in the statutes to include an entity. see s. 990.01 (26).

3. It seems like a cleaner way to accomplish the same thing as the handwritten changes at p. 2, line 16 would simply be to add to the end of line 16, after "land," the words "by the department or by any county, city, village, or town." I believe this change would accomplish the intent of the handwritten changes (DOT doesn't "transfer" funds to local govts.) Would this change be acceptable? THIS CHANGE IS ACCEPTABLE AND SHOULD BE INCLUDED IN EITHER A NEW DRAFT OR SUB. AMENDMENT

Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Rosenak, Mary Jan
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To: Gary, Aaron
Cc: Waldrop, Joyce
Subject: Lrb 4140

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Rep. Albers is in a hurry to introduce this.

Thanks,

Mary Jan

<< File: Scan001.PDF >>



State of Wisconsin
2005 - 2006 LEGISLATURE

soon

LRB-4140/P2 P2

ARG:jld:ch

in 1/9

ama

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

NO \$ for highway projects

land, easements, and

Regen

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- 2 and to create 86.255 (1c) and 86.255 (3) of the statutes; relating to: the
- 3 acquisition of development rights in land by the Department of Transportation.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the Department of Transportation (DOT), after October 28, 1999, from encumbering or expending highway program moneys for purposes related to the purchase of land, easements, or development rights in land, unless the land or interest in land is purchased in association with a highway project and the land or interest in land is located within one-quarter mile of the highway. However, this prohibition does not apply to the purchase of any land that is acquired as compensatory mitigation for another wetland that will suffer an adverse impact by degradation or destruction as part of a highway project. Under current law, "development rights" is not defined for purposes of this prohibition. Also under current law, DOT highway programs are funded from the transportation fund.

This bill prohibits DOT, beginning on the effective date of the bill, from encumbering or expending moneys from the transportation fund for the acquisition of development rights in land. The bill defines "development rights," for purposes of this new prohibition and current law provisions, as any device, including a conservation easement or a deed reservation, by which the development potential of real property is severed from the real property's title and made available for acquisition by a person who is not the owner of the real property.

insert ANAL

also

by DOT or by any county, city, village, or town

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 86.255 (title) of the statutes is amended to read:

2 86.255 (title) **Limitation on moneys used to purchase development**
3 **rights, land remote from highway project.** *strike* *outside* *strike* *right-of-way*

4 SECTION 2. 86.255 (1) of the statutes is renumbered 86.255 (1m).

5 SECTION 3. 86.255 (1c) of the statutes is created to read:

6 86.255 (1c) In this section, "development rights" means any device, including
7 a conservation easement under s. 700.40 or a deed reservation, by which the
8 development potential of real property is severed from the real property's title and
9 made available for acquisition by a person who is not the owner of the real property.

10 SECTION 4. 86.255 (2) (intro.) of the statutes is amended to read:

11 86.255 (2) (intro.) Subsection (1) (1m) does not apply to any of the following:

12 SECTION 5. 86.255 (3) of the statutes is created to read:

13 86.255 (3) Notwithstanding subs. (1m) and (2) and ss. 25.40 (3) (b), 84.09, and
14 86.25, beginning on the effective date of this subsection [revisor inserts date], the
15 department may not encumber or expend any moneys from the transportation fund
16 for the acquisition of development rights in land.

insert 2-17 *****Note:** Section 25.40 (3) (b) is created in SA 3 to SB-331. If SB-331 is vetoed by the governor, this cross-reference will need to be removed.

17 SECTION 6. Effective date.

18 (1) This act takes effect on the first day of the 2nd month beginning after
19 publication.

20 (END)

*by the department or
by any county, city, village,
or town*

D-Note

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4140/P2ins
ARG:.....

INSERT ANAL:

This bill generally narrows the area of land that DOT may acquire for highway projects by generally prohibiting DOT from encumbering or expending highway program moneys for purposes related to the purchase of land, easements, or development rights in land located outside the highway right-of-way, rather than such land or interests in land located within one-quarter mile of the highway.

INSERT 2-4:

SECTION 1. 86.255 (1) of the statutes is renumbered 86.255 (1m) and amended to read:

86.255 (1m) Notwithstanding ss. 84.09 and 86.25, beginning with purchase contracts executed on October 29, 1999, and with relocation orders initially filed under ch. 32 on October 29, 1999, the department may not encumber or expend any moneys from the appropriations under s. 20.395 (3) for purposes related to the purchase of land, easements, or development rights in land, unless the land or interest in land is purchased in association with a highway project and the land or interest in land is located within ~~one-quarter mile of the highway~~ right-of-way.

History: 1999 a. 9.

INSERT 2-17:

SECTION 2. Initial applicability.

(1) The renumbering and amendment of section 86.255 (1) of the statutes first applies to highway projects for which preliminary engineering and design work commences on the effective date of this subsection.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4140/P2dn

ARG:.....

↑
JL

ATTN: Representative Albers

Please review the attached draft carefully to ensure that it is consistent with your intent. ✓

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible “/1” draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4140/P2dn
ARG:jld:pg

January 9, 2006

ATTN: Representative Albers

Please review the attached draft carefully to ensure that it is consistent with your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Waldrop, Joyce
Sent: Tuesday, January 17, 2006 1:25 PM
To: Gary, Aaron
Subject: LRB 4140/P2

Please draft LRB P 4140/P2 as the "real thing". If you have any questions please call.

Thanks.

Joyce Waldrop
Chief of Staff/Committee Clerk
jwaldrop@legis.state.wi.us

Representative Sheryl Albers
50th Assembly District
Property Rights and Land Management
15 North State Capitol
PO Box 8952
Madison, WI 53708
Ph. 608/266-8531
Fax 608/282-3650



State of Wisconsin
2005 - 2006 LEGISLATURE

TODAY
if possible

LRB-4140/P2

ARG:jld:pg

AMA

in 1/17

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

No changes -
edited 1/9

Regen

1 AN ACT *to renumber and amend* 86.255 (1); *to amend* 86.255 (title) and 86.255
2 (2) (intro.); and *to create* 86.255 (1c) and 86.255 (3) of the statutes; **relating**
3 **to:** the acquisition of land, easements, and development rights in land by the
4 Department of Transportation for highway projects.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the Department of Transportation (DOT), after October 28, 1999, from encumbering or expending highway program moneys for purposes related to the purchase of land, easements, or development rights in land, unless the land or interest in land is purchased in association with a highway project and the land or interest in land is located within one-quarter mile of the highway. However, this prohibition does not apply to the purchase of any land that is acquired as compensatory mitigation for another wetland that will suffer an adverse impact by degradation or destruction as part of a highway project. Under current law, "development rights" is not defined for purposes of this prohibition. Also under current law, DOT highway programs are funded from the transportation fund.

This bill generally narrows the area of land that DOT may acquire for highway projects by generally prohibiting DOT from encumbering or expending highway program moneys for purposes related to the purchase of land, easements, or development rights in land located outside the highway right-of-way, rather than such land or interests in land located within one-quarter mile of the highway.

This bill also prohibits DOT, beginning on the effective date of the bill, from encumbering or expending moneys from the transportation fund for the acquisition

of development rights in land by DOT or by any county, city, village, or town. The bill defines “development rights,” for purposes of this new prohibition and current law provisions, as any device, including a conservation easement or a deed reservation, by which the development potential of real property is severed from the real property’s title and made available for acquisition by a person who is not the owner of the real property.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 86.255 (title) of the statutes is amended to read:

2 **86.255 (title) Limitation on moneys used to purchase development**
3 **rights, land remote from outside highway project right-of-way.**

4 **SECTION 2.** 86.255 (1) of the statutes is renumbered 86.255 (1m) and amended
5 to read:

6 **86.255 (1m)** Notwithstanding ss. 84.09 and 86.25, beginning with purchase
7 contracts executed on October 29, 1999, and with relocation orders initially filed
8 under ch. 32 on October 29, 1999, the department may not encumber or expend any
9 moneys from the appropriations under s. 20.395 (3) for purposes related to the
10 purchase of land, easements, or development rights in land, unless the land or
11 interest in land is purchased in association with a highway project and the land or
12 interest in land is located within ~~one-quarter mile of the highway~~ right-of-way.

13 **SECTION 3.** 86.255 (1c) of the statutes is created to read:

14 **86.255 (1c)** In this section, “development rights” means any device, including
15 a conservation easement under s. 700.40 or a deed reservation, by which the
16 development potential of real property is severed from the real property’s title and
17 made available for acquisition by a person who is not the owner of the real property.

18 **SECTION 4.** 86.255 (2) (intro.) of the statutes is amended to read:

Basford, Sarah

From: Waldrop, Joyce
Sent: Tuesday, February 07, 2006 5:20 PM
To: LRB.Legal
Subject: Jacket

Please jacket LRB 4140 for introduction.

Thank you.

Joyce Waldrop
Chief of Staff/Committee Clerk
jwaldrop@legis.state.wi.us

Representative Sheryl Albers
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