

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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March 16, 2005

Rep. Montgomery:

This version incorporates LRB-2146/1. Please note the following:

1. Under this version, cities, villages, and towns are treated in the same manner as counties. As a result, if the property of a city, village, town, or county is condemned, the city, village, town, or county forfeits its one-time environmental impact fee under s. 16.969 (3) (b), stats. Also, the one-time environmental impact is reduced if property owned by a city, village, town, or county is acquired, other than by condemnation, at a price exceeding its fair market value. However, the draft does not affect the annual impact fees that are payable to cities, villages, and towns under s. 16.969 (3) (a), stats. Is that okay?
2. I eliminated the language specifying that DOA must determine the fair market value of property for purposes of reducing the one-time environmental impact fee. Nevertheless, because DOA administers payments of these fees, DOA will have to make a determination regarding fair market value. A fee recipient that disagrees with the determination may seek court review of DOA's determination.

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I did not include the good faith requirement because current law does not explicitly require good faith negotiating of other condemnors and condemnees; see s. 32.06 (2a), stats. To require it in your draft would imply that it is not required in all other negotiations. If you have questions or need more information, please let me know.

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