



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBa1441/1  
AJM:emw&amn

**SENATE AMENDMENT 1,  
TO SENATE BILL 392**

October 31, 2017 - Offered by Senators HANSEN, L. TAYLOR, VINEHOUT, JOHNSON, CARPENTER, ERPENBACH, RISSER, RINGHAND, MILLER, SHILLING, BEWLEY, WIRCH and LARSON.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 4: after “municipality” insert “and condemnation authority for  
3 recreational trails”.

4 **2.** Page 2, line 1: before that line insert:

5 “**SECTION 1k.** 23.09 (2) (d) (intro.) of the statutes, as affected by 2017 Wisconsin  
6 Act 59, is amended to read:

7 23.09 (2) (d) *Lands, acquisition.* (intro.) Acquire by purchase, lease or  
8 agreement, and receive by gifts or devise, lands or waters suitable for the purposes  
9 enumerated in this paragraph, and maintain such lands and waters for such  
10 purposes; and, ~~except for the purpose specified under subd. 12.,~~ may condemn lands  
11 or waters suitable for such purposes after obtaining approval of the appropriate  
12 standing committees of each house of the legislature as determined by the presiding  
13 officer thereof.”.

1           **3.** Page 2, line 17: after that line insert:

2           “**SECTION 4m.** 27.01 (2) (a) of the statutes, as affected by 2017 Wisconsin Act  
3 59, is amended to read:

4           27.01 **(2)** (a) Acquire by purchase, lease or agreement lands or waters suitable  
5 for state park purposes and may acquire such lands and waters by condemnation  
6 after obtaining approval of the senate and assembly committees on natural  
7 resources. ~~The power of condemnation may not be used for the purpose of~~  
8 ~~establishing or extending a recreational trail; a bicycle way, as defined in s. 340.01~~  
9 ~~(5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s.~~  
10 ~~346.02 (8) (a).~~

11           **SECTION 5m.** 27.019 (10) of the statutes, as affected by 2017 Wisconsin Act 59,  
12 is amended to read:

13           27.019 **(10)** ACQUISITION OF LAND. Any county in which there does not exist a  
14 county park commission acting through its rural planning committee may acquire  
15 by gift, grant, devise, donation, purchase, condemnation or otherwise, with the  
16 consent of the county board, a sufficient tract or tracts of land for the reservation for  
17 public use of river fronts, lake shores, picnic groves, outlook points from hilltops,  
18 places of special historic interest, memorial grounds, parks, playgrounds, sites for  
19 public buildings, and reservations in and about and along and leading to any or all  
20 of the same, and to develop and maintain the same for public use. ~~The power of~~  
21 ~~condemnation may not be used for the purpose of establishing or extending a~~  
22 ~~recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as defined~~  
23 ~~in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).~~

1           **SECTION 6m.** 27.05 (3) of the statutes, as affected by 2017 Wisconsin Act 59, is  
2 amended to read:

3           27.05 (3) Acquire, in the name of the county, by purchase, land contract, lease,  
4 condemnation, or otherwise, with the approval and consent of the county board, such  
5 tracts of land or public ways as it deems suitable for park purposes; including lands  
6 in any other county not more than three-fourths of a mile from the county line; but  
7 no land so acquired shall be disposed of by the county without the consent of said  
8 commission, and all moneys received for any such lands, or any materials, so  
9 disposed of, shall be paid into the county park fund hereinafter established. ~~The~~  
10 ~~power of condemnation may not be used for the purpose of establishing or extending~~  
11 ~~a recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as~~  
12 ~~defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).~~

13           **SECTION 7m.** 27.065 (1) (a) of the statutes, as affected by 2017 Wisconsin Act  
14 59, is amended to read:

15           27.065 (1) (a) The county board of any county which shall have adopted a  
16 county system of parks or a county system of streets and parkways, pursuant to s.  
17 27.04, may acquire the lands necessary for carrying out all or part of such plan by  
18 gift, purchase, condemnation or otherwise; provided, however, that no lands shall be  
19 acquired by condemnation unless and until the common council of the city or the  
20 board of trustees of the village or the board of supervisors of the town wherein such  
21 land is situated shall consent thereto. ~~The power of condemnation may not be used~~  
22 ~~for the purpose of establishing or extending a recreational trail; a bicycle way, as~~  
23 ~~defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian~~  
24 ~~way, as defined in s. 346.02 (8) (a).~~ The cost of acquiring such lands by purchase or  
25 condemnation may be paid in whole or in part by the county or by the property to be

1 benefited thereby, as the county board shall direct but in no case shall the amount  
2 assessed to any parcel of real estate exceed the benefits accruing thereto; provided,  
3 that no assessment for paying the cost of acquiring lands may be levied or collected  
4 against the property to be benefited until the governing body of the city, village or  
5 town where such lands are located has by resolution determined that the public  
6 welfare will be promoted thereby. Title to all lands acquired hereunder shall be an  
7 estate in fee simple.

8 **SECTION 8m.** 27.08 (2) (b) of the statutes, as affected by 2017 Wisconsin Act 59,  
9 is amended to read:

10 27.08 (2) (b) To acquire in the name of the city for park, parkway, boulevard or  
11 pleasure drive purposes by gift, devise, bequest or condemnation, either absolutely  
12 or in trust, money, real or personal property, or any incorporeal right or privilege;  
13 ~~except that no lands may be acquired by condemnation for the purpose of~~  
14 ~~establishing or extending a recreational trail; a bicycle way, as defined in s. 340.01~~  
15 ~~(5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s.~~  
16 ~~346.02 (8) (a).~~ Gifts to any city of money or other property, real or personal, either  
17 absolutely or in trust, for park, parkway, boulevard or pleasure drive purposes shall  
18 be accepted only after they shall have been recommended by the board to the common  
19 council and approved by said council by resolution. Subject to the approval of the  
20 common council the board may execute every trust imposed upon the use of property  
21 or property rights by the deed, testament or other conveyance transferring the title  
22 of such property to the city for park, parkway, boulevard or pleasure drive purposes.

23 **SECTION 9m.** 27.08 (2) (c) of the statutes, as affected by 2017 Wisconsin Act 59,  
24 is amended to read:

1           27.08 (2) (c) Subject to the approval of the common council to buy or lease lands  
2           in the name of the city for park, parkway, boulevard or pleasure drive purposes  
3           within or without the city and, with the approval of the common council, to sell or  
4           exchange property no longer required for its purposes. Every city is authorized, upon  
5           recommendation of its officers, board or body having the control and management  
6           of its public parks, to acquire by condemnation in the name of the city such lands  
7           within or without its corporate boundaries as it may need for public parks, parkways,  
8           boulevards and pleasure drives. ~~The power of condemnation may not be used for the~~  
9           ~~purpose of establishing or extending a recreational trail; a bicycle way, as defined in~~  
10          ~~s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as~~  
11          ~~defined in s. 346.02 (8) (a).~~

12           **SECTION 10m.** 32.015 of the statutes, as created by 2017 Wisconsin Act 59, is  
13          repealed.

14           **SECTION 11m.** 32.51 (1) (intro.) of the statutes, as affected by 2017 Wisconsin  
15          Act 59, is amended to read:

16           32.51 (1) PURPOSES. (intro.) In addition to the powers granted under subch. I  
17          ~~and subject to the limitations under s. 32.015,~~ any city may condemn or otherwise  
18          acquire property under this subchapter for:

19           **SECTION 12m.** 59.52 (6) (a) of the statutes, as affected by 2017 Wisconsin Act  
20          59, is amended to read:

21           59.52 (6) (a) *How acquired; purposes.* Take and hold land acquired under ch.  
22          75 and acquire, lease or rent property, real and personal, for public uses or purposes  
23          of any nature, including without limitation acquisitions for county buildings,  
24          airports, parks, recreation, highways, dam sites in parks, parkways and  
25          playgrounds, flowages, sewage and waste disposal for county institutions, lime pits

1 for operation under s. 59.70 (24), equipment for clearing and draining land and  
2 controlling weeds for operation under s. 59.70 (18), ambulances, acquisition and  
3 transfer of real property to the state for new collegiate institutions or research  
4 facilities, and for transfer to the state for state parks and for the uses and purposes  
5 specified in s. 23.09 (2) (d). ~~The power of condemnation may not be used to acquire~~  
6 ~~property for the purpose of establishing or extending a recreational trail; a bicycle~~  
7 ~~way, as defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a~~  
8 ~~pedestrian way, as defined in s. 346.02 (8) (a).~~

9 **SECTION 13m.** 60.782 (2) (d) of the statutes, as affected by 2017 Wisconsin Act  
10 59, is amended to read:

11 60.782 (2) (d) Lease or acquire, including by condemnation, any real property  
12 situated in this state that may be needed for the purposes of s. 23.09 (19), 23.094 (3g)  
13 or 30.275 (4). ~~The power of condemnation may not be used to acquire property for the~~  
14 ~~purpose of establishing or extending a recreational trail; a bicycle way, as defined in~~  
15 ~~s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as~~  
16 ~~defined in s. 346.02 (8) (a).~~

17 **SECTION 14m.** 61.34 (3) (a) of the statutes, as affected by 2017 Wisconsin Act  
18 59, is renumbered 61.34 (3) and amended to read:

19 61.34 (3) ACQUISITION AND DISPOSAL OF PROPERTY. ~~Except as provided in par. (b),~~  
20 ~~the~~ The village board may acquire property, real or personal, within or outside the  
21 village, for parks, libraries, recreation, beautification, streets, water systems,  
22 sewage or waste disposal, harbors, improvement of watercourses, public grounds,  
23 vehicle parking areas, and for any other public purpose; may acquire real property  
24 within or contiguous to the village, by means other than condemnation, for industrial  
25 sites; may improve and beautify the same; may construct, own, lease and maintain

1 buildings on such property for instruction, recreation, amusement and other public  
2 purposes; and may sell and convey such property. Condemnation shall be as  
3 provided by ch. 32.

4 **SECTION 15m.** 61.34 (3) (b) of the statutes, as created by 2017 Wisconsin Act  
5 59, is repealed.

6 **SECTION 16m.** 62.22 (1) (a) of the statutes, as affected by 2017 Wisconsin Act  
7 59, is renumbered 62.22 (1) and amended to read:

8 62.22 (1) PURPOSES. ~~Except as provided in par. (b), the~~ The governing body of  
9 any city may by gift, purchase or condemnation acquire property, real or personal,  
10 within or outside the city, for parks, recreation, water systems, sewage or waste  
11 disposal, airports or approaches thereto, cemeteries, vehicle parking areas, and for  
12 any other public purpose; may acquire real property within or contiguous to the city,  
13 by means other than condemnation, for industrial sites; may improve and beautify  
14 the same; may construct, own, lease and maintain buildings on such property for  
15 public purposes; and may sell and convey such property. The power of condemnation  
16 for any such purpose shall be as provided by ch. 32.

17 **SECTION 17m.** 62.22 (1) (b) of the statutes, as created by 2017 Wisconsin Act  
18 59, is repealed.

19 **SECTION 18m.** 62.23 (17) (a) (intro.) of the statutes, as affected by 2017  
20 Wisconsin Act 59, is amended to read:

21 62.23 (17) (a) (intro.) ~~Except as provided in par. (am), cities~~ Cities may acquire  
22 by gift, lease, purchase or condemnation any lands (a) within its corporate limits for  
23 establishing, laying out, widening, enlarging, extending and maintaining memorial  
24 grounds, streets, squares, parkways, boulevards, parks, playgrounds, sites for public  
25 buildings, and reservations in and about and along and leading to any or all of the

1 same; (b) any lands adjoining or near to such city for use, sublease or sale for any of  
2 the following purposes:

3 **SECTION 19m.** 62.23 (17) (am) of the statutes, as created by 2017 Wisconsin Act  
4 59, is repealed.

5 **SECTION 20m.** 85.09 (2) (a) of the statutes, as affected by 2017 Wisconsin Act  
6 59, is amended to read:

7 85.09 (2) (a) The department of transportation shall have the first right to  
8 acquire, for present or future transportational or recreational purposes, any  
9 property used in operating a railroad or railway, including land and rails, ties,  
10 switches, trestles, bridges, and the like located on that property, that has been  
11 abandoned. The department of transportation may, in connection with abandoned  
12 rail property, assign this right to a state agency, the board of regents of the University  
13 of Wisconsin System, any county or municipality, or any transit commission.  
14 Acquisition by the department of transportation may be by gift, purchase, or  
15 condemnation in accordance with the procedure under s. 32.05, ~~except that the power~~  
16 ~~of condemnation may not be used to acquire property for the purpose of establishing~~  
17 ~~or extending a recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle~~  
18 ~~lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).~~  
19 In addition to its property management authority under s. 85.15, the department of  
20 transportation may, subject to any prior action under s. 13.48 (14) (am) or 16.848 (1),  
21 lease and collect rents and fees for any use of rail property pending discharge of the  
22 department's duty to convey property that is not necessary for a public purpose. No  
23 person owning abandoned rail property, including any person to whom ownership  
24 reverts upon abandonment, may convey or dispose of any abandoned rail property  
25 without first obtaining a written release from the department of transportation



1 indicating that the first right of acquisition under this subsection will not be  
2 exercised or assigned. No railroad or railway may convey any rail property prior to  
3 abandonment if the rail property is part of a rail line shown on the railroad's system  
4 map as in the process of abandonment, expected to be abandoned, or under study for  
5 possible abandonment unless the conveyance or disposal is for the purpose of  
6 providing continued rail service under another company or agency. Any conveyance  
7 made without obtaining such release is void. The first right of acquisition of the  
8 department of transportation under this subsection does not apply to any rail  
9 property declared by the department to be abandoned before January 1, 1977. The  
10 department of transportation may acquire any abandoned rail property under this  
11 section regardless of the date of its abandonment.

12 **SECTION 21m.** 990.01 (2) of the statutes, as affected by 2017 Wisconsin Act 59,  
13 is amended to read:

14 990.01 (2) ACQUIRE. "Acquire," when used in connection with a grant of power  
15 to any person, includes the acquisition by purchase, grant, gift or bequest. It includes  
16 the power to condemn ~~only~~ in the cases specified in s. 32.02 ~~and subject to the~~  
17 ~~limitations under s. 32.015."~~

18 (END)