

### Fiscal Estimate - 2017 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>17-4107/1</b>	<b>Introduction Number</b> <b>SB-387</b>	
<b>Description</b> Limiting the authority of local governments to regulate development on substandard lots and require the merging of lots; requiring a political subdivision to issue a conditional use permit under certain circumstances; standards for granting certain zoning variances; local ordinances related to repair, rebuilding, and maintenance of certain nonconforming structures; shoreland zoning of, and the removal of material from the bed of, certain small, private ponds; inverse condemnation proceedings; and the right to display the flag of the United States.		
<b>Fiscal Effect</b>  <b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input checked="" type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue      5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
<b>Agency/Prepared By</b> CTS/ Nancy Rottier (608) 267-9733	<b>Authorized Signature</b> Nancy Rottier (608) 267-9733	<b>Date</b> 11/6/2017

## Fiscal Estimate Narratives

CTS 11/6/2017

LRB Number	17-4107/1	Introduction Number	SB-387	Estimate Type	Original
<b>Description</b> Limiting the authority of local governments to regulate development on substandard lots and require the merging of lots; requiring a political subdivision to issue a conditional use permit under certain circumstances; standards for granting certain zoning variances; local ordinances related to repair, rebuilding, and maintenance of certain nonconforming structures; shoreland zoning of, and the removal of material from the bed of, certain small, private ponds; inverse condemnation proceedings; and the right to display the flag of the United States.					

### Assumptions Used in Arriving at Fiscal Estimate

This bill makes various changes to local government authority, to the procedures and requirements for claims under eminent domain and for inverse condemnation proceedings (among other changes).

Among the changes that impact the court system are the following: 1) it amends the court procedures for commencing an action for inverse condemnation; 2) it defines the factors a court must consider in evaluating a claim for inverse condemnation; 3) it requires the court to issue an order in a claim for inverse condemnation if certain findings are made and describes what relief the court is required to order; 4) it establishes new definitions, standards and procedures for the issuance and review of conditional use permits; and 5) it defines and proscribes various types of evidence, such as "substantial evidence," that have typically been developed and defined in case law.

The number of court cases involving the issues of condemnation, eminent domain and inverse condemnation is not substantial. For the three calendar years of 2014-2016, an average of 103 cases that the parties labeled "Condemnation Review" were filed in Wisconsin circuit courts. (Another average of 450 cases labeled "Appeal of Municipal Court Judgment" or "Administrative Agency Review" were filed each year. It is quite plausible that some of those cases would also be impacted by this bill.)

While not significant in number, these cases can be among the more complicated faced by circuit courts, which is reflected in the length of time it takes to resolve them.

The median age at disposition of cases labeled "Condemnation Review" for the years 2014-2016 was approximately 11 months, varying from 267 days to 386 days for those years. The median age is the age at which half the cases are decided in a shorter amount of time and half the cases are decided in a longer amount of time. Based on these figures half of the cases filed would be disposed of (by dismissal, settlement or trial) in under 11 months, while half would take longer than 11 months.

It is also important to note that these types of actions are already often the subject of appellate review. In addition, by defining various types of evidence and specifying in statutory language what standards the circuit courts must follow, the bill is likely to generate uncertainty in the legal community about how these terms and standards are to be applied in particular factual circumstances. Therefore, it is estimated the bill will lead to additional appellate proceedings.

It is likely that additional court proceedings could be generated under the terms of this bill, but it is impossible to predict how frequently that may happen. Additional proceedings require additional judge, court reporter, court staff and juror time. For the circuit courts, these costs are borne by both the state and the county. For the appellate courts, these costs are borne by the state. It is expected that existing state court staff would absorb any additional proceedings. It is more difficult to estimate the impact on county costs.

### Long-Range Fiscal Implications