

2007 ASSEMBLY BILL 853

February 21, 2008 – Introduced by Representatives MONTGOMERY, VRUWINK and BOYLE, cosponsored by Senators LASSA, SCHULTZ and GROTHMAN. Referred to Committee on Energy and Utilities.

1 **AN ACT to amend** 13.48 (12) (b) 1., 32.02 (intro.), 32.02 (13) and 66.1035; and **to**
2 **create** 700.30 of the statutes; **relating to:** the acquisition of an easement by
3 an oil pipeline business entity.

Analysis by the Legislative Reference Bureau

Current law authorizes an oil pipeline corporation to acquire property by condemnation. Retroactive to June 1, 2007, this bill provides that the entity operating the pipeline need not be organized as a corporation; it may be organized as a partnership, limited liability company, joint venture, or any other business entity.

The bill requires an oil pipeline business entity that intends to acquire an easement to notify the landowner before it begins negotiating with the landowner. The notice must state that the business entity intends to acquire the easement, that the business entity must negotiate in good faith with the landowner for the purchase of the easement, and that the landowner may wish to consult an attorney.

The bill requires an oil pipeline business entity that purchases an easement to include in the contract of sale a statement that the pipeline project may require the approval of one or more governmental agencies, but that no governmental agency has approved the contract of sale, if that is the case; a statement that the landowner may bring an action in circuit court to have the contract of sale declared void under certain circumstances; and a statement that the landowner may wish to consult with an attorney before entering into the contract. The contract of sale must also contain a statement to be signed by the landowner that he or she has read and understands

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the agreement. The bill provides that, if a person who sells an easement to a pipeline business entity believes that the contract of sale violates the requirements in the bill, the seller may, within 60 days after executing the contract, bring an action to have the contract declared void.

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

1 **SECTION 1.** 13.48 (12) (b) 1. of the statutes is amended to read:

2 13.48 **(12)** (b) 1. A facility constructed by or for ~~corporations~~ a corporation
3 having condemnation authority under s. 32.02 (3) to (10) ~~and or~~ a business entity
4 having condemnation authority under s. 32.02 (13) for purposes for which the
5 corporation or business entity would have condemnation authority.

6 **SECTION 2.** 32.02 (intro.) of the statutes is amended to read:

7 **32.02 Who may condemn; purposes.** (intro.) The following departments,
8 municipalities, boards, commissions, public officers, ~~and corporations~~ business
9 entities may acquire by condemnation any real estate and personal property
10 appurtenant thereto or interest therein which they have power to acquire and hold
11 or transfer to the state, for the purposes specified, in case such property cannot be
12 acquired by gift or purchase at an agreed price:

13 **SECTION 3.** 32.02 (13) of the statutes is amended to read:

14 32.02 **(13)** Any ~~corporation~~ business entity, as defined in s. 13.62 (5), licensed
15 to do business in Wisconsin that shall transmit oil or related products including all
16 hydrocarbons which are in a liquid form at the temperature and pressure under
17 which they are transported in pipelines in Wisconsin, and shall maintain terminal
18 or product delivery facilities in Wisconsin, and shall be engaged in interstate or
19 international commerce, subject to the approval of the public service commission

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1 upon a finding by it that the proposed real estate interests sought to be acquired are
2 in the public interest.

3 **SECTION 4.** 66.1035 of the statutes is amended to read:

4 **66.1035 Rights of abutting owners.** The owners of land abutting on any
5 highway, street, or alley shall have a common right in the free and unobstructed use
6 of the full width of the highway, street, or alley. No town, village, city, county,
7 company, or corporation shall close up, use, or obstruct any part of the highway,
8 street, or alley so as to materially interfere with its usefulness as a highway or so as
9 to damage abutting property, or permit the same to be done, without just
10 compensation being made for any resulting damage. This section does not impose
11 liability for damages arising from the use, maintenance, and operation of tracks or
12 other public improvement legally laid down, built, or established in any street,
13 highway, or alley prior to April 7, 1889. All rights in property that could entitle an
14 owner to damages under this section may be condemned by any ~~corporation~~ business
15 entity that is listed in s. 32.02 in the same manner that other property may be
16 condemned by the ~~corporation~~ business entity.

17 **SECTION 5.** 700.30 of the statutes is created to read:

18 **700.30 Purchase of easement by an oil pipeline business entity. (1)**

19 DEFINITION. In this section:

20 (a) “Business entity” has the meaning given in s. 13.62 (5).

21 (b) “Pipeline business entity” means a business entity licensed to do business
22 in this state that transmits in pipelines in this state oil or related products, including
23 all hydrocarbons that are in a liquid form at the temperature and pressure under
24 which they are transported; maintains terminal or product delivery facilities in this
25 state; and is engaged in interstate or international commerce.

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1 **(2) NOTICE OF INTENT TO ACQUIRE AN EASEMENT.** Before a pipeline business entity
2 begins negotiating with a landowner to acquire an easement, the pipeline business
3 entity shall serve upon or mail by certified mail to the landowner a notice containing
4 the following information:

5 (a) The pipeline business entity intends to acquire the easement.

6 (b) The pipeline business entity is obligated to make a good faith effort to
7 negotiate with the landowner for the purchase of the easement.

8 (c) The landowner may wish to consult an attorney.

9 **(3) REQUIREMENTS FOR CONTRACT OF SALE.** Whenever a pipeline business entity
10 purchases an easement as a result of negotiation, the contract of sale shall include
11 all of the following:

12 (a) If true, the statement: “This pipeline project may require the approval of
13 one or more governmental agencies, but no governmental agency has approved this
14 contract of sale.”

15 (b) The statement: “You may wish to consult an attorney before entering into
16 this contract.”

17 (c) The statement: “Section 700.30 (4) of the Wisconsin statutes provides that
18 under certain circumstances you may bring an action in circuit court within 60 days
19 after entering into this contract to have this contract declared void.”

20 (d) A line for the date and the seller’s signature immediately below the
21 following statement: “I have read and understand this agreement.”

22 **(4) ACTION FOR VIOLATION OF REQUIREMENTS.** If the seller of an easement under
23 sub. (3) believes that the pipeline business entity violated sub. (2) or that the contract
24 of sale violates sub. (3), he or she may bring an action in circuit court within 60 days
25 after the contract is executed to have the contract declared void. If the court

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1 determines that the pipeline business entity violated sub. (2) or that the contract of
2 sale violates sub. (3), the court shall declare the contract void.

3 **SECTION 6. Initial applicability.**

4 (1) The creation of section 700.30 of the statutes first applies to a contract of
5 sale for the purchase of an easement that is entered into on the effective date of this
6 subsection.

7 (2) The treatment of sections 13.48 (12) (b) 1., 32.02 (intro.) and (13), and
8 66.1035 of the statutes first applies to applications for public interest determinations
9 filed with the public service commission on June 1, 2007.

10 (END)