

2005 DRAFTING REQUEST

Bill

Received: 02/16/2005

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Phil Montgomery (608) 266-5840

By/Representing: Adam

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact:

Addl. Drafters: pgrant

Subject: Public Util. - electric

Extra Copies:

Submit via email: YES

Requester's email: Rep.Montgomery@legis.state.wi.us

Carbon copy (CC:) to: mark.kunkel@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Public utility condemnation of county land; environmental impact fees for transmission lines

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	mkunkel 02/24/2005	csicilia 02/24/2005	jfrantze 02/25/2005	_____	lnorthro 02/25/2005		S&L
/2	mkunkel 03/15/2005	csicilia 03/16/2005	pgreensl 03/16/2005	_____	lnorthro 03/16/2005		S&L
/3	mkunkel 04/12/2005	csicilia 04/13/2005	rschluet 04/13/2005	_____	lemery 04/13/2005	mbarman 04/15/2005	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

↳ At Intro.

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FE Sent For:

13 9/5
4/13
05
4/35
CH

<END>

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Wanted: **As time permits**

Identical to LRB:

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By/Representing: **Adam**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters: **pgrant**

Subject: **Public Util. - electric**

Extra Copies:

CJS

Submit via email: **YES**

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Carbon copy (CC:) to: **mark.kunkel@legis.state.wi.us**

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/?	mkunkel	1 g 2/24 05	2/24	2/25			

FE Sent For:

<END>

-2145

Kunkel, Mark

From: Kunkel, Mark
Sent: Friday, February 11, 2005 4:16 PM
To: Grant, Peter
Subject: FW: Drafting requests

Peter:

Adam in Rep. Montgomery's office sent me the email below. The first item is an eminent domain request. The 2nd item is not, so don't worry about it.

I talked to Adam about the first item and have clarified the request as follows.

Under current law, public utilities and "foreign transmission providers" (FTPs) are allowed to condemn land for their lines. See s. 32.02 (5), stats. (A "foreign transmission provider" is a company that operates electric transmission lines in this state and other states.) However, although the statute isn't entirely clear, the power to condemn land under ch. 32 probably does **not** apply to county land. (See s. 32.03 (1), stats., which provides that the "general power of condemnation conferred in this subchapter does not extend to property owned by the state, a municipality,". I've seen one Attorney General opinion that says that "municipality" includes counties.)

The requester wants a bill that:

- 1) allows a public utility or FTP to condemn county land for transmission purposes. This is your part of item 1.
- 2) requires that, if a public utility or FTP condemns county land for such a purpose, the county loses its share of an environmental impact fee. This is my part of item 1. I created these fees a few sessions ago and have to figure out how to accomplish this part of the request.

The requester also wants to require counties to negotiate in good faith with public utilities and FTPs who condemn land for transmission purposes. I don't know how you do this, or whether it's necessary. There are provisions in the condemnation statute that require a condemnor to negotiate with an owner, so maybe you do something there. Or maybe allowing for condemnation of county land is a big enough stick to force counties to negotiate in good faith without saying anything about that in the statutes.

Can we talk on Monday about this? I told Adam I'd call him on Monday afternoon. He's wondering when this might get done. I don't think there's pressure to get it done by a date certain. I think they just want a realistic date on when they might expect it.

-----Original Message-----

From: Raschka, Adam
Sent: Tuesday, February 08, 2005 1:32 PM
To: Kunkel, Mark
Subject: Drafting requests

Mark,

1. I called the other day regarding requiring counties to negotiate transmission lines in good faith. I have some more details to that request. If a county refuses to negotiate in good faith (I'm not sure how good faith is defined, but I would assume we could set up some parameters) than the public land in question will be condemned. The county will forfeit their portion of the Environmental Impact Fee. The forfeited fee will be transferred to low-income portion of the Public Benefits Program and a like amount will be transferred out of the Program and sent to the General Fund.

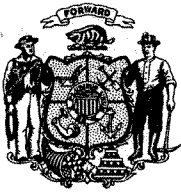
2. Anything counties negotiate above fair market value for the cost of the land for these 345 lines will be reduced from their Environmental Impact Fee payment by an equal amount.

Please give me a call if you have any questions.

Adam

Adam Raschka
Office of State Representative Phil Montgomery

608-266-5840



gjs

2005 BILL

by
Tomorrow
2/25
3 PM

Gen Cat

1 AN ACT ...; relating to: condemnation of county land for electric transmission
2 lines, payment of certain environmental impact fees to counties, and making
3 an appropriation.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the condemnation of property owned by the state, a municipality, or a county. This bill authorizes a public utility or foreign transmission provider (a foreign corporation that operates electric transmission lines in this state and other states) to condemn property owned by a county, but only if the property is condemned for the purpose of constructing transmission lines.

Also under current law, before any person, including a public utility or foreign transmission provider, may construct certain high-voltage transmission lines, the Public Service Commission (PSC) must issue a certificate of public convenience and necessity (CPCN) for the line. If the PSC issues a CPCN to a person, the person must pay a one-time environmental impact fee that the Department of Administration (DOA) distributes to the cities, villages, towns, and counties that are affected by the line. (The person must also pay annual impact fees that DOA distributes to cities, villages, and towns, but not to counties.)

This bill provides that, if a public utility or foreign transmission provider condemns property owned by a county for the purpose of constructing a high-voltage transmission line, the county is not eligible to receive the one-time environmental impact fee. Instead, the fees that counties are not eligible to receive under the bill are used as an additional source of funding for grants made by DOA under current law for low-income energy assistance.

or locating

BILL

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:

1 **SECTION 1.** 16.957 (2) (a) (intro.) of the statutes is amended to read:

2 16.957 (2) (a) *Low-income programs.* (intro.) After holding a hearing,
3 establish programs to be administered by the department for awarding grants from
4 the ~~appropriation~~ appropriations under ~~s.~~ ^{PLAIN} ~~ss.~~ 20.505 (3) (a) and (r) to provide
5 low-income assistance. In each fiscal year, the amount awarded under this
6 paragraph shall be sufficient to ensure that an amount equal to 47% of the sum of
7 the following is spent for weatherization and other energy conservation services:

8 History: 1999 a. 9; 2001 a. 16, 30; 2003 a. 33.

8 **SECTION 2.** 16.969 (3) (b) 1. of the statutes is amended to read:

9 16.969 (3) (b) 1. The Except as provided in sub. (3m), the department shall pay
10 50% of the fee to each county that is identified by the commission under s. 196.491
11 (3) (gm) in proportion to the amount of investment that is allocated by the
12 commission under s. 196.491 (3) (gm) to each such county.

13 History: 1999 a. 9; 2003 a. 89.

13 **SECTION 3.** 16.969 (3m) of the statutes is created to read:

14 16.969 (3m) If a person who is issued a certificate of public convenience and
15 necessity by the commission under s. 196.491 (3) for a high voltage transmission line
16 condemns property owned by a county for purposes of constructing the line, the
17 department shall not pay to the county any of the fee paid by the person under the
18 rules promulgated under sub. (2) (b). Annually, the secretary of administration shall
19 determine the total amount that counties are not paid under this subsection in that
20 fiscal year.

In each fiscal year

the

BILL

1 **SECTION 4.** 20.505 (1) (gs) of the statutes is amended to read:

2 20.505 (1) (gs) *High-voltage transmission line environmental impact fee*
3 *distributions.* All moneys received from the payment of fees under the rules
4 promulgated under s. 16.969 (2) (b) for distributions to counties, towns, villages, and
5 cities under s. 16.969 (3) (b). Notwithstanding s. 20.001 (3) (c), the amount
6 determined by the secretary of administration under s. 16.969 (3m) for a fiscal year
7 shall lapse to the general fund at the end of the fiscal year.

History: 1971 c. 108, 125, 215; 1971 c. 270 s. 104; 1973 c. 90 and supp., 157, 305; 1975 c. 39 ss. 179 to 184f, 735 (5); 1975 Ex. Order No. 24; 1975 c. 224, 397; 1977 c. 29; 1977 c. 196 ss. 70, 131; 1977 c. 377 s. 30; 1977 c. 418 s. 929 (1), (55); 1979 c. 32 s. 92 (5); 1979 c. 34, 175, 221; 1979 c. 355 s. 241; 1979 c. 361; 1981 c. 20 ss. 400b to 421, 2202 (57) (b); 1981 c. 44 s. 3; 1981 c. 62, 121; 1981 c. 202 s. 23; 1981 c. 314, 374, 391; 1983 a. 27 ss. 439 to 456, 2202 (1); 1983 a. 36, 187, 282, 371, 393; 1985 a. 29, 31, 57, 120, 296, 297, 332; 1987 a. 27 ss. 296n, 296q, 297b, 297d, 299a to 299r, 300a, 301a, 418 to 432; 1987 a. 142, 147, 342, 399; 1989 a. 31, 56, 107, 122, 336, 339, 345, 366; 1991 a. 39 s. 469, 593q to 614; 1991 a. 105, 269, 315; 1993 a. 16 ss. 470g, 470m, 470r, 488 to 506m; 1993 a. 33, 75, 193, 349, 358, 374, 414, 437, 477, 491; 1995 a. 27, 56, 201, 216, 225, 227, 370, 403; 1997 a. 3; 1997 a. 27 ss. 199, 227 to 229m, 233, 666g to 692; 1997 a. 237, 283; 1999 a. 5, 9, 24, 52, 105, 113, 148, 185; 2001 a. 16 ss. 684d, 685d, 800 to 905; 2001 a. 104, 109; 2003 a. 33 ss. 364d, 365d, 369d, 370d, 374d, 376d, 378d, 380d to 384d, 567 to 615f, 639, 640, 642d to 644, 2811 to 2813; 2003 a. 48 s. 11; 2003 a. 84; 2003 a. 139 ss. 9 to 12; 2003 a. 326.

8 **SECTION 5.** 20.505 (3) (a) of the statutes is created to read:

9 20.505 (3) (a) *Low-income assistance grants; lapsed environmental impact fees.*

10 A sum sufficient equal to the amount lapsed to the general fund under sub. (1) (gs)
11 in the previous fiscal year for low-income assistance grants under s. 16.957 (2) (a).

12 **SECTION 6.** 20.505 (3) (r) of the statutes is amended to read:

13 20.505 (3) (r) *Low-income assistance grants; utility public benefits fund.* From
14 the utility public benefits fund, a sum sufficient, less the amount lapsed to the
15 general fund under sub. (1) (gs) in the previous fiscal year, for low-income assistance
16 grants under s. 16.957 (2) (a).

History: 1971 c. 108, 125, 215; 1971 c. 270 s. 104; 1973 c. 90 and supp., 157, 305; 1975 c. 39 ss. 179 to 184f, 735 (5); 1975 Ex. Order No. 24; 1975 c. 224, 397; 1977 c. 29; 1977 c. 196 ss. 70, 131; 1977 c. 377 s. 30; 1977 c. 418 s. 929 (1), (55); 1979 c. 32 s. 92 (5); 1979 c. 34, 175, 221; 1979 c. 355 s. 241; 1979 c. 361; 1981 c. 20 ss. 400b to 421, 2202 (57) (b); 1981 c. 44 s. 3; 1981 c. 62, 121; 1981 c. 202 s. 23; 1981 c. 314, 374, 391; 1983 a. 27 ss. 439 to 456, 2202 (1); 1983 a. 36, 187, 282, 371, 393; 1985 a. 29, 31, 57, 120, 296, 297, 332; 1987 a. 27 ss. 296n, 296q, 297b, 297d, 299a to 299r, 300a, 301a, 418 to 432; 1987 a. 142, 147, 342, 399; 1989 a. 31, 56, 107, 122, 336, 339, 345, 366; 1991 a. 39 s. 469, 593q to 614; 1991 a. 105, 269, 315; 1993 a. 16 ss. 470g, 470m, 470r, 488 to 506m; 1993 a. 33, 75, 193, 349, 358, 374, 414, 437, 477, 491; 1995 a. 27, 56, 201, 216, 225, 227, 370, 403; 1997 a. 3; 1997 a. 27 ss. 199, 227 to 229m, 233, 666g to 692; 1997 a. 237, 283; 1999 a. 5, 9, 24, 52, 105, 113, 148, 185; 2001 a. 16 ss. 684d, 685d, 800 to 905; 2001 a. 104, 109; 2003 a. 33 ss. 364d, 365d, 369d, 370d, 374d, 376d, 378d, 380d to 384d, 567 to 615f, 639, 640, 642d to 644, 2811 to 2813; 2003 a. 48 s. 11; 2003 a. 84; 2003 a. 139 ss. 9 to 12; 2003 a. 326.

17 **SECTION 7.** 32.03 (4) of the statutes is created to read:

BILL

1 32.03 (4) Notwithstanding sub. (1), any foreign transmission provider, as
2 defined in s. 32.02 (5) (a), or public utility may condemn property owned by a county
3 for the purposes specified in s. 32.02 (5) (b).
4

(END)

*of constructing or locating
transmission
lines as*

Kunkel, Mark

From: Raschka, Adam
Sent: Tuesday, March 01, 2005 12:47 PM
To: Kunkel, Mark
Subject: Changes to lrb 2145 & lrb 2146

Mark,

I have a couple of drafting changes for the two lrb's above:

1. Can we please have the two drafts combined into one.
- ✓ 2. In my initial request we asked for language requiring local governments to negotiate transmission lines in good faith. I'm not sure how to say this in a draft, but condemnation of public property should be triggered if the parties involved fail to negotiate in good faith following 180 days. Without deadlines there is no incentive to negotiate. *PG changes*
- ✓ 3. Please expand the provisions to include municipalities and towns. *PG changes + change on util impact fee?*
4. Rather than have DOA determine fair market value we would like to have the courts determine fair market value.

Please give me a call if you have any questions.

Adam

Adam Raschka
Office of State Representative Phil Montgomery
608-266-5840

D-NOTE
- changed
1-time
on util impact
fee,
but didn't
charge
annual fees

O-NOTE

2005 BILL

By Thursday
3/16
NOON

Stays PM
has been
run

Reger cat,

1 AN ACT *to amend* 16.957 (2) (a) (intro.), 16.969 (3) (b) 1., 20.505 (1) (gs) and
 2 20.505 (3) (r); and *to create* 16.969 (3m), 20.505 (3) (a) and 32.03 (4) of the
 3 statutes; **relating to:** condemnation of county land for electric transmission
 4 lines, payment of certain environmental impact fees to counties, and making
 5 an appropriation.

municipalities
and

or municipal

city, village,
or town

Analysis by the Legislative Reference Bureau

Current law generally prohibits the condemnation of ^{real} property owned by the state, a municipality, or a county. This bill authorizes a public utility or foreign transmission provider (a foreign corporation that operates electric transmission lines in this state and other states) to condemn ^{real} property owned by a county, but only if the property is condemned for the purpose of constructing or locating transmission lines. ^{and only if the parties cannot agree on a purchase price within 180 days}

Also under current law, before any person, including a public utility or foreign transmission provider, may construct certain high-voltage transmission lines, the Public Service Commission (PSC) must issue a certificate of public convenience and necessity (CPCN) for the line. If the PSC issues a CPCN to a person, the person must pay a one-time environmental impact fee that the Department of Administration (DOA) distributes to the cities, villages, towns, and counties that are affected by the line. (The person must also pay annual impact fees that DOA distributes to cities, villages, and towns, but not to counties.) person (such as a

This bill provides that, if a public utility or foreign transmission provider condemns ^{real} property owned by a county for the purpose of constructing a high-voltage

real

city, village, or town

BILL

INSEAT
2A

transmission line, the county is not eligible to receive the one-time environmental impact fee. Instead, the fees that counties are not eligible to receive under the bill are used as an additional source of funding for grants made by DOA under current law for low-income energy assistance.

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

city, village, or town

cities, villages, and towns

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3 establish programs to be administered by the department for awarding grants from
4 the ~~appropriation~~ appropriations under s. 20.505 (3) (a) and (r) to provide
5 low-income assistance. In each fiscal year, the amount awarded under this
6 paragraph shall be sufficient to ensure that an amount equal to 47% of the sum of
7 the following is spent for weatherization and other energy conservation services:

8 SECTION 2. 16.969 (3) (b) 1. of the statutes is amended to read:

9 16.969 (3) (b) 1. ~~The~~ Except as provided in sub. (3m), the department shall pay
10 50% of the fee to each county that is identified by the commission under s. 196.491
11 (3) (gm) in proportion to the amount of investment that is allocated by the
12 commission under s. 196.491 (3) (gm) to each such county.

13 SECTION 3. 16.969 (3m) of the statutes is created to read:

14 16.969 (3m) ^(a) If a person who is issued a certificate of public convenience and
15 necessity by the commission under s. 196.491 (3) for a high-voltage transmission line
16 condemns ^{real} property owned by a county for purposes of constructing the line, the
17 department shall not pay to the county any of the fee paid by the person under the
18 rules promulgated under sub. (2) (b). ~~In each fiscal year, the secretary of~~

town, village, city, or

INSEAT 2-12

town, village, city, or

BILL

INSERT
3-2

1 administration shall determine the total amount that counties are not paid under
2 this subsection in the fiscal year.

3 SECTION 4. 20.505 (1) (gs) of the statutes is amended to read:

4 20.505 (1) (gs) *High-voltage transmission line environmental impact fee*
5 *distributions.* All moneys received from the payment of fees under the rules
6 promulgated under s. 16.969 (2) (b) for distributions to counties, towns, villages, and
7 cities under s. 16.969 (3) (b). Notwithstanding s. 20.001 (3) (c), the amount
8 determined by the secretary of administration under s. 16.969 (3m) for a fiscal year
9 shall lapse to the general fund at the end of the fiscal year. (C)

10 SECTION 5. 20.505 (3) (a) of the statutes is created to read:

11 20.505 (3) (a) *Low-income assistance grants; lapsed environmental impact fees.*
12 A sum sufficient equal to the amount lapsed to the general fund under sub. (1) (gs)
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14 SECTION 6. 20.505 (3) (r) of the statutes is amended to read:

15 20.505 (3) (r) *Low-income assistance grants; utility public benefits fund.* From
16 the utility public benefits fund, a sum sufficient, less the amount lapsed to the
17 general fund under sub. (1) (gs) in the previous fiscal year, for low-income assistance
18 grants under s. 16.957 (2) (a).

19 SECTION 7. 32.03 (4) of the statutes is created to read:

20 32.03 (4) Notwithstanding sub. (1), any foreign transmission provider, as
21 defined in s. 32.02 (5) (a), or public utility may condemn ^{real} property owned by a county,
22 for the purpose of constructing or locating transmission lines as specified in s. 32.02

23 (5) (b).

24

if the parties fail to (END)
reach an agreement on a purchase
price for the property within 180 days after the condemnor provides the
owner with a full narrative appraisal under s. 32.06 (2) (b) ✓
(C, city, village, or town)

1

INSERT 2A:

The bill also provides that if a person acquires real property owned by a county, city, village, or town, other than by condemnation, for the purpose of constructing a high-voltage transmission line, at a price that exceeds the fair market value of the property, DOA must reduce the one-time environmental impact fee distributed to the county, city, village, or town by an amount equal to the amount by which the acquisition price exceeds the fair market value. Under the bill, the reductions in the fees are used as an additional source of funding for the low-income energy assistance grants mentioned above.



2

INSERT 2-12:

3

SECTION 1. 16.969 (3) (b) (intro.) of the statutes is amended to read:

4

16.969 (3) (b) (intro.) The Except as provided in sub. (3m), the fee that is paid

5

by a person under the rules promulgated under sub. (2) (b) shall be distributed as

6

follows:

History: 1999 a. 9; 2003 a. 89.

7

INSERT 3-2:

8

(b) If a person who is issued a certificate of public convenience and necessity

9

by the commission under s. 196.491 (3) for a high-voltage transmission line acquires

10

real property owned by a town, village, city, or county, other than by condemnation,

11

for purposes of constructing the line at a price that exceeds the fair market value of

12

the property, the department shall reduce the distribution payable to the town,

13

village, city, or county under sub. (3) (b) 1. or 2. by the amount by which the acquisition

14

price exceeds the fair market value.

15

(c) In each fiscal year, the secretary of administration shall determine the total

16

amount that towns, villages, cities, and counties are not paid under this subsection

17

in the fiscal year.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2145/2dn
MDK&PG:.....

gs

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. ✓

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

PG INSERT →

DN INSERT

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

PG

END DN INSERT

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2145/2dn
MDK&PG:cjs:pg

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.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

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.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.state.wi.us

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2005 BILL

Repeal cat.

1 AN ACT *to amend* 16.957 (2) (a) (intro.), 16.969 (3) (b) (intro.), 20.505 (1) (gs) and
 2 20.505 (3) (r); and *to create* 16.969 (3m), 20.505 (3) (a) and 32.03 (4) of the
 3 statutes; **relating to:** condemnation of county or municipal land for electric
 4 transmission lines, payment of certain environmental impact fees to
 5 municipalities and counties, and making an appropriation.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the condemnation of real property owned by the state, a municipality, or a county. This bill authorizes a public utility or foreign transmission provider (a foreign corporation that operates electric transmission lines in this state and other states) to condemn real property owned by a county, city, village, or town, but only if the property is condemned for the purpose of constructing or locating transmission lines and only if the parties cannot agree on a purchase price within 180 days.

Also under current law, before any person, including a public utility or foreign transmission provider, may construct certain high-voltage transmission lines, the Public Service Commission (PSC) must issue a certificate of public convenience and necessity (CPCN) for the line. If the PSC issues a CPCN to a person, the person must pay a one-time environmental impact fee that the Department of Administration (DOA) distributes to the cities, villages, towns, and counties that are affected by the line. (The person must also pay annual impact fees that DOA distributes to cities, villages, and towns, but not to counties.)

BILL

This bill provides that, if a person (such as a public utility or foreign transmission provider) condemns real property owned by a county, city, village, or town for the purpose of constructing a high-voltage transmission line, the county, city, village, or town is not eligible to receive the one-time environmental impact fee. Instead, the fees that counties, cities, villages, and towns are not eligible to receive under the bill are used as an additional source of funding for grants made by DOA under current law for low-income energy assistance.

The bill also provides that if a person acquires real property owned by a county, city, village, or town, other than by condemnation, for the purpose of constructing a high-voltage transmission line, at a price that exceeds the fair market value of the property, DOA must reduce the one-time environmental impact fee distributed to the county, city, village, or town by an amount equal to the amount by which the acquisition price exceeds the fair market value. Under the bill, the reductions in the fees are used as an additional source of funding for the low-income energy assistance grants mentioned above.

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:

1 **SECTION 1.** 16.957 (2) (a) (intro.) of the statutes is amended to read:

2 16.957 (2) (a) *Low-income programs.* (intro.) After holding a hearing,
3 establish programs to be administered by the department for awarding grants from
4 the ~~appropriation~~ appropriations under s. 20.505 (3) ^{gk} (a) and (r) to provide ✓
5 low-income assistance. In each fiscal year, the amount awarded under this
6 paragraph shall be sufficient to ensure that an amount equal to 47% of the sum of
7 the following is spent for weatherization and other energy conservation services:

8 **SECTION 2.** 16.969 (3) (b) (intro.) of the statutes is amended to read:

9 16.969 (3) (b) (intro.) The Except as provided in sub. (3m), the fee that is paid
10 by a person under the rules promulgated under sub. (2) (b) shall be distributed as
11 follows:

12 **SECTION 3.** 16.969 (3m) of the statutes is created to read:

BILL

1 16.969 (3m) (a) If a person who is issued a certificate of public convenience and
2 necessity by the commission under s. 196.491 (3) for a high-voltage transmission line
3 condemns real property owned by a town, village, city, or county for purposes of
4 constructing the line, the department shall not pay to the town, village, city, or county
5 any of the fee paid by the person under the rules promulgated under sub. (2) (b).

6 (b) If a person who is issued a certificate of public convenience and necessity
7 by the commission under s. 196.491 (3) for a high-voltage transmission line acquires
8 for purposes of constructing the line real property owned by a town, village, city, or
9 county, other than by condemnation, at a price that exceeds the fair market value of
10 the property, the department shall reduce the distribution payable to the town,
11 village, city, or county under sub. (3) (b) 1. or 2. by the amount by which the
12 acquisition price exceeds the fair market value.

13 (c) In each fiscal year, the secretary of administration shall determine the total
14 amount that towns, villages, cities, and counties are not paid under this subsection
15 in the fiscal year.

and to transfer

16 **SECTION 4.** 20.505 (1) (gs) of the statutes is amended to read:

17 20.505 (1) (gs) *High-voltage transmission line environmental impact fee*
18 *distributions.* All moneys received from the payment of fees under the rules
19 promulgated under s. 16.969 (2) (b) for distributions to counties, towns, villages, and
20 cities under s. 16.969 (3) (b) ~~Notwithstanding s. 20.001 (3) (c), the amount~~
21 determined by the secretary of administration under s. 16.969 (3m) (c) for a fiscal
22 year shall lapse to the general fund at the end of the fiscal year.

23 **SECTION 5.** 20.505 (3) (a) of the statutes is created to read:

(K)

to the appropriation
account under
sub. (3) (K) ✓
PLAIN ✓

Barman, Mike

From: Raschka, Adam
Sent: Friday, April 15, 2005 2:04 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2145/3 Topic: Public utility condemnation of county land; environmental impact fees for transmission lines

It has been requested by <Raschka, Adam> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2145/3 Topic: Public utility condemnation of county land; environmental impact fees for transmission lines