

2019 DRAFTING REQUEST

Bill

For: Administration-Budget Drafter: zwyatt
 By: Potts Secondary Drafters:
 Date: 2/14/2019 May Contact:

Same as LRB:

Submit via email: YES
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Pre Topic:

DOA:.....Potts, BB0365 -

Topic:

Trail condemnation

Instructions:

Restore the pre-2017 Act 59 ability to condemn property for recreational trails and sidewalks (i.e., undo Item 17 of Motion 413).

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	zwyatt 2/14/2019	wjackson 2/15/2019			
/P1			lparisi 2/15/2019		State S&L

FE Sent For: <END>



DOA:.....Potts, BB0365 - Trail condemnation

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

in current law — EMINENT DOMAIN

1. Condemnation authority for recreational trails *on*

This bill eliminates the prohibition against certain entities, such as DOT, DNR, and county or village boards, using the power of condemnation to acquire land or interests in land for the purpose of establishing or extending bicycle lanes or certain pedestrian ways. Current law prohibits exercising condemnation power to acquire land or interests in land for the purpose of establishing or extending recreational trails, bicycle lanes, bicycle ways, or pedestrian ways. *e*

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:

2 SECTION 1. 23.09 (2) (d) (intro.) of the statutes is amended to read:

3 23.09 (2) (d) *Lands, acquisition.* (intro.) Acquire by purchase, lease or
4 agreement, and receive by gifts or devise, lands or waters suitable for the purposes

1 enumerated in this paragraph, and maintain such lands and waters for such
2 purposes; and, ~~except for the purpose specified under subd. 12.,~~ may condemn lands
3 or waters suitable for such purposes after obtaining approval of the appropriate
4 standing committees of each house of the legislature as determined by the presiding
5 officer thereof:

History: 1971 c. 40 s. 93; 1971 c. 125 s. 522 (1); 1971 c. 215, 277, 326; 1973 c. 251, 298, 333; 1975 c. 39 ss. 249, 249a, 250m, 734; 1975 c. 91, 200, 224, 365; 1977 c. 29, 402, 406; 1979 c. 34 ss. 699m to 701g, 2102 (39) (a); 1979 c. 89; 1981 c. 20 ss. 598 to 599s, 2202 (38) (c); 1981 c. 295; 1981 c. 390 s. 252; 1983 a. 27, 243; 1985 a. 29, 65, 322; 1985 a. 332 ss. 34, 251 (1); 1987 a. 27, 98, 295, 403; 1989 a. 31, 336, 359; 1991 a. 39, 269, 309; 1993 a. 16, 343, 436, 490; 1995 a. 27, 218, 257, 349, 417; 1997 a. 27, 35, 248, 313; 1999 a. 9, 32, 83; 2001 a. 38, 56, 104, 109; 2003 a. 33, 89; 2005 a. 25, 166, 286; 2007 a. 20; 2009 a. 276; 2011 a. 148; 2013 a. 20; 2013 a. 165 ss. 114, 115; 2015 a. 170; 2017 a. 59.

6 **SECTION 2.** 27.01 (2) (a) of the statutes is amended to read:

7 27.01 (2) (a) Acquire by purchase, lease or agreement lands or waters suitable
8 for state park purposes and may acquire such lands and waters by condemnation
9 after obtaining approval of the senate and assembly committees on natural
10 resources. ~~The power of condemnation may not be used for the purpose of~~
11 ~~establishing or extending a recreational trail; a bicycle way, as defined in s. 340.01~~
12 ~~(5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s.~~
13 ~~346.02 (8) (a).~~

History: 1971 c. 125, 215, 326; 1973 c. 90 s. 538; 1973 c. 245; 1975 c. 365 s. 62; 1977 c. 29, 71, 424; 1979 c. 34, 175; 1981 c. 20, 343; 1983 a. 19; 1983 a. 27 ss. 644 to 674, 2202 (38); 1983 a. 325; 1985 a. 29, 125; 1987 a. 27, 277, 295, 399; 1989 a. 31, 56, 213, 359; 1991 a. 39, 269; 1993 a. 16, 213; 1995 a. 27, 312, 391; 1997 a. 27, 248; 1999 a. 9, 83; 2001 a. 16; 2005 a. 25, 94; 2007 a. 20, 165; 2009 a. 28, 54, 70, 302; 2011 a. 168; 2013 a. 6, 20; 2013 a. 168 s. 21; 2015 a. 55; 2017 a. 59.

14 **SECTION 3.** 27.019 (10) of the statutes is amended to read:

15 27.019 (10) ACQUISITION OF LAND. Any county in which there does not exist a
16 county park commission acting through its rural planning committee may acquire
17 by gift, grant, devise, donation, purchase, condemnation or otherwise, with the
18 consent of the county board, a sufficient tract or tracts of land for the reservation for
19 public use of river fronts, lake shores, picnic groves, outlook points from hilltops,
20 places of special historic interest, memorial grounds, parks, playgrounds, sites for
21 public buildings, and reservations in and about and along and leading to any or all
22 of the same, and to develop and maintain the same for public use. ~~The power of~~

1 ~~condemnation may not be used for the purpose of establishing or extending a~~
2 ~~recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as defined~~
3 ~~in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).~~

History: 1977 c. 29 s. 1650m (4); 1979 c. 32, 110; 1983 a. 192; 1989 a. 335; 1995 a. 27 s. 1510b; Stats. 1995 s. 27.019; 1995 a. 227; 2009 a. 368; 2017 a. 59.

4 **SECTION 4.** 27.05 (3) of the statutes is amended to read:

5 27.05 (3) Acquire, in the name of the county, by purchase, land contract, lease,
6 condemnation, or otherwise, with the approval and consent of the county board, such
7 tracts of land or public ways as it deems suitable for park purposes; including lands
8 in any other county not more than three-fourths of a mile from the county line; but
9 no land so acquired shall be disposed of by the county without the consent of said
10 commission, and all moneys received for any such lands, or any materials, so
11 disposed of, shall be paid into the county park fund hereinafter established. The
12 power of condemnation may not be used for the purpose of establishing or extending
13 a recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as
14 defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).

History: 1985 a. 29 ss. 650, 3200 (56); 1993 a. 246; 1995 a. 201; 1999 a. 83; 2017 a. 59.

15 **SECTION 5.** 27.065 (1) (a) of the statutes is amended to read:

16 27.065 (1) (a) The county board of any county which shall have adopted a
17 county system of parks or a county system of streets and parkways, pursuant to s.
18 27.04, may acquire the lands necessary for carrying out all or part of such plan by
19 gift, purchase, condemnation or otherwise; provided, however, that no lands shall be
20 acquired by condemnation unless and until the common council of the city or the
21 board of trustees of the village or the board of supervisors of the town wherein such
22 land is situated shall consent thereto. The power of condemnation may not be used
23 for the purpose of establishing or extending a recreational trail; a bicycle way, as

SECTION 5

1 defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian
2 way, as defined in s. 346.02 (8) (a). The cost of acquiring such lands by purchase or
3 condemnation may be paid in whole or in part by the county or by the property to be
4 benefited thereby, as the county board shall direct but in no case shall the amount
5 assessed to any parcel of real estate exceed the benefits accruing thereto; provided,
6 that no assessment for paying the cost of acquiring lands may be levied or collected
7 against the property to be benefited until the governing body of the city, village or
8 town where such lands are located has by resolution determined that the public
9 welfare will be promoted thereby. Title to all lands acquired hereunder shall be an
10 estate in fee simple.

History: 1979 c. 110 s. 60 (13); 1983 a. 24; 1985 a. 29, 176; 1987 a. 378; 1991 a. 316; 1993 a. 184, 246, 301, 453; 1995 a. 225, 227, 417; 1997 a. 27; 1999 a. 96; 1999 a. 150 s. 672; 2011 a. 260; 2017 a. 59.

11 **SECTION 6.** 27.08 (2) (b) [✓] of the statutes is amended to read:

12 27.08 (2) (b) To acquire in the name of the city for park, parkway, boulevard or
13 pleasure drive purposes by gift, devise, bequest or condemnation, either absolutely
14 or in trust, money, real or personal property, or any incorporeal right or privilege;
15 ~~except that no lands may be acquired by condemnation for the purpose of~~
16 ~~establishing or extending a recreational trail; a bicycle way, as defined in s. 340.01~~
17 ~~(5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s.~~
18 ~~346.02 (8) (a).~~ Gifts to any city of money or other property, real or personal, either
19 absolutely or in trust, for park, parkway, boulevard or pleasure drive purposes shall
20 be accepted only after they shall have been recommended by the board to the common
21 council and approved by said council by resolution. Subject to the approval of the
22 common council the board may execute every trust imposed upon the use of property

1 or property rights by the deed, testament or other conveyance transferring the title
2 of such property to the city for park, parkway, boulevard or pleasure drive purposes.

History: 1985 a. 225 s. 100; 1987 a. 354; 2017 a. 59.

3 **SECTION 7.** 27.08 (2) (c) of the statutes is amended to read:

4 27.08 (2) (c) Subject to the approval of the common council to buy or lease lands
5 in the name of the city for park, parkway, boulevard or pleasure drive purposes
6 within or without the city and, with the approval of the common council, to sell or
7 exchange property no longer required for its purposes. Every city is authorized, upon
8 recommendation of its officers, board or body having the control and management
9 of its public parks, to acquire by condemnation in the name of the city such lands
10 within or without its corporate boundaries as it may need for public parks, parkways,
11 boulevards and pleasure drives. ~~The power of condemnation may not be used for the~~
12 ~~purpose of establishing or extending a recreational trail; a bicycle way, as defined in~~
13 ~~s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as~~
14 ~~defined in s. 346.02 (8) (a).~~

History: 1985 a. 225 s. 100; 1987 a. 354; 2017 a. 59.

15 **SECTION 8.** 32.015 of the statutes is repealed.

16 **SECTION 9.** 32.51 (1) (intro.) of the statutes is amended to read:

17 32.51 (1) PURPOSES. (intro.) In addition to the powers granted under subch. I
18 ~~and subject to the limitations under s. 32.015,~~ any city may condemn or otherwise
19 acquire property under this subchapter for:

History: 1983 a. 236, 538; 1995 a. 378; 2017 a. 59.

20 **SECTION 10.** 59.52 (6) (a) of the statutes is amended to read:

21 59.52 (6) (a) *How acquired; purposes.* Take and hold land acquired under ch.
22 75 and acquire, lease or rent property, real and personal, for public uses or purposes
23 of any nature, including without limitation acquisitions for county buildings,

1 airports, parks, recreation, highways, dam sites in parks, parkways and
2 playgrounds, flowages, sewage and waste disposal for county institutions, lime pits
3 for operation under s. 59.70 (24), equipment for clearing and draining land and
4 controlling weeds for operation under s. 59.70 (18), ambulances, acquisition and
5 transfer of real property to the state for new collegiate institutions or research
6 facilities, and for transfer to the state for state parks and for the uses and purposes
7 specified in s. 23.09 (2) (d). ~~The power of condemnation may not be used to acquire~~
8 ~~property for the purpose of establishing or extending a recreational trail; a bicycle~~
9 ~~way, as defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a~~
10 ~~pedestrian way, as defined in s. 346.02 (8) (a).~~

History: 1995 a. 201 ss. 104, 111 to 115, 117 to 122, 124, 127, 134, 139, 140, 157, 174, 181, 185, 186, 190, 238, 242, 252 to 256, 354, 356 to 360, 414 to 419, 432; 1995 a. 225 s. 135; 1997 a. 35, 237; 1999 a. 9, 83; 1999 a. 150 s. 672; 2001 a. 16, 104; 2005 a. 22, 59; 2007 a. 20 ss. 1846, 9121 (6) (a); 2009 a. 369; 2011 a. 32; 2013 a. 14; 2013 a. 173 s. 33; 2015 a. 55, 196; 2017 a. 59; 2017 a. 207 s. 5.

11 **SECTION 11.** 60.782 (2) (d) of the statutes is amended to read:

12 60.782 (2) (d) Lease or acquire, including by condemnation, any real property
13 situated in this state that may be needed for the purposes of s. 23.09 (19), 23.094 (3g)
14 or 30.275 (4). ~~The power of condemnation may not used to acquire property for the~~
15 ~~purpose of establishing or extending a recreational trail; a bicycle way, as defined in~~
16 ~~s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as~~
17 ~~defined in s. 346.02 (8) (a).~~

History: 1995 a. 349; 2017 a. 59.

18 **SECTION 12.** 61.34 (3) (a) of the statutes is renumbered 61.34 (3) and amended
19 to read:

20 61.34 (3) ACQUISITION AND DISPOSAL OF PROPERTY. ~~Except as provided in par. (b),~~
21 ~~the~~ The village board may acquire property, real or personal, within or outside the
22 village, for parks, libraries, recreation, beautification, streets, water systems,
23 sewage or waste disposal, harbors, improvement of watercourses, public grounds,

1 vehicle parking areas, and for any other public purpose; may acquire real property
2 within or contiguous to the village, by means other than condemnation, for industrial
3 sites; may improve and beautify the same; may construct, own, lease and maintain
4 buildings on such property for instruction, recreation, amusement and other public
5 purposes; and may sell and convey such property. Condemnation shall be as
6 provided by ch. 32.

History: 1983 a. 192; 1987 a. 395; 1995 a. 27, 378; 1997 a. 27; 2017 a. 59.

7 **SECTION 13.** 61.34 (3) (b) of the statutes is repealed.

8 **SECTION 14.** 62.22 (1) (a) of the statutes is renumbered 62.22 (1) and amended
9 to read:

10 **62.22 (1) PURPOSES.** ~~Except as provided in par. (b),~~ the The governing body of
11 any city may by gift, purchase or condemnation acquire property, real or personal,
12 within or outside the city, for parks, recreation, water systems, sewage or waste
13 disposal, airports or approaches thereto, cemeteries, vehicle parking areas, and for
14 any other public purpose; may acquire real property within or contiguous to the city,
15 by means other than condemnation, for industrial sites; may improve and beautify
16 the same; may construct, own, lease and maintain buildings on such property for
17 public purposes; and may sell and convey such property. The power of condemnation
18 for any such purpose shall be as provided by ch. 32.

History: 1971 c. 304 s. 29 (1); 1987 a. 324, 399; 1995 a. 378; 2017 a. 59.

19 **SECTION 15.** 62.22 (1) (b) of the statutes is repealed.

20 **SECTION 16.** 62.23 (17) (a) (intro.) of the statutes is amended to read:

21 **62.23 (17) (a) (intro.)** ~~Except as provided in par. (am),~~ cities Cities may acquire
22 by gift, lease, purchase, or condemnation any lands within its corporate limits for
23 establishing, laying out, widening, enlarging, extending, and maintaining memorial

1 grounds, streets, squares, parkways, boulevards, parks, playgrounds, sites for public
 2 buildings, and reservations in and about and along and leading to any or all of the
 3 same or any lands adjoining or near to such city for use, sublease, or sale for any of
 4 the following purposes:

History: 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9, 148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34, 79, 81, 112, 171, 208; 2007 a. 20 ss. 1868 to 1873, 9121 (6) (a); 2007 a. 72; 2009 a. 28, 209, 276, 351, 372, 405; 2011 a. 32, 135, 170; 2013 a. 347; 2015 a. 176, 223, 391; 2017 a. 59, 67; 2017 a. 207 s. 5; 2017 a. 243, 317, 364.

5 **SECTION 17.** 62.23 (17) (am) of the statutes is repealed.

6 **SECTION 18.** 85.09 (2) (a) of the statutes is amended to read:

7 85.09 (2) (a) The department of transportation shall have the first right to
 8 acquire, for present or future transportation or recreational purposes, any
 9 property used in operating a railroad or railway, including land and rails, ties,
 10 switches, trestles, bridges, and the like located on that property, that has been
 11 abandoned. The department of transportation may, in connection with abandoned
 12 rail property, assign this right to a state agency, the board of regents of the University
 13 of Wisconsin System, any county or municipality, or any transit commission.
 14 Acquisition by the department of transportation may be by gift, purchase, or
 15 condemnation in accordance with the procedure under s. 32.05, except that the power
 16 of condemnation may not be used to acquire property for the purpose of establishing
 17 or extending a recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle
 18 lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).

19 In addition to its property management authority under s. 85.15, the department of
 20 transportation may, subject to any prior action under s. 13.48 (14) (am) or 16.848 (1),
 21 lease and collect rents and fees for any use of rail property pending discharge of the
 22 department's duty to convey property that is not necessary for a public purpose. No
 23 person owning abandoned rail property, including any person to whom ownership

1 reverts upon abandonment, may convey or dispose of any abandoned rail property
2 without first obtaining a written release from the department of transportation
3 indicating that the first right of acquisition under this subsection will not be
4 exercised or assigned. No railroad or railway may convey any rail property prior to
5 abandonment if the rail property is part of a rail line shown on the railroad's system
6 map as in the process of abandonment, expected to be abandoned, or under study for
7 possible abandonment unless the conveyance or disposal is for the purpose of
8 providing continued rail service under another company or agency. Any conveyance
9 made without obtaining such release is void. The first right of acquisition of the
10 department of transportation under this subsection does not apply to any rail
11 property declared by the department to be abandoned before January 1, 1977. The
12 department of transportation may acquire any abandoned rail property under this
13 section regardless of the date of its abandonment.

History: 1977 c. 29, 418; 1979 c. 34 s. 1018; Stats. 1979 s. 85.09; 1981 c. 20; 1983 a. 27, 192; 1985 a. 29 ss. 1583 to 1586, 3200 (51); 1985 a. 332 s. 253; 1987 a. 5; 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 3525, 9116 (5); 2003 a. 33; 2005 a. 179; 2007 a. 20; 2011 a. 32; 2013 a. 20; 2017 a. 59

14 **SECTION 19.** 990.01 (2) of the statutes is amended to read:

15 990.01 (2) ACQUIRE. "Acquire," when used in connection with a grant of power
16 to any person, includes the acquisition by purchase, grant, gift or bequest. It includes
17 the power to condemn only in the cases specified in s. 32.02 and ~~subject to the~~
18 ~~limitations under s. 32.015.~~

History: 1971 c. 164 ss. 80, 91; 1971 c. 213 s. 5; Sup. Ct. Order, 67 Wis. 2d 784; 1977 c. 305; 1979 c. 169; 1981 c. 291, 391; 1983 a. 447; 1985 a. 65, 182, 332; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 399; 1989 a. 56, 278; 1991 a. 39; 1993 a. 486; 1995 a. 27 ss. 7294, 7295, 9126 (19); 1995 a. 77, 352; 1997 a. 252, 306; 1999 a. 22, 85; 2001 a. 102; 2003 a. 110; 2005 a. 441; 2005 a. 443 s. 265; 2007 a. 11; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32; 2015 a. 196; 2017 a. 59, 135, 364.

19

(END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2026/P1
ZDW:wj

DOA:.....Potts, BB0365 - Trail condemnation

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

EMINENT DOMAIN

1. Condemnation authority for recreational trails

This bill eliminates the prohibition in current law on certain entities, such as DOT, DNR, and county or village boards, from using the power of condemnation to acquire land or interests in land for the purpose of establishing or extending bicycle lanes or certain pedestrian ways.

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:

2 **SECTION 1.** 23.09 (2) (d) (intro.) of the statutes is amended to read:

3 23.09 (2) (d) *Lands, acquisition.* (intro.) Acquire by purchase, lease or
4 agreement, and receive by gifts or devise, lands or waters suitable for the purposes
5 enumerated in this paragraph, and maintain such lands and waters for such

1 purposes; and, ~~except for the purpose specified under subd. 12.,~~ may condemn lands
2 or waters suitable for such purposes after obtaining approval of the appropriate
3 standing committees of each house of the legislature as determined by the presiding
4 officer thereof:

5 **SECTION 2.** 27.01 (2) (a) of the statutes is amended to read:

6 27.01 (2) (a) Acquire by purchase, lease or agreement lands or waters suitable
7 for state park purposes and may acquire such lands and waters by condemnation
8 after obtaining approval of the senate and assembly committees on natural
9 resources. ~~The power of condemnation may not be used for the purpose of~~
10 ~~establishing or extending a recreational trail; a bicycle way, as defined in s. 340.01~~
11 ~~(5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s.~~
12 ~~346.02 (8) (a).~~

13 **SECTION 3.** 27.019 (10) of the statutes is amended to read:

14 27.019 (10) ACQUISITION OF LAND. Any county in which there does not exist a
15 county park commission acting through its rural planning committee may acquire
16 by gift, grant, devise, donation, purchase, condemnation or otherwise, with the
17 consent of the county board, a sufficient tract or tracts of land for the reservation for
18 public use of river fronts, lake shores, picnic groves, outlook points from hilltops,
19 places of special historic interest, memorial grounds, parks, playgrounds, sites for
20 public buildings, and reservations in and about and along and leading to any or all
21 of the same, and to develop and maintain the same for public use. ~~The power of~~
22 ~~condemnation may not be used for the purpose of establishing or extending a~~
23 ~~recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as defined~~
24 ~~in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).~~

25 **SECTION 4.** 27.05 (3) of the statutes is amended to read:

1 27.05 (3) Acquire, in the name of the county, by purchase, land contract, lease,
2 condemnation, or otherwise, with the approval and consent of the county board, such
3 tracts of land or public ways as it deems suitable for park purposes; including lands
4 in any other county not more than three-fourths of a mile from the county line; but
5 no land so acquired shall be disposed of by the county without the consent of said
6 commission, and all moneys received for any such lands, or any materials, so
7 disposed of, shall be paid into the county park fund hereinafter established. The
8 power of condemnation may not be used for the purpose of establishing or extending
9 a recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as
10 defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).

11 **SECTION 5.** 27.065 (1) (a) of the statutes is amended to read:

12 27.065 (1) (a) The county board of any county which shall have adopted a
13 county system of parks or a county system of streets and parkways, pursuant to s.
14 27.04, may acquire the lands necessary for carrying out all or part of such plan by
15 gift, purchase, condemnation or otherwise; provided, however, that no lands shall be
16 acquired by condemnation unless and until the common council of the city or the
17 board of trustees of the village or the board of supervisors of the town wherein such
18 land is situated shall consent thereto. ~~The power of condemnation may not be used~~
19 ~~for the purpose of establishing or extending a recreational trail; a bicycle way, as~~
20 ~~defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian~~
21 ~~way, as defined in s. 346.02 (8) (a).~~ The cost of acquiring such lands by purchase or
22 condemnation may be paid in whole or in part by the county or by the property to be
23 benefited thereby, as the county board shall direct but in no case shall the amount
24 assessed to any parcel of real estate exceed the benefits accruing thereto; provided,
25 that no assessment for paying the cost of acquiring lands may be levied or collected

1 against the property to be benefited until the governing body of the city, village or
2 town where such lands are located has by resolution determined that the public
3 welfare will be promoted thereby. Title to all lands acquired hereunder shall be an
4 estate in fee simple.

5 **SECTION 6.** 27.08 (2) (b) of the statutes is amended to read:

6 27.08 (2) (b) To acquire in the name of the city for park, parkway, boulevard or
7 pleasure drive purposes by gift, devise, bequest or condemnation, either absolutely
8 or in trust, money, real or personal property, or any incorporeal right or privilege;
9 ~~except that no lands may be acquired by condemnation for the purpose of~~
10 ~~establishing or extending a recreational trail; a bicycle way, as defined in s. 340.01~~
11 ~~(5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s.~~
12 ~~346.02 (8) (a).~~ Gifts to any city of money or other property, real or personal, either
13 absolutely or in trust, for park, parkway, boulevard or pleasure drive purposes shall
14 be accepted only after they shall have been recommended by the board to the common
15 council and approved by said council by resolution. Subject to the approval of the
16 common council the board may execute every trust imposed upon the use of property
17 or property rights by the deed, testament or other conveyance transferring the title
18 of such property to the city for park, parkway, boulevard or pleasure drive purposes.

19 **SECTION 7.** 27.08 (2) (c) of the statutes is amended to read:

20 27.08 (2) (c) Subject to the approval of the common council to buy or lease lands
21 in the name of the city for park, parkway, boulevard or pleasure drive purposes
22 within or without the city and, with the approval of the common council, to sell or
23 exchange property no longer required for its purposes. Every city is authorized, upon
24 recommendation of its officers, board or body having the control and management
25 of its public parks, to acquire by condemnation in the name of the city such lands

1 within or without its corporate boundaries as it may need for public parks, parkways,
2 boulevards and pleasure drives. ~~The power of condemnation may not be used for the~~
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4 ~~s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as~~
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6 **SECTION 8.** 32.015 of the statutes is repealed.

7 **SECTION 9.** 32.51 (1) (intro.) of the statutes is amended to read:

8 32.51 (1) PURPOSES. (intro.) In addition to the powers granted under subch. I
9 ~~and subject to the limitations under s. 32.015,~~ any city may condemn or otherwise
10 acquire property under this subchapter for:

11 **SECTION 10.** 59.52 (6) (a) of the statutes is amended to read:

12 59.52 (6) (a) *How acquired; purposes.* Take and hold land acquired under ch.
13 75 and acquire, lease or rent property, real and personal, for public uses or purposes
14 of any nature, including without limitation acquisitions for county buildings,
15 airports, parks, recreation, highways, dam sites in parks, parkways and
16 playgrounds, flowages, sewage and waste disposal for county institutions, lime pits
17 for operation under s. 59.70 (24), equipment for clearing and draining land and
18 controlling weeds for operation under s. 59.70 (18), ambulances, acquisition and
19 transfer of real property to the state for new collegiate institutions or research
20 facilities, and for transfer to the state for state parks and for the uses and purposes
21 specified in s. 23.09 (2) (d). ~~The power of condemnation may not be used to acquire~~
22 ~~property for the purpose of establishing or extending a recreational trail; a bicycle~~
23 ~~way, as defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a~~
24 ~~pedestrian way, as defined in s. 346.02 (8) (a).~~

25 **SECTION 11.** 60.782 (2) (d) of the statutes is amended to read:

1 60.782 (2) (d) Lease or acquire, including by condemnation, any real property
2 situated in this state that may be needed for the purposes of s. 23.09 (19), 23.094 (3g)
3 or 30.275 (4). ~~The power of condemnation may not used to acquire property for the~~
4 ~~purpose of establishing or extending a recreational trail; a bicycle way, as defined in~~
5 ~~s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as~~
6 ~~defined in s. 346.02 (8) (a).~~

7 **SECTION 12.** 61.34 (3) (a) of the statutes is renumbered 61.34 (3) and amended
8 to read:

9 61.34 (3) ACQUISITION AND DISPOSAL OF PROPERTY. ~~Except as provided in par. (b),~~
10 ~~the~~ The village board may acquire property, real or personal, within or outside the
11 village, for parks, libraries, recreation, beautification, streets, water systems,
12 sewage or waste disposal, harbors, improvement of watercourses, public grounds,
13 vehicle parking areas, and for any other public purpose; may acquire real property
14 within or contiguous to the village, by means other than condemnation, for industrial
15 sites; may improve and beautify the same; may construct, own, lease and maintain
16 buildings on such property for instruction, recreation, amusement and other public
17 purposes; and may sell and convey such property. Condemnation shall be as
18 provided by ch. 32.

19 **SECTION 13.** 61.34 (3) (b) of the statutes is repealed.

20 **SECTION 14.** 62.22 (1) (a) of the statutes is renumbered 62.22 (1) and amended
21 to read:

22 62.22 (1) PURPOSES. ~~Except as provided in par. (b), the~~ The governing body of
23 any city may by gift, purchase or condemnation acquire property, real or personal,
24 within or outside the city, for parks, recreation, water systems, sewage or waste
25 disposal, airports or approaches thereto, cemeteries, vehicle parking areas, and for

1 any other public purpose; may acquire real property within or contiguous to the city,
2 by means other than condemnation, for industrial sites; may improve and beautify
3 the same; may construct, own, lease and maintain buildings on such property for
4 public purposes; and may sell and convey such property. The power of condemnation
5 for any such purpose shall be as provided by ch. 32.

6 **SECTION 15.** 62.22 (1) (b) of the statutes is repealed.

7 **SECTION 16.** 62.23 (17) (a) (intro.) of the statutes is amended to read:

8 62.23 (17) (a) (intro.) ~~Except as provided in par. (am),~~ cities Cities may acquire
9 by gift, lease, purchase, or condemnation any lands within its corporate limits for
10 establishing, laying out, widening, enlarging, extending, and maintaining memorial
11 grounds, streets, squares, parkways, boulevards, parks, playgrounds, sites for public
12 buildings, and reservations in and about and along and leading to any or all of the
13 same or any lands adjoining or near to such city for use, sublease, or sale for any of
14 the following purposes:

15 **SECTION 17.** 62.23 (17) (am) of the statutes is repealed.

16 **SECTION 18.** 85.09 (2) (a) of the statutes is amended to read:

17 85.09 (2) (a) The department of transportation shall have the first right to
18 acquire, for present or future transportational or recreational purposes, any
19 property used in operating a railroad or railway, including land and rails, ties,
20 switches, trestles, bridges, and the like located on that property, that has been
21 abandoned. The department of transportation may, in connection with abandoned
22 rail property, assign this right to a state agency, the board of regents of the University
23 of Wisconsin System, any county or municipality, or any transit commission.
24 Acquisition by the department of transportation may be by gift, purchase, or
25 condemnation in accordance with the procedure under s. 32.05, ~~except that the power~~

1 of condemnation may not be used to acquire property for the purpose of establishing
2 or extending a recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle
3 lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).

4 In addition to its property management authority under s. 85.15, the department of
5 transportation may, subject to any prior action under s. 13.48 (14) (am) or 16.848 (1),
6 lease and collect rents and fees for any use of rail property pending discharge of the
7 department's duty to convey property that is not necessary for a public purpose. No
8 person owning abandoned rail property, including any person to whom ownership
9 reverts upon abandonment, may convey or dispose of any abandoned rail property
10 without first obtaining a written release from the department of transportation
11 indicating that the first right of acquisition under this subsection will not be
12 exercised or assigned. No railroad or railway may convey any rail property prior to
13 abandonment if the rail property is part of a rail line shown on the railroad's system
14 map as in the process of abandonment, expected to be abandoned, or under study for
15 possible abandonment unless the conveyance or disposal is for the purpose of
16 providing continued rail service under another company or agency. Any conveyance
17 made without obtaining such release is void. The first right of acquisition of the
18 department of transportation under this subsection does not apply to any rail
19 property declared by the department to be abandoned before January 1, 1977. The
20 department of transportation may acquire any abandoned rail property under this
21 section regardless of the date of its abandonment.

22 **SECTION 19.** 990.01 (2) of the statutes is amended to read:

23 990.01 (2) ACQUIRE. "Acquire," when used in connection with a grant of power
24 to any person, includes the acquisition by purchase, grant, gift or bequest. It includes

1 the power to condemn only in the cases specified in s. 32.02 and ~~subject to the~~
2 ~~limitations under s. 32.015.~~

3 (END)