



2005 ASSEMBLY BILL 656

September 9, 2005 - Introduced by Representatives SUDER, WOOD, M. WILLIAMS, MOULTON, MUSSER, PETROWSKI, GRONEMUS, GUNDERSON, HINES, KERKMAN, AINSWORTH, FREESE and MCCORMICK, cosponsored by Senators ZIEN, BROWN and REYNOLDS. Referred to Committee on Property Rights and Land Management.

1 **AN ACT to amend** 32.09 (1m); and **to create** 32.09 (1m) (b) of the statutes;
2 **relating to:** determining fair market value of property taken by condemnation.

Analysis by the Legislative Reference Bureau

Under current law, a property owner whose property is taken for a public purpose is entitled to the fair market value of the property taken. In determining fair market value, evidence of the income of a business is not admissible if there is evidence of the sale of comparable property. See *Leathem Smith Lodge, Inc. v. State*, 94 Wis. 2d 406 (1980).

This bill permits provides that an appraisal of property based on the income approach may be considered even if there is evidence of the sale of comparable property.

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

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

3 **SECTION 1.** 32.09 (1m) of the statutes is amended to read:
4 32.09 (**1m**) As a basis for determining value, a commission in condemnation
5 or a court may consider the price and other terms and circumstances of any good faith

ASSEMBLY BILL 656**SECTION 1**

1 sale or contract to sell and purchase comparable property. A sale or contract is
2 comparable within the meaning of this subsection paragraph if it was made within
3 a reasonable time before or after the date of evaluation and the property is
4 sufficiently similar in the relevant market, with respect to situation, usability,
5 improvements and other characteristics, to warrant a reasonable belief that it is
6 comparable to the property being valued.

7 **SECTION 2.** 32.09 (1m) (b) of the statutes is created to read:

8 32.09 (1m) (b) As a basis for determining value, a commission in condemnation
9 or a court may consider an appraisal based on the income approach even if there is
10 evidence of the sale of comparable property.

11 **SECTION 3. Initial applicability.**

12 (1) This act first applies to actions for the determination of fair market value
13 commenced on or after January 1, 2005, that are pending on the effective date of this
14 subsection.

15 (END)