

2005 ASSEMBLY BILL 1016

February 14, 2006 – Introduced by Representatives ALBERS, HAHN, OWENS, BIES, GUNDERSON, TOWNS and NASS. Referred to Committee on Transportation.

1 **AN ACT to renumber and amend** 86.255 (1); **to amend** 86.255 (title) and 86.255
2 (2) (intro.); and **to create** 86.255 (1c) and 86.255 (3) of the statutes; **relating**
3 **to:** the acquisition of land, easements, and development rights in land by the
4 Department of Transportation for highway projects.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the Department of Transportation (DOT), after October 28, 1999, from encumbering or expending highway program moneys for purposes related to the purchase of land, easements, or development rights in land, unless the land or interest in land is purchased in association with a highway project and the land or interest in land is located within one-quarter mile of the highway. However, this prohibition does not apply to the purchase of any land that is acquired as compensatory mitigation for another wetland that will suffer an adverse impact by degradation or destruction as part of a highway project. Under current law, “development rights” is not defined for purposes of this prohibition. Also under current law, DOT highway programs are funded from the transportation fund.

This bill generally narrows the area of land that DOT may acquire for highway projects by generally prohibiting DOT from encumbering or expending highway program moneys for purposes related to the purchase of land, easements, or development rights in land located outside the highway right-of-way, rather than such land or interests in land located within one-quarter mile of the highway.

This bill also prohibits DOT, beginning on the effective date of the bill, from encumbering or expending moneys from the transportation fund for the acquisition

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of development rights in land by DOT or by any county, city, village, or town. The bill defines “development rights,” for purposes of this new prohibition and current law provisions, as any device, including a conservation easement or a deed reservation, by which the development potential of real property is severed from the real property’s title and made available for acquisition by a person who is not the owner of the real property.

For further information see the *state* 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.** 86.255 (title) of the statutes is amended to read:

2 **86.255 (title) Limitation on moneys used to purchase development**
3 **rights, land remote from outside highway project right-of-way.**

4 **SECTION 2.** 86.255 (1) of the statutes is renumbered 86.255 (1m) and amended
5 to read:

6 **86.255 (1m)** Notwithstanding ss. 84.09 and 86.25, beginning with purchase
7 contracts executed on October 29, 1999, and with relocation orders initially filed
8 under ch. 32 on October 29, 1999, the department may not encumber or expend any
9 moneys from the appropriations under s. 20.395 (3) for purposes related to the
10 purchase of land, easements, or development rights in land, unless the land or
11 interest in land is purchased in association with a highway project and the land or
12 interest in land is located within ~~one-quarter mile of the highway~~ right-of-way.

13 **SECTION 3.** 86.255 (1c) of the statutes is created to read:

14 **86.255 (1c)** In this section, “development rights” means any device, including
15 a conservation easement under s. 700.40 or a deed reservation, by which the
16 development potential of real property is severed from the real property’s title and
17 made available for acquisition by a person who is not the owner of the real property.

18 **SECTION 4.** 86.255 (2) (intro.) of the statutes is amended to read:

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1 86.255 (2) (intro.) Subsection (1) (1m) does not apply to any of the following:

2 **SECTION 5.** 86.255 (3) of the statutes is created to read:

3 86.255 (3) Notwithstanding subs. (1m) and (2) and ss. 25.40 (3) (b), 84.09, and
4 86.25, beginning on the effective date of this subsection [revisor inserts date], the
5 department may not encumber or expend any moneys from the transportation fund
6 for the acquisition of development rights in land by the department or by any county,
7 city, village, or town.

8 **SECTION 6. Initial applicability.**

9 (1) The renumbering and amendment of section 86.255 (1) of the statutes first
10 applies to highway projects for which preliminary engineering and design work
11 commences on the effective date of this subsection.

12 **SECTION 7. Effective date.**

13 (1) This act takes effect on the first day of the 2nd month beginning after
14 publication.

15 (END)