

June 1976 Spec. Sess.
Assembly Bill 5

Date published: June 30, 1976

CHAPTER 425, Laws of 1975

AN ACT to repeal 32.09 (1m); to amend 32.09 (4) and 66.24 (5) (b); and to create 84.295 (4m) of the statutes, relating to municipal utility relocation and the determination of compensation in condemnation proceedings.

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

SECTION 1. 32.09 (1m) of the statutes, as created by chapter 191, laws of 1975 is repealed.

SECTION 2. 32.09 (4) of the statutes, as affected by chapter 191, laws of 1975, is amended to read:

32.09 (4) Where a depreciation in value of property results from an exercise of the police power, even though in conjunction with the taking by eminent domain, no compensation shall be paid for such depreciation except as expressly allowed in subs. ~~(1m)~~ (5) (b), (5m) and (6) and s. 32.19.

SECTION 3. 66.24 (5) (b) of the statutes is amended to read:

66.24 (5) (b) *Roads.* The district may enter upon any state, county or municipal street, road or alley, or any public highway for the purpose of installing, maintaining and operating the system, and it may construct in any such street, road or alley or public highway necessary facilities without a permit or a payment of a charge. Whenever the work is to be done in a state, county or municipal highway, the public authority having control thereof shall be duly notified, and the highway shall be restored to as good a condition as existed before the commencement of the work with all costs incident thereto borne by the district. All persons, firms or corporations lawfully having buildings, structures, works, conduits, mains, pipes, tracks or other physical obstructions in, over or under the public lands, avenues, streets, alleys or highways which block or impede the progress of district facilities, when in the process of construction, establishment or repair shall upon reasonable notice by the district, promptly so shift, adjust, accommodate or remove the same at the cost and expense of such individuals or corporations, as fully to meet the exigencies occasioning such notice. Any entry upon or occupation of any state freeway right-of-way after relocation or replacement of district facilities for which reimbursement is made under s. 84.295 (4m) shall be done in a manner which is acceptable to the highway commission.

SECTION 4. 84.295 (4m) of the statutes is created to read:

84.295 (4m) MUNICIPAL UTILITY RELOCATION; FREEWAY CONSTRUCTION. (a) The state shall pay 90% of the eligible costs of the relocation or replacement of any municipal utility facilities required by the construction of any freeway undertaken by the commission. The affected municipal utility shall pay the balance of such costs.

(b) This subsection applies only to relocations or replacements that:

1. Involve municipal utility facilities located on publicly held lands prior to such relocation or replacement;
2. Are not eligible for state reimbursement under any other provision of law; and
3. Take place after the effective date of this act (1975).

(c) In administering this subsection the commission shall use the same procedures and accounting principles as are applicable to utility relocations and replacements for which full reimbursement is required by law.

(d) In order to be eligible for reimbursement under this subsection, any entry upon or occupation of state freeway right-of-way after relocation or replacement by a metropolitan sewerage district acting under s. 66.24 (5) (b) shall be done in a manner acceptable to the commission.

(e) In this subsection:

1. "Eligible costs" mean the actual costs of relocating or replacing utility facilities less the:

a. Salvage value of the old facilities;

b. Used life credit on the old facilities; and

c. Cost of any upgrading of the facilities being replaced or relocated made solely for the benefit and at the election of the utility and not attributable to the freeway construction.

2. "Municipal utility facilities" mean any utility facilities owned by any town, village or city or any town sanitary district established under ss. 60.30 to 60.316, or under the jurisdiction of any metropolitan sewerage district established under ss. 66.20 to 66.26.

3. "Publicly held lands" include any right or interest in real estate held by the state or by any county, city, village, town or other body politic and corporate.
