

2009 DRAFTING REQUEST

Bill

Received: 11/13/2008

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Byrnes**

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

Drafter: **pgrant**

May Contact:

Addl. Drafters:

Subject: **Eminent Domain - reloc. benefits**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Byrnes, BB0217 -

Topic:

Appeal of a denied relocation benefits claim

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>
/?	pgrant 11/13/2008	kfollett 11/17/2008		_____			
/1	pgrant 02/03/2009	kfollett 02/03/2009	jfrantze 11/17/2008	_____	lparisi 11/17/2008		
/2			rschluet 02/03/2009	_____	lparisi 02/03/2009		

FE Sent For:

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/?	pgrant 11/13/2008	lrb_editor 11/15/08 11/17	Jo	Self 11/17			

FE Sent For:

<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Establishing a Timeframe to Appeal Denied Relocation Claims
- Tracking Code: BB0217
- SBO team: Tax, Transportation and Budget Development Team
- SBO analyst: Tyler Byrnes
 - Phone: 266-1039
 - Email: tyler.byrnes@wisconsin.gov
- Agency acronym: DOT
- Agency number: 395
- Priority (Low, Medium, High): Low

0610

Intent: Please prepare a draft that establishes a two-year time limit in which to appeal fair compensation for relocation costs related to displacement as a result of a public project. Amend s. 32.20 to establish the time limit.

**Department of Transportation
2009-11 Biennial Budget Request
STATUTORY MODIFICATIONS**

DIN NUMBER: 5305

TOPIC: Establishing a Timeframe to Appeal Denied Relocation Claims

DESCRIPTION OF CHANGE:

Currently, anyone displaced by a public project will be fairly compensated for the property acquired and any relocation costs incurred, such as moving expenses and replacement housing. Under s. 32.20, Wis. Stats. (procedure for collection of itemized items of compensation), claims for reimbursement of relocation costs must be submitted to the Department no later than two years after being displaced. If a claim (or part of a claim) is denied or not acted upon within 90 days of being submitted, the claimant may appeal through litigation. The claimant may also first petition the Department of Commerce under 32.26(5), Wis. Stats, in an attempt to negotiate an acceptable solution before starting litigation. However, in both cases there is no time limit in which to file the appeal.

The request amends s. 32.20, Wis. Stats. to establish a two-year time limit in which to appeal. It would start from the time of denial, passage of 90 days, or failure to negotiate a settlement through the Department of Commerce. The deadline would provide a reasonable amount of time for a claimant to decide on whether to take legal action.

JUSTIFICATION:

This change provides a logical time period to file an appeal against a denied relocation claim. It would be consistent with the time limit requirements of two years for land acquisition appeals (s. 32.05(3)(i), Wis. Stats.) and three years for retention of relocation records (s. 32.27(1), Wis. Stats.). If the appeal is filed more than three years after being denied, it may be difficult to reconstruct the actual events, because the corresponding paperwork and Department staff familiar with the situation may no longer be available.

Date (time)
needed

5/15/04

LRB- 0777/1

PG : kjf:

DOA BUDGET DRAFT

Use the appropriate components and routines developed for bills.

>>FOR BUDGET — NOT READY FOR INTRODUCTION<<

Don 4 Gen

AN ACT . . . [DO NOT generate catalog]; relating to: the budget.

.....
.....

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**

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

SECTION #.

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: PG) (Date: 11 / 13 / 08)



Please transfer the drafting file for

2007 LRB _____ to the drafting file

for 2009 LRB _____

 The final version of the 2007 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2007 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

 For research purposes, because the 2007 draft was incorporated into a new 2009 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2009 drafting file. This request form will be inserted into the "guts" of the 2009 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

---OR---

Please copy the drafting file for

2009 LRB 0610 / 1 (include the version) and place it in the

drafting file for 2009 LRB 0777

 For research purposes, because the original 2009 draft was incorporated into another 2009 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2009 drafting file. This request form will be inserted into the "guts" of the new 2009 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

 The original drafting file will then be returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

2009 BILL

1 **AN ACT ...; relating to:** commencement of an action against a condemnor who has
2 disallowed a claim for relocation benefits.

Analysis by the Legislative Reference Bureau

EMINENT DOMAIN

Currently, a person displaced by the acquisition of property by an entity that is vested with the power of condemnation is entitled to certain benefits from the condemnor, including relocation assistance, assistance in the acquisition of replacement housing, and moving expenses. The person must file a claim for such benefits within two years of being displaced. If the claim is not allowed within 90 days, the claimant may file an appeal in circuit court. Currently, there is no deadline for filing an appeal.

This bill provides that the claimant must file the appeal within two years.

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

3 **SECTION 1.** 32.20 of the statutes is amended to read:

4 **32.20 Procedure for collection of itemized items of compensation.**

5 Claims for damages itemized in ss. 32.19 and 32.195 shall be filed with the

BILL**SECTION 1**

1 condemnor carrying on the project through which condemnee's or claimant's claims
2 arise. All such claims must be filed after the damages upon which they are based
3 have fully materialized but not later than 2 years after the condemnor takes physical
4 possession of the entire property acquired or such other event as determined by the
5 department of commerce by rule. If such claim is not allowed within 90 days after
6 the filing thereof, the claimant has a right of action against the condemnor carrying
7 on the project through which the claim arises. Such action shall be commenced in
8 a court of record in the county wherein the damages occurred not later than 2 years
9 after the condemnor disallows the claim, not later than 2 years after the expiration
10 of the 90-day period if the condemnor fails to disallow the claim within that period,
11 or not later than 2 years after the expiration of the 90-day period under s. 32.26 (5)
12 if the department of commerce has attempted and failed to negotiate an acceptable
13 solution under that section, whichever occurs later. In causes of action, involving any
14 state commission, board or other agency, excluding counties, the sum recovered by
15 the claimant shall be paid out of any funds appropriated to such condemning agency.
16 Any judgment shall be appealable by either party and any amount recovered by the
17 body against which the claim was filed, arising from costs, counterclaims, punitive
18 damages or otherwise may be used as an offset to any amount owed by it to the
19 claimant, or may be collected in the same manner and form as any other judgment.

SECTION 9357. Initial applicability; Other.

20 (1) CONDEMNATION; APPEAL OF DENIED CLAIM FOR DAMAGES. The treatment of
21 section 32.20 of the statutes first applies to a conveyance of property to a condemnor
22 that is recorded on the effective date of this subsection.
23

DOA:.....Byrnes, BB0217 – Appeal of a denied relocation benefits claim
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Don + Gen

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24 (END)



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