

Fiscal Estimate Narratives

PSC 3/16/2011

LRB Number	11-0275/2	Introduction Number	SB-083	Estimate Type	Original
Description Various changes to the eminent domain laws					

Assumptions Used in Arriving at Fiscal Estimate

State Fiscal Effect

This bill proposes changes to laws governing property condemnation. The bill requires that for all cases where necessity of the taking must be determined, with the exception of cases determined by the Public Service Commission of Wisconsin (PSC) under 196.491(3), a judge will determine the necessity based on the preponderance of evidence. The bill narrows the definition of blighted property and, for blighted properties that are to be conveyed or leased to a private entity, requires specific building code violations be cited and not remedied. The bill also allows property owners whose property is being condemned to contest the condemnation even if they fail to raise specific objections before receiving the jurisdictional offer. The bill eliminates streamlined condemnation procedures for municipalities and for housing, redevelopment and community development authorities. In addition, the bill narrows the power of the City of Milwaukee to operate under special procedures when condemning property.

When the Commission issues a certificate of public convenience and necessity under 196.491(3), the certificate constitutes a determination of necessity for eminent domain purposes. That statutory provision, s. 32.07 (1), is not affected by the bill.

The bill also changes the PSC's determination of the necessity of taking under s. 32.03 (3), condemnation of undeveloped water power sites owned by a utility or co-op and within the flowage of another undeveloped water site, from conclusive to "conclusive unless the determination is arbitrary or unreasonable." If the PSC made determinations of the necessity of the taking as referenced in 32.03 (3), this change could have a fiscal effect. However, the PSC is unaware of any potential development of water power in Wisconsin that would require condemnation under 32.03 (3). The development of new water power sites are estimated to face overwhelming obstacles administratively, environmentally and financially such that the PSC does not anticipate land condemnation activities under 32.03 (3) in the future.

Because PSC activities associated with eminent domain are not affected by the bill, there is no estimated fiscal impact to the PSC from the bill.

Local Fiscal Effect

The proposed changes in the bill will increase costs to local governments, although the exact increase is not known.

The most significant potential fiscal effect is from the bill's new requirement of judicial review for all condemnations at the local government level. The proposed additional review will add costs because it is a new step, but the specific cost for this change is not known. Costs for each local government would vary depending on each judge's interpretation and standard of "preponderance of evidence" and the amount of documentation each local government must prepare to meet the local standard.

The bill's narrowing of the definition of blighted properties and changes to determination procedures for blighted property could also increase local governments' costs. For any property in the process of being determined blighted, the bill's changes will result in more documentation needed to make a blighted property determination, potentially increasing local government costs. Also if there is no reduction in the number of on-going requests to condemn blighted property due to the change in statute, local governments will need to produce more documentation on an on-going basis to make a blighted property determination. This will increase costs to local governments.

The bill's elimination of streamlined condemnation procedures for local governments and authorities and the bill's narrowing of the power of the City of Milwaukee to condemn property may also affect local government costs, but the impact of these changes is indeterminate.

Local governments may offset increased costs under the bill with increased taxes. The decision to offset costs with increased taxes would be determined locally by each taxing authority.

Long-Range Fiscal Implications

There are no long-range fiscal implications to the Public Service Commission of this bill.