



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-4293/00  
MDK/RPN/PG:bjk:rs

stays

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

By MONDAY  
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2-22

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IN 2-19  
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INSERT 1-6

- regen.

1 AN ACT *to renumber* 32.01 (1); *to amend* 13.48 (12) (b) 1., 32.02 (3), 32.02 (4),  
 2 32.02 (5), 32.02 (6), 32.02 (7), 32.02 (8), 32.02 (9), 32.02 (13), 32.03 (2), 66.0825  
 3 (6) (i), 66.1035, 87.12 (6), 706.09 (3) (a) and 893.33 (5); and *to create* 32.01 (1q)  
 4 of the statutes; **relating to:** condemnation authority of certain business  
 5 entities ~~and~~ exemption for interstate natural gas companies from certain  
 6 requirements regarding real estate transactions and court actions.

**Analysis by the Legislative Reference Bureau**

Current law provides that a person who acquires an interest in property for valuable consideration without notice that there is a prior adverse interest takes the interest free and clear of the prior interest, if that prior interest is based on any of a number of situations specified in current law. Current law also provides exceptions for certain prior interests in real estate, such as real estate owned by a public service corporation, railroad corporation, electric cooperative, or the United States, the state, or a political subdivision. This bill creates an additional exception for real estate owned by a "natural gas company," as defined under a federal law that provides that "natural gas company" means a person engaged in the following: 1) the transportation of natural gas in interstate commerce; or 2) the sale in interstate commerce of natural gas for resale.

Current law also bars a person from commencing an action related to an interest in real property unless an instrument expressly referring to the existence

of that interest has been recorded in the register of deeds of the county where the real estate is located within 30 years before the date of commencing the action. In addition, current law bars all claims to an interest in real property unless, within the last 30 years, an instrument has been recorded expressly referring to the interest in the real property. Current law also provides an exception to these provisions if the record title of the property remains with a railroad corporation, a public service corporation, a electric cooperative, the state, or a political subdivision of the state. This bill creates an additional exception if the record title of the property remains with a natural gas company, which is defined as described above.

by additions

Current law ~~also~~ authorizes certain corporations, including corporations furnishing gas or electricity to the public, telecommunications corporations, and oil pipeline corporations, to acquire property by condemnation. This bill provides that the entities authorized to condemn may be organized as partnerships, limited liability companies, joint ventures, or any other form of business association.

INSERT 2A

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

INSERT 2-4

1 SECTION 1. 13.48 (12) (b) 1. of the statutes is amended to read:

2 13.48 (12) (b) 1. A facility constructed by or for ~~corporations~~ business entities  
3 having condemnation authority under s. 32.02 (3) to (10) and (13) for purposes for  
4 which the ~~corporation~~ business entity would have condemnation authority.

5 SECTION 2. 32.01 (1) of the statutes is renumbered 32.01 (1r).

6 SECTION 3. 32.01 (1g) of the statutes is created to read:

7 32.01 (1g) "Business entity" has the meaning given in s. 13.62 (5).

8 SECTION 4. 32.02 (3) of the statutes is amended to read:

9 32.02 (3) Any railroad corporation; any grantee of a permit to construct a dam  
10 to develop hydroelectric energy for sale to the public; any ~~Wisconsin~~ plank or  
11 turnpike road corporation, organized under the laws of this state; any drainage  
12 ~~corporation~~, business entity; any interstate bridge ~~corporation~~, business entity; or  
13 any corporation formed under chapter 288, laws of 1899, for any public purpose  
14 authorized by its articles of incorporation.

1           **SECTION 5.** 32.02 (4) of the statutes is amended to read:

2           32.02 (4) Any ~~Wisconsin~~ telegraph or telecommunications ~~corporation~~  
3           business entity, organized under the laws of this state, for the construction and  
4           location of its lines.

5           **SECTION 6.** 32.02 (5) of the statutes is amended to read:

6           32.02 (5) (a) "Foreign transmission provider" means a foreign ~~corporation~~  
7           business entity that satisfies each of the following:

8           1. The foreign ~~corporation~~ business entity is an independent system operator,  
9           as defined in s. 196.485 (1) (d), or an independent transmission owner, as defined in  
10           s. 196.485 (1) (dm), that is approved by the applicable federal agency, as defined in  
11           s. 196.485 (1) (c).

12           2. The foreign ~~corporation~~ business entity controls transmission facilities, as  
13           defined in s. 196.485 (1) (h), in this and another state.

14           (b) Any ~~Wisconsin corporation~~ business entity, organized under the laws of this  
15           state, engaged in the business of transmitting or furnishing heat, power or electric  
16           light for the public or any foreign transmission provider for the construction and  
17           location of its lines or for ponds or reservoirs or any dam, dam site, flowage rights or  
18           undeveloped water power.

19           **SECTION 7.** 32.02 (6) of the statutes is amended to read:

20           32.02 (6) Any ~~Wisconsin corporation~~ business entity, organized under the laws  
21           of this state, furnishing gas, electric light or power to the public, for additions or  
22           extensions to its plant and for the purpose of conducting tests or studies to determine  
23           the suitability of a site for the placement of a facility.

24           **SECTION 8.** 32.02 (7) of the statutes is amended to read:

1           32.02 (7) Any ~~Wisconsin corporation~~ business entity, organized under the laws  
2 of this state, formed for the improvement of any stream and driving logs therein, for  
3 the purpose of the improvement of such stream, or for ponds or reservoir purposes.

4           **SECTION 9.** 32.02 (8) of the statutes is amended to read:

5           32.02 (8) Any ~~Wisconsin corporation~~ business entity, organized under the laws  
6 of this state, organized to furnish water or light to any city, village or town or the  
7 inhabitants thereof, for the construction and maintenance of its plant.

8           **SECTION 10.** 32.02 (9) of the statutes is amended to read:

9           32.02 (9) Any ~~Wisconsin corporation~~ business entity, organized under the laws  
10 of this state, transmitting gas, oil or related products in pipelines for sale to the  
11 public directly or for sale to one or more other corporations furnishing such gas, oil  
12 or related products to the public.

13           **SECTION 11.** 32.02 (13) of the statutes is amended to read:

14           32.02 (13) Any ~~corporation licensed to do business in Wisconsin~~ business entity  
15 organized under the laws of this state that shall transmit oil or related products  
16 including all hydrocarbons which are in a liquid form at the temperature and  
17 pressure under which they are transported in pipelines in Wisconsin, and shall  
18 maintain terminal or product delivery facilities in Wisconsin, and shall be engaged  
19 in interstate or international commerce, subject to the approval of the public service  
20 commission upon a finding by it that the proposed real estate interests sought to be  
21 acquired are in the public interest.

22           **SECTION 12.** 32.03 (2) of the statutes is amended to read:

23           32.03 (2) Any railroad corporation or pipeline ~~corporation~~ business entity may  
24 acquire by condemnation lands or interest therein which are held and owned by  
25 another railroad corporation or pipeline ~~corporation~~ business entity. In the case of

INSEAT 5-4

1 a railroad corporation, no such land shall be taken so as to interfere with the main  
2 track of the railroad first established except for crossing, and in the case of a pipeline  
3 ~~corporation~~ business entity, no such land shall be taken except for crossing or in such  
4 manner as to interfere with or endanger railroad operations.

5 SECTION 13. 66.0825 (6) (i) of the statutes is amended to read:

6 66.0825 (6) (i) Exercise the powers of eminent domain granted to public utility  
7 ~~corporations~~ entities under ch. 32.

INSEAT 5-7

8 SECTION 14. 66.1035 of the statutes is amended to read:

9 **66.1035 Rights of abutting owners.** The owners of land abutting on any  
10 highway, street, or alley shall have a common right in the free and unobstructed use  
11 of the full width of the highway, street, or alley. No town, village, city, county,  
12 company, or corporation shall close up, use, or obstruct any part of the highway,  
13 street, or alley so as to materially interfere with its usefulness as a highway or so as  
14 to damage abutting property, or permit the same to be done, without just  
15 compensation being made for any resulting damage. This section does not impose  
16 liability for damages arising from the use, maintenance, and operation of tracks or  
17 other public improvement legally laid down, built, or established in any street,  
18 highway, or alley prior to April 7, 1889. All rights in property that could entitle an  
19 owner to damages under this section may be condemned by any ~~corporation~~ business  
20 entity that is listed in s. 32.02 in the same manner that other property may be  
21 condemned by the ~~corporation~~ business entity.

22 SECTION 15. 87.12 (6) of the statutes is amended to read:

23 87.12 (6) The board shall have the power to institute and prosecute in the  
24 manner provided in ch. 32 of the statutes such eminent domain proceedings as may  
25 be necessary in the construction of said improvement. When necessary for that

INSERT 6-10

1 purpose, this right of eminent domain shall be dominant over the rights of eminent  
 2 domain of public or private corporations, business entities, or governmental  
 3 agencies. The board shall also have the power to acquire any lands or interest  
 4 therein necessary for the aforesaid purpose, by gift, purchase or lease. Any title  
 5 acquired by condemnation or gift, purchase or lease shall be held in the name of the  
 6 flood control board in trust for the several towns, villages and cities and contributing,  
 7 as provided in s. 87.10 (1) (c) and (d), in proportion to the amounts of their several  
 8 contributions. The board shall have the power to employ engineers, attorneys,  
 9 agents, assistants, clerks, employees and laborers as it may deem advisable for the  
 10 proper execution of its duties, and to fix their compensation.

11 **SECTION 16.** 706.09 (3) (a) of the statutes is amended to read:

12 706.09 (3) (a) *Public service corporations, railroads, electric cooperatives,*  
 13 *trustees, natural gas companies, governmental units.* While owned, occupied or used  
 14 by any public service corporation, any railroad corporation as defined in s. 195.02 (1),  
 15 any water carrier as defined in s. 195.02 (5), any electric cooperative organized and  
 16 operating on a nonprofit basis under ch. 185, any natural gas company, as defined  
 17 in 15 USC 717a (6), or any trustee or receiver of any such corporation or, electric  
 18 cooperative, or natural gas company, or any mortgagee or trust deed trustee or  
 19 receiver thereof; nor any such interest while held by the United States, the state or  
 20 any political subdivision or municipal corporation thereof; or

21 **SECTION 17.** 893.33 (5) of the statutes is amended to read:

22 893.33 (5) This section bars all claims to an interest in real property, whether  
 23 rights based on marriage, remainders, reversions and reverter clauses in covenants  
 24 restricting the use of real estate, mortgage liens, old tax deeds, death and income or  
 25 franchise tax liens, rights as heirs or under will, or any claim of any nature, however

1 denominated, and whether such claims are asserted by a person sui juris or under  
2 disability, whether such person is within or without the state, and whether such  
3 person is natural or corporate, or private or governmental, unless within the 30-year  
4 period provided by sub. (2) there has been recorded in the office of the register of  
5 deeds some instrument expressly referring to the existence of the claim, or a notice  
6 pursuant to this section. This section does not apply to any action commenced or any  
7 defense or counterclaim asserted, by any person who is in possession of the real  
8 estate involved as owner at the time the action is commenced. This section does not  
9 apply to any real estate or interest in real estate while the record title to the real  
10 estate or interest in real estate remains in a railroad corporation, a public service  
11 corporation as defined in s. 201.01, an electric cooperative organized and operating  
12 on a nonprofit basis under ch. 185, a natural gas company, as defined in 15 USC 717a  
13 (6), or any trustee or receiver of a railroad corporation, a public service corporation  
14 ~~or~~, an electric cooperative, or a natural gas company, or to claims or actions founded  
15 upon mortgages or trust deeds executed by that cooperative ~~or~~, corporation, company,  
16 or trustees or receivers of that cooperative ~~or~~, corporation, or company. This section  
17 also does not apply to real estate or an interest in real estate while the record title  
18 to the real estate or interest in real estate remains in the state or a political  
19 subdivision or municipal corporation of this state.

20 **SECTION 18. Initial applicability.**

21 (1) CLAIMS BARRED. The treatment of section 893.33 (5) of the statutes first  
22 applies to an action commenced or defense or counterclaim asserted on the effective  
23 date of this subsection.

24 (END)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4293/1ins  
MDK:.....

1

**INSERT 1-6:**

2

creation and powers of municipal electric companies, and exemption from certificate  
of public convenience and necessity for certain electric transmission line projects

3

4

**INSERT 2A:**

Current law also allows any combination of municipalities of this state that operate electric generation, transmission, or distribution facilities to establish a municipal electric company for the joint production, transmission, or distribution of electric power for the benefit of the municipalities. Current law defines "municipality" for this purpose as a city, village, or town. This bill defines "municipality" also to include an electric utility, or combined utility, that is owned or operated by a city, village, or town. In addition, the bill allows any combination of municipalities of this state and another state to establish a municipal electric company. Current law also allows a municipal electric company to undertake certain projects and enter into certain contracts and other agreements with other persons and public agencies. Current law defines "public agency" and "person" to include governmental and business entities under the laws of this state, other states, and the United States. Under this bill, "public agency" and "person" are defined also to include governmental and business entities under the laws of foreign nations and their subdivisions. The bill also exempts a municipal electric company from a requirement under current law to obtain the attorney general's approval prior to contracting with municipalities of other states or with federally recognized American Indian tribes or bands located in other states.

Finally, current law prohibits, with certain exceptions, a person from constructing a high-voltage transmission line unless the Public Service Commission (PSC) has granted the person a certificate of public convenience and necessity (CPCN) for the line. Current law defines "high-voltage transmission line" as an electric transmission line exceeding one mile in length that is designed for operation at a nominal voltage of 100 kilovolts or more. One of the exceptions to the CPCN requirement is for construction of a high-voltage transmission line that is designed for operation at a nominal voltage of less than 345 kilovolts. The exception applies only if all related construction activity takes place entirely within the area of an existing electric transmission line right-of-way. This bill ~~repeals~~ the foregoing requirement, and provides instead that the exception applies only if the centerline of the high-voltage transmission line is located within 60 feet on either side of the centerline of an existing electric transmission line that operates at a normal voltage of 69 kilovolts or more. In addition, for the exception to apply, the person constructing the high-voltage transmission line must demonstrate to the PSC that the project has minimal environmental impacts. Also, the person must demonstrate that the high-voltage transmission line requires the acquisition in total of one-half mile or less of rights-of-way from landowners from whom rights-of-way were not required

eliminates

to be acquired for the existing electric transmission line. In addition, the person must demonstrate that the number of landowners from which the rights-of-way must be acquired is minimal.

**INSERT 2-4:**

**SECTION 1.** 30.025 (3m) of the statutes is amended to read:

30.025 (3m) ENVIRONMENTAL ASSESSMENTS FOR CERTAIN PROJECTS. The department is not required to prepare an environmental impact statement under s. 1.11 (2) (c) for the construction of a project that is specified in s. 196.491 (4) (c) ~~1.~~ 1r. and for which one or more permits are required, but shall prepare an environmental assessment regarding the construction if the department's rules require an environmental assessment.

History: 1975 c. 68; 1985 a. 332 s. 251 (1); 1997 a. 204; 2003 a. 89, 118.

**INSERT 5-4:**

**SECTION 2.** 66.0303 (3) (a) of the statutes is amended to read:

66.0303 (3) (a) Except as provided in par. (b) and s. 66.0825 (18), an agreement made under this section shall, prior to and as a condition precedent to taking effect, be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. The attorney general shall approve any agreement submitted under this paragraph unless the attorney general finds that it does not meet the conditions set forth in this section and details in writing addressed to the concerned municipal governing bodies the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted under this paragraph within 90 days of its submission constitutes approval. The attorney general, upon submission of an agreement, shall transmit a copy of the agreement to the governor who shall consult with any state department or agency affected by the agreement. The governor shall

1 forward to the attorney general any comments the governor may have concerning the  
2 agreement.

History: 1999 a. 150 ss. 77, 355; 2001 a. 109; 2005 a. 198.

3 **SECTION 3.** 66.0825 (3) (e) of the statutes is amended to read:

4 66.0825 (3) (e) "Municipality" means a city, village, or town, or an electric  
5 utility, or combined utility, owned or operated by a city, village, or town.

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204; 1999 a. 150 s. 211; Stats. 1999 s. 66.0825; 2001 a. 102; 2005 a. 441.

6 **SECTION 4.** 66.0825 (3) (f) of the statutes is amended to read:

7 66.0825 (3) (f) "Person" means a natural person, a public agency, a cooperative,  
8 an unincorporated cooperative association, or a private corporation, limited liability  
9 company, association, firm, partnership, or business trust of any nature, organized  
10 and existing under the laws of any state ~~or of~~, the United States, or any foreign nation  
11 or any subdivision of any foreign nation.

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204; 1999 a. 150 s. 211; Stats. 1999 s. 66.0825; 2001 a. 102; 2005 a. 441.

12 **SECTION 5.** 66.0825 (3) (h) of the statutes is renumbered 66.0825 (3) (h) (intro.)

13 and amended to read:

(intro)

14 66.0825 (3) (h) "Public agency" means any of the following:

15 1. Any municipality ~~or other.~~

16 2. Any municipal corporation, political subdivision, governmental unit, or  
17 public corporation, created under the laws of this state ~~or of~~, another state ~~or of~~, the  
18 United States, and any or any foreign nation or subdivision of any foreign nation.

19 3. Any state or the United States, ~~and any.~~

20 4. Any person, board, or other body, that is declared by the laws of any state ~~or,~~  
21 the United States, or any foreign nation or any subdivision of any foreign nation to

1 be a department, agency, or instrumentality of the state or, the United States, or the  
2 foreign nation or subdivision.

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204; 1999 a. 150 s. 211; Stats. 1999 s. 66.0825; 2001 a. 102; 2005 a. 441.

3 **SECTION 6.** 66.0825 (4) (a) of the statutes is amended to read:

4 66.0825 (4) (a) Any combination of municipalities of ~~the~~ this state or of this  
5 state and other states which operates facilities for the generation, transmission or  
6 distribution of electric power and energy may, by contract with each other, establish  
7 a separate governmental entity to be known as a municipal electric company to be  
8 used by the contracting municipalities to effect joint development of electric energy  
9 resources or production, distribution and transmission of electric power and energy  
10 in whole or in part for the benefit of the contracting municipalities. The  
11 municipalities party to the contract may amend the contract as provided in the  
12 contract.

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204; 1999 a. 150 s. 211; Stats. 1999 s. 66.0825; 2001 a. 102; 2005 a. 441.

13 **INSERT 5-7:**

14 **SECTION 7.** 66.0825 (18) of the statutes is amended to read:

15 66.0825 (18) OTHER STATUTES. The powers granted under this section do not  
16 limit the powers of municipalities to enter into intergovernmental cooperation or  
17 contracts or to establish separate legal entities under ss. 66.0301 to 66.0311 or any  
18 other applicable law, or otherwise to carry out their powers under applicable  
19 statutory provisions, nor do the powers granted under this section limit the powers  
20 reserved to municipalities by state law. Section 66.0303 (3) does not apply to a  
21 company's contracts or agreements.

History: 1977 c. 159; 1979 c. 110; 1979 c. 323 s. 33; 1983 a. 24, 27; 1983 a. 207 s. 93 (8); 1991 a. 221; 1993 a. 112; 1995 a. 225; 1997 a. 35, 204; 1999 a. 150 s. 211; Stats. 1999 s. 66.0825; 2001 a. 102; 2005 a. 441.

22 **INSERT 6-10:**

1 SECTION 8. 196.491 (4) (c) 1. of the statutes is renumbered 196.491 (4) (c) 1r.  
2 (intro.) and amended to read:

3 196.491 (4) (c) 1r. (intro.) A certificate under sub. (3) is not required for a person  
4 to construct a high-voltage transmission line designed for operation at a nominal  
5 voltage of less than 345 kilovolts if ~~all related construction activity takes place~~  
6 ~~entirely within the area of an existing electric transmission line right-of-way. the~~  
7 centerline of the new high-voltage transmission line is located within 60 feet on  
8 either side of the centerline of an existing electric transmission line operating at a  
9 normal voltage of 69 kilovolts or more and the applicant demonstrates all of the  
10 following:

History: 1975 c. 68, 199; 1979 c. 221, 361; 1983 a. 53 s. 114; 1983 a. 192, 401; 1985 a. 182 s. 57; 1989 a. 31; 1993 a. 184; 1995 a. 27 ss. 9116 (5), 9126 (19); 1995 a. 227,  
1997 a. 27, 35, 204; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 33, 89; 2005 a. 24, 29; 2007 a. 20 s. 9121 (6) (a); 2009 a. 40.

11 SECTION 9. 196.491 (4) (c) 1r. a., 1r. b. and 1r. c. of the statutes are created to  
12 read:

13 196.491 (4) (c) 1r. a. That the project has minimal environmental impacts.

14 1r. b. That the new high-voltage transmission line requires the acquisition in  
15 total of one-half mile or less of rights-of-way from landowners from which  
16 rights-of-way were not required to be acquired for the existing electric transmission  
17 line.

18 1r. c. That the number of landowners described in subd. 1r. b. from whom  
19 rights-of-way must be acquired is minimal.

20 SECTION 10. 196.491 (4) (c) 1g. of the statutes is repealed and recreated to read:

21 196.491 (4) (c) 1g. In this paragraph, "centerline" means a line drawn through  
22 the centerline of an electric transmission line along its length.

23 SECTION 11. 196.491 (4) (c) 2. of the statutes is amended to read:

Move SECTION

Created

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Component.

1           196.491 (4) (c) 2. The commission is not required to prepare an environmental  
2           impact statement under under s. 1.11 (2) (c) for construction that is specified in subd.  
3           ~~1. 1r.~~, but shall prepare an environmental assessment regarding the construction if  
4           an environmental assessment is required under the commission's rules.

**History:** 1975 c. 68, 199; 1979 c. 221, 361; 1983 a. 53 s. 114; 1983 a. 192, 401; 1985 a. 182 s. 57; 1989 a. 31; 1993 a. 184; 1995 a. 27 ss. 9116 (5), 9126 (19); 1995 a. 227, 409; 1997 a. 27, 35, 204; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 33, 89; 2005 a. 24, 29; 2007 a. 20 s. 9121 (6) (a); 2009 a. 40.

5           **SECTION 12.** 196.491 (4) (c) 3. of the statutes is amended to read:

6           196.491 (4) (c) 3. If construction or utilization of a high-voltage transmission  
7           line described in subd. ~~1. 1r.~~ is precluded or inhibited by a local ordinance, the  
8           construction and utilization of the line may nevertheless proceed.

**History:** 1975 c. 68, 199; 1979 c. 221, 361; 1983 a. 53 s. 114; 1983 a. 192, 401; 1985 a. 182 s. 57; 1989 a. 31; 1993 a. 184; 1995 a. 27 ss. 9116 (5), 9126 (19); 1995 a. 227, 409; 1997 a. 27, 35, 204; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 33, 89; 2005 a. 24, 29; 2007 a. 20 s. 9121 (6) (a); 2009 a. 40.

## Kunkel, Mark

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**From:** Shannon-Bradley, Summer  
**Sent:** Tuesday, March 02, 2010 1:40 PM  
**To:** Kunkel, Mark  
**Subject:** LRB-4293/1

**Attachments:** Comments on 02-22-2010 Draft Language SLP 02-23-2010.doc

Please draft a /2 of this draft with the following changes:

1. I am going to forward you an email and attachment from Tom Hanrahan, general counsel for WPPI. Please incorporate his suggested changes.
2. Please remove all language regarding condemnation authority/eminent domain—to this end, remove sections 1, 3 through 13, 21, and 22. *—also section 19*
3. Please incorporate the two minor changes (adding word “nominal” and “will not have undue adverse”) and one deletion (“that the number of landowners described in subd. 1r.b. from whom rights-of-way must be required is minimal”) contained in this document



Comments on  
02-22-2010 Draft L..

Also, we give the Soletski office permission to draft the Assembly companion to this bill. Please contact me with any questions. Thank you.

Summer R. Shannon-Bradley  
Office of Senator Jeff Plale  
(608) 266-7505  
State Capitol, 313 South  
P.O. Box 7882  
Madison, WI 53707-7882

196.491 (4) (c) 1r. (intro.) A certificate under sub. (3) is not required for a person to construct a high-voltage transmission line designed for operation at a nominal voltage of less than 345 kilovolts if the centerline of the new high-voltage transmission line is located within 60 feet on either side of the centerline of an existing electric transmission line operating at a nominal voltage of 69 kilovolts or more and the applicant demonstrates all of the following:

**Comment [SLP1]:** Changed for consistency to other voltage references in § 196.491.  
**Deleted:** normal

1g. In this paragraph, "centerline" means a line drawn through the centerline of an electric transmission line along its length.

1r. a. That the project will not have undue adverse environmental impacts.

**Comment [SLP2]:** Changed to provide consistency with the finding that the Commission must make under § 196.491(3)(d)4. It also affords the Commission more flexibility in making its environmental impact determination.  
**Deleted:** has minimal

b. That the new high-voltage transmission line requires the acquisition in total of one-half mile or less of rights-of-way from landowners from which rights-of-way were not required to be acquired for the existing electric transmission line.

c. That the number of landowners described in subd. 1r. b. from whom rights-of-way must be acquired is minimal.

**Comment [SLP3]:** Seems unnecessary given the provisions of 1r a. and b. above.

2. The commission is not required to prepare an environmental impact statement under s. 1.11 (2) (c) for construction that is specified in subd. 1r., but shall prepare an environmental assessment regarding the construction if an environmental assessment is required under the commission's rules.

3. If construction or utilization of a high-voltage transmission line described in subd. 1r. is precluded or inhibited by a local ordinance, the construction and utilization of the line may nevertheless proceed.

**Kunkel, Mark**

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**From:** Shannon-Bradley, Summer  
**Sent:** Tuesday, March 02, 2010 1:40 PM  
**To:** Kunkel, Mark  
**Subject:** FW: LRB-4293/1 "Clean-up" Bill Draft  
**Attachments:** \_0223142321\_001.pdf

WPPI language for LRB-4293/2

Summer R. Shannon-Bradley  
Office of Senator Jeff Plale  
(608) 266-7505  
State Capitol, 313 South  
P.O. Box 7882  
Madison, WI 53707-7882

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**From:** Tom Hanrahan [mailto:thanrahan@wppienergy.org]  
**Sent:** Tuesday, February 23, 2010 2:28 PM  
**To:** Shannon-Bradley, Summer  
**Cc:** Zolik, Nate - PSC; Dan Ebert  
**Subject:** Re: LRB-4293/1 "Clean-up" Bill Draft

Summer-

I have two small suggested modifications to the clean-up bill language, and Dan suggested I get them to you directly. Both have to do with the way the term "public agency" has been drafted.

First, the way the new § 66.0825(3)(h) has been drafted, the term "public agency" could be read to include only municipalities of Wisconsin and not municipalities of other states. Because the term "public agency" should include municipalities from other states, I have marked up the relevant section of the bill to make this change in the attached.

Second, the draft definition of "public agency" extends to governmental units, political subdivisions et.al. of foreign nations (and subdivisions thereof), but not to foreign nations (and subdivisions thereof) themselves. I have modified this section of the bill in the attached as well.

An example of why these changes are necessary can be found in § 66.0825(6)(c) of the current statues, which allows WPPI to "enter into franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person or *public agency*. (italics mine) If the term "public agency" does not include out-of-state municipalities or foreign nations, WPPI could not make such arrangements with them.

If you have any questions regarding these changes, please let Dan or me know.

03/02/2010

Thanks,  
Tom

Thomas S. Hanrahan  
General Counsel  
WPPI Energy  
1425 Corporate Center Drive  
Sun Prairie, WI 53590-9109  
Ph: 608.834.4558  
Fax: 608.837.0274

>>> "Shannon-Bradley, Summer" <Summer.Shannon-Bradley@legis.wisconsin.gov> 2/22/2010 12:09 PM >>>

Hi All:

We received the draft from LRB today. Please look it over and let me know if any changes need to be made.

Thanks.

<<09-42931.pdf>>

Summer

Summer R. Shannon-Bradley

Office of Senator Jeff Plale

(608) 266-7505

State Capitol, 313 South

P.O. Box 7882

Madison, WI 53707-7882

**BILL**

1 forward to the attorney general any comments the governor may have concerning the  
2 agreement.

3 SECTION 15. 66.0825 (3) (e) of the statutes is amended to read:

4 66.0825 (3) (e) "Municipality" means a city, village, or town, or an electric  
5 utility, or combined utility, owned or operated by a city, village, or town.

6 SECTION 16. 66.0825 (3) (f) of the statutes is amended to read:

7 66.0825 (3) (f) "Person" means a natural person, a public agency, a cooperative,  
8 an unincorporated cooperative association, or a private corporation, limited liability  
9 company, association, firm, partnership, or business trust of any nature, organized  
10 and existing under the laws of any state ~~or of~~ the United States, or any foreign nation  
11 or any subdivision of any foreign nation.

12 SECTION 17. 66.0825 (3) (h) of the statutes is renumbered 66.0825 (3) (h) (intro.)  
13 and amended to read:

14 66.0825 (3) (h) (intro.) "Public agency" means any of the following:

15 ~~1. Any municipality or other~~  
*municipality,*

16 1. ~~2. Any~~ municipal corporation, political subdivision, governmental unit, or  
17 public corporation, created under the laws of this state ~~or of~~, another state ~~or of~~, the  
18 United States, ~~and any~~ or any foreign nation or subdivision of any foreign nation.

19 2. ~~3. Any state or~~ the United States, ~~and any~~ *or any foreign nation or subdivision*  
*of any foreign nation*

20 3. ~~4. Any person, board, or other body, that is~~ declared by the laws of any state ~~or~~,  
21 the United States, or any foreign nation or any subdivision of any foreign nation to  
22 be a department, agency, or instrumentality of the state ~~or~~, the United States, or the  
23 foreign nation or subdivision.

24 SECTION 18. 66.0825 (4) (a) of the statutes is amended to read:



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-4293/4  
MDK/RPN/PG:bjk:md

2

2009 BILL

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1 AN ACT <sup>(to renumber 32.01 (1); to renumber and amend 66.0825 (3) (h) and</sup>  
2 196.491 (4) (c) 1.; to amend 13.48 (12) (b) 1., 30.025 (3m), 32.02 (3), 32.02 (4),  
3 32.02 (5), 32.02 (6), 32.02 (7), 32.02 (8), 32.02 (9), 32.02 (13), 32.03 (2), 66.0303  
4 (3) (a), 66.0825 (3) (e), 66.0825 (3) (f), 66.0825 (4) (a), 66.0825 (6) (i), 66.0825 (18),  
5 66.1035, 87.12 (6), 196.491 (4) (c) 2., 196.491 (4) (c) 3., 706.09 (3) (a) and 893.33  
6 (5); and to create 32.01 (1g), 196.491 (4) (c) 1g. and 196.491 (4) (c) 1r. a., b. and  
7 c. of the statutes; relating to: ~~condemnation authority of certain business~~  
8 ~~entities~~ exemption for interstate natural gas companies from certain  
9 requirements regarding real estate transactions and court actions, creation  
10 and powers of municipal electric companies, and exemption from certificate of  
11 public convenience and necessity for certain electric transmission line projects.

**Analysis by the Legislative Reference Bureau**

Current law provides that a person who acquires an interest in property for valuable consideration without notice that there is a prior adverse interest takes the interest free and clear of the prior interest, if that prior interest is based on any of a number of situations specified in current law. Current law also provides exceptions

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for certain prior interests in real estate, such as real estate owned by a public service corporation, railroad corporation, electric cooperative, or the United States, the state, or a political subdivision. This bill creates an additional exception for real estate owned by a "natural gas company," as defined under a federal law that provides that "natural gas company" means a person engaged in the following: 1) the transportation of natural gas in interstate commerce; or 2) the sale in interstate commerce of natural gas for resale.

Current law also bars a person from commencing an action related to an interest in real property unless an instrument expressly referring to the existence of that interest has been recorded in the register of deeds of the county where the real estate is located within 30 years before the date of commencing the action. In addition, current law bars all claims to an interest in real property unless, within the last 30 years, an instrument has been recorded expressly referring to the interest in the real property. Current law also provides an exception to these provisions if the record title of the property remains with a railroad corporation, a public service corporation, a electric cooperative, the state, or a political subdivision of the state. This bill creates an additional exception if the record title of the property remains with a natural gas company, which is defined as described above.

~~In addition, current law authorizes certain corporations, including corporations furnishing gas or electricity to the public, telecommunications corporations, and oil pipeline corporations, to acquire property by condemnation. This bill provides that the entities authorized to condemn may be organized as partnerships, limited liability companies, joint ventures, or any other form of business association.~~

Current law also allows any combination of municipalities of this state that operate electric generation, transmission, or distribution facilities to establish a municipal electric company for the joint production, transmission, or distribution of electric power for the benefit of the municipalities. Current law defines "municipality" for this purpose as a city, village, or town. This bill defines "municipality" also to include an electric utility, or combined utility, that is owned or operated by a city, village, or town. In addition, the bill allows any combination of municipalities of this state and another state to establish a municipal electric company. Current law also allows a municipal electric company to undertake certain projects and enter into certain contracts and other agreements with other persons and public agencies. ~~Current law defines "public agency" and "person" to include governmental and business entities under the laws of this state, other states, and the United States. Under this bill, "public agency" and "person" are defined also to include governmental and business entities under the laws of foreign nations and their subdivisions.~~ The bill also exempts a municipal electric company from a requirement under current law to obtain the attorney general's approval prior to contracting with municipalities of other states or with federally recognized American Indian tribes or bands located in other states.

Finally, current law prohibits, with certain exceptions, a person from constructing a high-voltage transmission line unless the Public Service Commission (PSC) has granted the person a certificate of public convenience and necessity

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*will not have undue adverse*

*Nominal*

(CPCN) for the line. Current law defines "high-voltage transmission line" as an electric transmission line exceeding one mile in length that is designed for operation at a nominal voltage of 100 kilovolts or more. One of the exceptions to the CPCN requirement is for construction of a high-voltage transmission line that is designed for operation at a nominal voltage of less than 345 kilovolts. The exception applies only if all related construction activity takes place entirely within the area of an existing electric transmission line right-of-way. This bill eliminates the foregoing requirement, and provides instead that the exception applies only if the centerline of the high-voltage transmission line is located within 60 feet on either side of the centerline of an existing electric transmission line that operates at a ~~nominal~~ voltage of 69 kilovolts or more. In addition, for the exception to apply, the person constructing the high-voltage transmission line must demonstrate to the PSC that the project has ~~minimal~~ environmental impacts. Also, the person must demonstrate that the high-voltage transmission line requires the acquisition in total of one-half mile or less of rights-of-way from landowners from whom rights-of-way were not required to be acquired for the existing electric transmission line. ~~In addition, the person must demonstrate that the number of landowners from which the rights-of-way must be acquired is minimal.~~

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

1 SECTION 1. 13.48 (12) (b) 1. of the statutes is amended to read:

2 13.48 (12) (b) 1. A facility constructed by or for ~~corporations~~ business entities  
 3 having condemnation authority under s. 32.02 (3) to (10) and (13) for purposes for  
 4 which the ~~corporation~~ business entity would have condemnation authority.

5 SECTION 2. 30.025 (3m) of the statutes is amended to read:

6 30.025 (3m) ENVIRONMENTAL ASSESSMENTS FOR CERTAIN PROJECTS. The  
 7 department is not required to prepare an environmental impact statement under s.  
 8 1.11 (2) (c) for the construction of a project that is specified in s. 196.491 (4) (c) ~~1.~~ 1r.  
 9 and for which one or more permits are required, but shall prepare an environmental  
 10 assessment regarding the construction if the department's rules require an  
 11 environmental assessment.

12 SECTION 3. 32.01 (1) of the statutes is renumbered 32.01 (1r).

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**SECTION 4.** 32.01 (1g) of the statutes is created to read:

32.01 (1g) "Business entity" has the meaning given in s. 13.62 (5).

**SECTION 5.** 32.02 (3) of the statutes is amended to read:

32.02 (3) Any railroad corporation; any grantee of a permit to construct a dam to develop hydroelectric energy for sale to the public; any Wisconsin plank or turnpike road corporation, organized under the laws of this state; any drainage corporation, business entity; any interstate bridge corporation, business entity; or any corporation formed under chapter 288, laws of 1899, for any public purpose authorized by its articles of incorporation.

**SECTION 6.** 32.02 (4) of the statutes is amended to read:

32.02 (4) Any Wisconsin telegraph or telecommunications corporation business entity, organized under the laws of this state, for the construction and location of its lines.

**SECTION 7.** 32.02 (5) of the statutes is amended to read:

32.02 (5) (a) "Foreign transmission provider" means a foreign corporation business entity that satisfies each of the following:

1. The foreign corporation business entity is an independent system operator, as defined in s. 196.485 (1) (d), or an independent transmission owner, as defined in s. 196.485 (1) (dm), that is approved by the applicable federal agency, as defined in s. 196.485 (1)(c).

2. The foreign corporation business entity controls transmission facilities, as defined in s. 196.485 (1) (h), in this and another state.

(b) Any Wisconsin corporation business entity, organized under the laws of this state, engaged in the business of transmitting or furnishing heat, power or electric light for the public or any foreign transmission provider for the construction and

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1 location of its lines or for ponds or reservoirs or any dam, dam site, flowage rights or  
2 undeveloped water power.

3 **SECTION 8.** 32.02 (6) of the statutes is amended to read:

4 32.02 (6) ~~Any Wisconsin corporation~~ business entity, organized under the laws  
5 of this state, furnishing gas, electric light or power to the public, for additions or  
6 extensions to its plant and for the purpose of conducting tests or studies to determine  
7 the suitability of a site for the placement of a facility.

8 **SECTION 9.** 32.02 (7) of the statutes is amended to read:

9 32.02 (7) ~~Any Wisconsin corporation~~ business entity, organized under the laws  
10 of this state, formed for the improvement of any stream and driving logs therein, for  
11 the purpose of the improvement of such stream, or for ponds or reservoir purposes.

12 **SECTION 10.** 32.02 (8) of the statutes is amended to read:

13 32.02 (8) ~~Any Wisconsin corporation~~ business entity, organized under the laws  
14 of this state, organized to furnish water or light to any city, village or town or the  
15 inhabitants thereof, for the construction and maintenance of its plant.

16 **SECTION 11.** 32.02 (9) of the statutes is amended to read:

17 32.02 (9) ~~Any Wisconsin corporation~~ business entity, organized under the laws  
18 of this state, transmitting gas, oil or related products in pipelines for sale to the  
19 public directly or for sale to one or more other corporations furnishing such gas, oil  
20 or related products to the public.

21 **SECTION 12.** 32.02 (13) of the statutes is amended to read:

22 32.02 (13) ~~Any corporation licensed to do business in Wisconsin~~ business entity  
23 organized under the laws of this state that shall transmit oil or related products  
24 including all hydrocarbons which are in a liquid form at the temperature and  
25 pressure under which they are transported in pipelines in Wisconsin, and shall

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1 maintain terminal or product delivery facilities in Wisconsin, and shall be engaged  
2 in interstate or international commerce, subject to the approval of the public service  
3 commission upon a finding by it that the proposed real estate interests sought to be  
4 acquired are in the public interest.

5 **SECTION 13.** 32.03 (2) of the statutes is amended to read:

6 32.03 (2) Any railroad corporation ~~or pipeline corporation~~ business entity may  
7 acquire by condemnation lands ~~or interest therein~~ which are held and owned by  
8 another railroad corporation ~~or pipeline corporation~~ business entity. In the case of  
9 a railroad corporation, no such land shall be taken so as to interfere with the main  
10 track of the railroad first established except for crossing, and in the case of a pipeline  
11 ~~corporation~~ business entity, no such land shall be taken except for crossing or in such  
12 manner as to interfere with or endanger railroad operations.

13 **SECTION 14.** 66.0303 (3) (a) of the statutes is amended to read:

14 66.0303 (3) (a) Except as provided in par. (b) and s. 66.0825 (18), an agreement  
15 made under this section shall, prior to and as a condition precedent to taking effect,  
16 be submitted to the attorney general who shall determine whether the agreement is  
17 in proper form and compatible with the laws of this state. The attorney general shall  
18 approve any agreement submitted under this paragraph unless the attorney general  
19 finds that it does not meet the conditions set forth in this section and details in  
20 writing addressed to the concerned municipal governing bodies the specific respects  
21 in which the proposed agreement fails to meet the requirements of law. Failure to  
22 disapprove an agreement submitted under this paragraph within 90 days of its  
23 submission constitutes approval. The attorney general, upon submission of an  
24 agreement, shall transmit a copy of the agreement to the governor who shall consult  
25 with any state department or agency affected by the agreement. The governor shall

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1 forward to the attorney general any comments the governor may have concerning the  
2 agreement.

3 **SECTION 15.** 66.0825 (3) (e) of the statutes is amended to read:

4 66.0825 (3) (e) "Municipality" means a city, village, or town, or an electric  
5 utility, or combined utility, owned or operated by a city, village, or town.

6 **SECTION 16.** 66.0825 (3) (f) of the statutes is amended to read:

7 66.0825 (3) (f) "Person" means a natural person, a public agency, a cooperative,  
8 an unincorporated cooperative association, or a private corporation, limited liability  
9 company, association, firm, partnership, or business trust of any nature, organized  
10 and existing under the laws of any state ~~or of~~, the United States, or any foreign nation  
11 or any subdivision of any foreign nation.

12 **SECTION 17.** 66.0825 (3) (h) of the statutes is renumbered 66.0825 (3) (h) (intro.)

13 and amended to read:

14 66.0825 (3) (h) (intro.) "Public agency" means any of the following:

15 1. Any municipality ~~or other~~ or  
16 ~~NO PA~~ municipal corporation, political subdivision, governmental unit, or  
17 public corporation, created under the laws of this state ~~or of~~, another state ~~or of~~, the  
18 United States, ~~and any or any foreign nation or subdivision of any foreign nation.~~

19 2. Any state ~~or~~ the United States, ~~and any~~  
20 3. Any person, board, or other body, that is declared by the laws of any state or,  
21 the United States, or any foreign nation or any subdivision of any foreign nation to  
22 be a department, agency, or instrumentality of the state or, the United States, or the  
23 foreign nation or subdivision.

24 **SECTION 18.** 66.0825 (4) (a) of the statutes is amended to read:

foreign nation or subdivision of any foreign  
nation.

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1           66.0825 (4) (a) Any combination of municipalities of ~~the~~ this state or of this  
 2 state and other states which operates facilities for the generation, transmission or  
 3 distribution of electric power and energy may, by contract with each other, establish  
 4 a separate governmental entity to be known as a municipal electric company to be  
 5 used by the contracting municipalities to effect joint development of electric energy  
 6 resources or production, distribution and transmission of electric power and energy  
 7 in whole or in part for the benefit of the contracting municipalities. The  
 8 municipalities party to the contract may amend the contract as provided in the  
 9 contract.

10 ~~SECTION 19. 66.0825 (6) (i) of the statutes is amended to read:~~

11           66.0825 (6) (i) Exercise the powers of eminent domain granted to public utility  
 12 corporations entities under ch. 32.

13           **SECTION 20.** 66.0825 (18) of the statutes is amended to read:

14           66.0825 (18) OTHER STATUTES. The powers granted under this section do not  
 15 limit the powers of municipalities to enter into intergovernmental cooperation or  
 16 contracts or to establish separate legal entities under ss. 66.0301 to 66.0311 or any  
 17 other applicable law, or otherwise to carry out their powers under applicable  
 18 statutory provisions, nor do the powers granted under this section limit the powers  
 19 reserved to municipalities by state law. Section 66.0303 (3) does not apply to a  
 20 company's contracts or agreements.

21 ~~SECTION 21. 66.1035 of the statutes is amended to read:~~

22           **66.1035 Rights of abutting owners.** The owners of land abutting on any  
 23 highway, street, or alley shall have a common right in the free and unobstructed use  
 24 of the full width of the highway, street, or alley. No town, village, city, county,  
 25 company, or corporation shall close up, use, or obstruct any part of the highway,

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1 street, or alley so as to materially interfere with its usefulness as a highway or so as  
2 to damage abutting property, or permit the same to be done, without just  
3 compensation being made for any resulting damage. This section does not impose  
4 liability for damages arising from the use, maintenance, and operation of tracks or  
5 other public improvement legally laid down, built, or established in any street,  
6 highway, or alley prior to April 7, 1889. All rights in property that could entitle an  
7 owner to damages under this section may be condemned by any ~~corporation~~ business  
8 entity that is listed in s. 32.02 in the same manner that other property may be  
9 condemned by the ~~corporation~~ business entity.

10 **SECTION 22.** 87.12 (6) of the statutes is amended to read:

11 87.12 (6) The board shall have the power to institute and prosecute in the  
12 manner provided in ch. 32 of the statutes such eminent domain proceedings as may  
13 be necessary in the construction of said improvement. When necessary for that  
14 purpose, this right of eminent domain shall be dominant over the rights of eminent  
15 domain of public ~~or private~~ corporations, business entities, or governmental  
16 agencies. The board shall also have the power to acquire any lands or interest  
17 therein necessary for the aforesaid purpose, by gift, purchase or lease. Any title  
18 acquired by condemnation or gift, purchase or lease shall be held in the name of the  
19 flood control board in trust for the several towns, villages and cities and contributing,  
20 as provided in s. 87.10 (1) (c) and (d), in proportion to the amounts of their several  
21 contributions. The board shall have the power to employ engineers, attorneys,  
22 agents, assistants, clerks, employees and laborers as it may deem advisable for the  
23 proper execution of its duties, ~~and to fix their compensation.~~

24 **SECTION 23.** 196.491 (4) (c) 1. of the statutes is renumbered 196.491 (4) (c) 1r.

25 (intro.) and amended to read:

**BILL**

1           196.491 (4) (c) 1r. (intro.) A certificate under sub. (3) is not required for a person  
 2 to construct a high-voltage transmission line designed for operation at a nominal  
 3 voltage of less than 345 kilovolts if ~~all related construction activity takes place~~  
 4 ~~entirely within the area of an existing electric transmission line right-of-way. the~~  
 5 centerline of the new high-voltage transmission line is located within 60 feet on  
 6 either side of the centerline of an existing electric transmission line operating at a  
 7 ~~nominal~~ nominal voltage of 69 kilovolts or more and the applicant demonstrates all of the  
 8 following:

9           **SECTION 24.** 196.491 (4) (c) 1g. of the statutes is created to read:

10           196.491 (4) (c) 1g. In this paragraph, "centerline" means a line drawn through  
 11 the centerline of an electric transmission line along its length.

12           **SECTION 25.** 196.491 (4) (c) 1r. a. ~~and~~ <sup>and</sup> b. ~~and~~ <sup>and</sup> of the statutes are created to read:

13           196.491 (4) (c) 1r. a. That the project ~~has minimal~~ <sup>will not have undue adverse</sup> environmental impacts.

14           b. That the new high-voltage transmission line requires the acquisition in total  
 15 of one-half mile or less of rights-of-way from landowners from which rights-of-way  
 16 were not required to be acquired for the existing electric transmission line.

17           ~~c. That the number of landowners described in subd. 1r. b. from whom~~  
 18 ~~rights-of-way must be acquired is minimal.~~

19           **SECTION 26.** 196.491 (4) (c) 2. of the statutes is amended to read:

20           196.491 (4) (c) 2. The commission is not required to prepare an environmental  
 21 impact statement under under s. 1.11 (2) (c) for construction that is specified in subd.  
 22 ~~1r.~~ 1r., but shall prepare an environmental assessment regarding the construction if  
 23 an environmental assessment is required under the commission's rules.

24           **SECTION 27.** 196.491 (4) (c) 3. of the statutes is amended to read:

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1           196.491 (4) (c) 3. If construction or utilization of a high-voltage transmission  
2 line described in subd. ~~1.~~ 1r. is precluded or inhibited by a local ordinance, the  
3 construction and utilization of the line may nevertheless proceed.

4           **SECTION 28.** 706.09 (3) (a) of the statutes is amended to read:

5           706.09 (3) (a) *Public service corporations, railroads, electric cooperatives,*  
6 *trustees, natural gas companies, governmental units.* While owned, occupied or used  
7 by any public service corporation, any railroad corporation as defined in s. 195.02 (1),  
8 any water carrier as defined in s. 195.02 (5), any electric cooperative organized and  
9 operating on a nonprofit basis under ch. 185, any natural gas company, as defined  
10 in 15 USC 717a (6), or any trustee or receiver of any such corporation or, electric  
11 cooperative, or natural gas company, or any mortgagee or trust deed trustee or  
12 receiver thereof; nor any such interest while held by the United States, the state or  
13 any political subdivision or municipal corporation thereof; or

14           **SECTION 29.** 893.33 (5) of the statutes is amended to read:

15           893.33 (5) This section bars all claims to an interest in real property, whether  
16 rights based on marriage, remainders, reversions and reverter clauses in covenants  
17 restricting the use of real estate, mortgage liens, old tax deeds, death and income or  
18 franchise tax liens, rights as heirs or under will, or any claim of any nature, however  
19 denominated, and whether such claims are asserted by a person sui juris or under  
20 disability, whether such person is within or without the state, and whether such  
21 person is natural or corporate, or private or governmental, unless within the 30-year  
22 period provided by sub. (2) there has been recorded in the office of the register of  
23 deeds some instrument expressly referring to the existence of the claim, or a notice  
24 pursuant to this section. This section does not apply to any action commenced or any  
25 defense or counterclaim asserted, by any person who is in possession of the real

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1 estate involved as owner at the time the action is commenced. This section does not  
2 apply to any real estate or interest in real estate while the record title to the real  
3 estate or interest in real estate remains in a railroad corporation, a public service  
4 corporation as defined in s. 201.01, an electric cooperative organized and operating  
5 on a nonprofit basis under ch. 185, a natural gas company, as defined in 15 USC 717a  
6 (6), or any trustee or receiver of a railroad corporation, a public service corporation  
7 ~~or~~, an electric cooperative, or a natural gas company, or to claims or actions founded  
8 upon mortgages or trust deeds executed by that cooperative ~~or~~, corporation, company,  
9 or trustees or receivers of that cooperative ~~or~~, corporation, or company. This section  
10 also does not apply to real estate or an interest in real estate while the record title  
11 to the real estate or interest in real estate remains in the state or a political  
12 subdivision or municipal corporation of this state.

**SECTION 30. Initial applicability.**

14 (1) CLAIMS BARRED. The treatment of section 893.33 (5) of the statutes first  
15 applies to an action commenced or defense or counterclaim asserted on the effective  
16 date of this subsection.

17 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4293/2ins  
MDK:.....

1

**INSERT 2A:**

Current law defines "person" to include business entities organized under the laws of any state or the United States. This bill defines "person" to also include business entities organized under the laws of any foreign nation or subdivision of any foreign nation. Current law defines "public agency" to include municipal and other governmental entities created under the laws of any state or the United States, as well as any state or the United States. The bill defines "public agency" to also include municipal and other governmental entities created under the laws of any foreign nation or subdivision of any foreign nation, as well as any foreign nation or subdivision of any foreign nation.

**Duerst, Christina**

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**From:** Shannon-Bradley, Summer  
**Sent:** Wednesday, March 10, 2010 12:42 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-4293/2 Topic: Municipal electric company formation; high-voltage transmission line construction; exemptions for natural gas pipeline companies; condemnation authority of certain business entities

Please Jacket LRB 09-4293/2 for the SENATE.