



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0867/P2
MDK:kjf:rs

DOA:.....Bong, BB0282 - Transfer of State Energy Office

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Under current law, DOA administers requirements for providing relocation assistance to persons displaced when their property is condemned for public improvements. This bill requires the PSC, instead of DOA, to administer those requirements. Also under current law, DOA has established a state energy office to administer certain programs funded by the federal Department of Energy. The bill transfers the administration of those programs to the PSC.

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:

SECTION 1. 20.155 (1) (g) of the statutes is amended to read:

20.155 (1) (g) *Utility regulation; relocation assistance.* The amounts in the schedule for the regulation of utilities and general program operations under ss.

32.19 to 32.27. Ninety percent of all moneys received by the commission under s. 196.85, 196.855, or 201.10 (3) shall be credited to this appropriation. Ninety percent of all receipts from the sale of miscellaneous printed reports and other copied material, the cost of which was originally paid under this paragraph, shall be credited to this appropriation.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.505 (1) (cg) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 32.19 (2) (b) of the statutes is amended to read:

32.19 (2) (b) “Comparable dwelling” means one which, when compared with the dwelling being taken, is substantially equal concerning all major characteristics and functionally equivalent with respect to: the number and size of rooms and closets, area of living space, type of construction, age, state of repair, size and utility of any garage or other outbuilding, type of neighborhood and accessibility to public services and places of employment. “Comparable dwelling” shall meet all of the standard building requirements and other code requirements of the local governmental body and shall also be decent, safe and sanitary and within the financial means of the displaced person, as defined by the ~~department of administration~~ public service commission.

SECTION 4. 32.19 (2) (e) 1. b. of the statutes is amended to read:

32.19 (2) (e) 1. b. As a result of rehabilitation, demolition or other displacing activity, as determined by the ~~department of administration~~ public service commission, if the person is a tenant-occupant of a dwelling, business or farm operation and the displacement is permanent.

SECTION 5. 32.19 (3) (b) 1. of the statutes is amended to read:

32.19 (3) (b) 1. 'Dwellings.' Any displaced person who moves from a dwelling and who elects to accept the payments authorized by this paragraph in lieu of the payments authorized by par. (a) may receive an expense and dislocation allowance, determined according to a schedule established by the ~~department of administration~~ public service commission.

SECTION 6. 32.19 (3) (b) 2. of the statutes is amended to read:

32.19 (3) (b) 2. 'Business and farm operations.' Any displaced person who moves or discontinues his or her business or farm operation, is eligible under criteria established by the ~~department of administration~~ public service commission by rule and elects to accept payment authorized under this paragraph in lieu of the payment authorized under par. (a), may receive a fixed payment in an amount determined according to criteria established by the ~~department of administration~~ public service commission by rule, except that such payment shall not be less than \$1,000 nor more than \$20,000. A person whose sole business at the displacement dwelling is the rental of such property to others is not eligible for a payment under this subdivision.

SECTION 7. 32.19 (3) (c) of the statutes is amended to read:

32.19 (3) (c) *Optional payment for businesses.* Any displaced person who moves his or her business, and elects to accept the payment authorized in par. (a), may, if otherwise qualified under par. (b) 2., elect to receive the payment authorized under par. (b) 2., minus whatever payment the displaced person received under par. (a), if the displaced person discontinues the business within 2 years of the date of receipt of payment under par. (a), provided that the displaced person meets eligibility criteria established by the ~~department of administration~~ public service commission

by rule. In no event may the total combined payment be less than \$1,000 nor more than \$20,000.

SECTION 8. 32.19 (4) (a) 2. of the statutes is amended to read:

32.19 (4) (a) 2. The amount of increased interest expenses and other debt service costs incurred by the owner to finance the purchase of another property substantially similar to the property taken, if at the time of the taking the land acquired was subject to a bona fide mortgage or was held under a vendee's interest in a bona fide land contract, and such mortgage or land contract had been executed in good faith not less than 180 days prior to the initiation of negotiations for the acquisition of such property. The computation of the increased interest costs shall be determined according to rules promulgated by the ~~department of administration~~ public service commission.

SECTION 9. 32.19 (4) (b) (intro.) of the statutes is amended to read:

32.19 (4) (b) *Tenants and certain others.* (intro.) In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment to any individual or family displaced from any dwelling which was actually and lawfully occupied by such individual or family for not less than 90 days prior to the initiation of negotiations for the acquisition of such property or, if displacement is not a direct result of acquisition, such other event as determined by the ~~department of administration~~ public service commission by rule. For purposes of this paragraph, a corporation organized under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17), may, if otherwise eligible, be considered a displaced tenant. Subject to the limitations under par. (bm), such payment shall be either:

SECTION 10. 32.19 (4m) (a) 2. of the statutes is amended to read:

32.19 (4m) (a) 2. The amount, if any, which will compensate such owner displaced person for any increased interest and other debt service costs which such person is required to pay for financing the acquisition of any replacement property, if the property acquired was encumbered by a bona fide mortgage or land contract which was a valid lien on the property for at least one year prior to the initiation of negotiations for its acquisition. The amount under this subdivision shall be determined according to rules promulgated by the ~~department of administration~~ public service commission.

SECTION 11. 32.19 (4m) (b) (intro.) of the statutes is amended to read:

32.19 (4m) (b) *Tenant-occupied business or farm operation.* (intro.) In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment to any tenant displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to initiation of negotiations for the acquisition of the real property on which the business or farm operation lies or, if displacement is not a direct result of acquisition, such other event as determined by the ~~department of administration~~ public service commission, and who actually rents or purchases a comparable replacement business or farm operation for the displaced business or farm operation within 2 years after the date the person vacates the acquired property. At the option of the tenant displaced person, such payment shall be either:

SECTION 12. 32.19 (4m) (b) 1. of the statutes is amended to read:

32.19 (4m) (b) 1. The amount, not to exceed \$30,000, which is necessary to lease or rent a comparable replacement business or farm operation for a period of 4 years. The payment shall be computed by determining the average monthly rent paid for the property from which the person was displaced for the 12 months prior to the

initiation of negotiations or, if displacement is not a direct result of acquisition, such other event as determined by the ~~department of administration~~ public service commission and the monthly rent of a comparable replacement business or farm operation, and multiplying the difference by 48; or

SECTION 13. 32.197 of the statutes is amended to read:

32.197 Waiver of relocation assistance. An owner-occupant of property being acquired may waive his or her right to receive any relocation payments or services under this subchapter if the property being acquired is not contiguous to any property which may be acquired by the condemnor and is not part of a previously identified or proposed project where it is reasonable to conclude that acquisition by the condemnor may occur in the foreseeable future. Prior to the execution of any waiver under this section, the condemnor shall provide to the owner-occupant, in writing, full information about the specific payments and services being waived by the owner-occupant. The ~~department of administration~~ public service commission shall by rule establish procedures for relocation assistance waivers under this section to ensure that the waivers are voluntarily and knowledgeably executed.

SECTION 14. 32.20 of the statutes is amended to read:

32.20 Procedure for collection of itemized items of compensation. Claims for damages itemized in ss. 32.19 and 32.195 shall be filed with the condemnor carrying on the project through which condemnee's or claimant's claims arise. All such claims must be filed after the damages upon which they are based have fully materialized but not later than 2 years after the condemnor takes physical possession of the entire property acquired or such other event as determined by the ~~department of administration~~ public service commission by rule. If such claim is not allowed within 90 days after the filing thereof, the claimant has a right of action

against the condemnor carrying on the project through which the claim arises. Such action shall be commenced in a court of record in the county wherein the damages occurred. In causes of action, involving any state commission, board or other agency, excluding counties, the sum recovered by the claimant shall be paid out of any funds appropriated to such condemning agency. Any judgment shall be appealable by either party and any amount recovered by the body against which the claim was filed, arising from costs, counterclaims, punitive damages or otherwise may be used as an offset to any amount owed by it to the claimant, or may be collected in the same manner and form as any other judgment.

SECTION 15. 32.25 (1) of the statutes is amended to read:

32.25 (1) Except as provided under sub. (3) and s. 85.09 (4m), no condemnor may proceed with any activity that may involve the displacement of persons, business concerns or farm operations until the condemnor has filed in writing a relocation payment plan and relocation assistance service plan and has had both plans approved in writing by the ~~department of administration~~ public service commission.

SECTION 16. 32.25 (2) (h) of the statutes is amended to read:

32.25 (2) (h) Assure that, within a reasonable time prior to displacement, there will be available, to the extent that may reasonably be accomplished, housing meeting the standards established by the ~~department of administration~~ public service commission for decent, safe and sanitary dwellings. The housing, so far as practicable, shall be in areas not generally less desirable in regard to public utilities, public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced and equal in number to the number of such

displaced families or individuals and reasonably accessible to their places of employment.

SECTION 17. 32.26 (title) of the statutes is amended to read:

32.26 (title) Authority of the ~~department of administration~~ public service commission.

SECTION 18. 32.26 (1) of the statutes is amended to read:

32.26 (1) In addition to all other powers granted in this subchapter, the ~~department of administration~~ public service commission shall formulate local standards for decent, safe and sanitary dwelling accommodations.

SECTION 19. 32.26 (2) (a) of the statutes is amended to read:

32.26 (2) (a) The ~~department of administration~~ public service commission shall promulgate rules to implement and administer ss. 32.19 to 32.27.

SECTION 20. 32.26 (2) (b) of the statutes is amended to read:

32.26 (2) (b) The ~~department of administration~~ public service commission and the department of transportation shall establish interdepartmental interagency liaison procedures for the purpose of cooperating and exchanging information to assist the ~~department of administration~~ public service commission in promulgating rules under par. (a).

SECTION 21. 32.26 (3) of the statutes is amended to read:

32.26 (3) The ~~department of administration~~ public service commission may make investigations to determine if the condemnor is complying with ss. 32.19 to 32.27. The ~~department~~ commission may seek an order from the circuit court requiring a condemnor to comply with ss. 32.19 to 32.27 or to discontinue work on that part of the project which is not in substantial compliance with ss. 32.19 to 32.27. The court shall give hearings on these actions precedence on the court's calendar.

SECTION 22. 32.26 (4) of the statutes is amended to read:

32.26 (4) Upon the request of the ~~department of administration~~ public service commission, the attorney general shall aid and prosecute all necessary actions or proceedings for the enforcement of this subchapter and for the punishment of all violations of this subchapter.

SECTION 23. 32.26 (5) of the statutes is amended to read:

32.26 (5) Any displaced person may, prior to commencing court action against the condemnor under s. 32.20, petition the ~~department of administration~~ public service commission for review of his or her complaint, setting forth in the petition the reasons for his or her dissatisfaction. The ~~department~~ commission may conduct an informal review of the situation and attempt to negotiate an acceptable solution. If an acceptable solution cannot be negotiated within 90 days, the ~~department~~ commission shall notify all parties, and the petitioner may then proceed under s. 32.20. The informal review procedure provided by this subsection is not a condition precedent to the filing of a claim and commencement of legal action pursuant to s. 32.20. In supplying information required by s. 32.25 (2) (d), the condemnor shall clearly indicate to each displaced person his or her right to proceed under this paragraph and under s. 32.20, and shall supply full information on how the displaced person may contact the ~~department of administration~~ public service commission.

SECTION 24. 32.26 (6) of the statutes is amended to read:

32.26 (6) The ~~department of administration~~ public service commission, with the cooperation of the attorney general, shall prepare pamphlets in simple language and in readable format describing the eminent domain laws of this state, including the reasons for condemnation, the procedures followed by condemnors, how citizens may influence the condemnation process and the rights of property owners and

citizens affected by condemnation. The department commission shall make copies of the pamphlets available to all condemnors, who may be charged a price for the pamphlets sufficient to recover the costs of production.

SECTION 25. 32.26 (7) of the statutes is amended to read:

32.26 (7) The ~~department of administration~~ public service commission shall provide technical assistance on relocation plan development and implementation to any condemnor carrying out a project which may result in the displacement of any person.

SECTION 26. 85.09 (4m) of the statutes is amended to read:

85.09 (4m) RELOCATION PLAN. The department is exempt from s. 32.25 (1) if the department determines that acquiring rail property under this section will not result in any displaced persons as defined in s. 32.19 (2) (e). The department shall file a statement of its determinations with the ~~department of administration~~ public service commission.

SECTION 9101. Nonstatutory provisions; Administration.

(1) STATE ENERGY OFFICE AND RELOCATION ADMINISTRATION.

(a) *Definitions.* In this subsection:

1. “Commission” means the public service commission.

2. “Department” means the department of administration.

3. “Office” means the state energy office in the division of energy services of the department.

4. “Relocation administration” means the powers and duties of the department under sections 32.19 to 32.27, 2013 stats.

(b) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department primarily relating to the office or relocation

administration, as determined by the secretary of administration, become the assets and liabilities of the commission.

(c) *Employee transfers.* On the effective date of this paragraph, 5.0 FTE FED positions, and the incumbent employees holding those positions, in the department who perform duties primarily related to the office, as determined by the secretary of administration, are transferred to the commission. On the effective date of this paragraph, 1.0 FTE GPR position, and the incumbent employee holding that position, in the department who performs duties primarily related to relocation administration, as determined by the secretary of administration, is transferred to the commission to be funded under section 20.155 (1) (g) of the statutes, as affected by this act.

(d) *Employee status.* Employees transferred under paragraph (c) have all the rights and the same status under subchapter V of chapter 111 and chapter 230 of the statutes in the commission that they enjoyed in the department immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who has attained permanent status in class is required to serve a probationary period.

(e) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department primarily relating to the office or relocation administration, as determined by the secretary of administration, becomes the personal property of the commission.

(f) *Pending matters.* Any matter pending with the department primarily relating to the office or relocation administration, as determined by the department, on the effective date of this paragraph is transferred to the commission. All materials

submitted to or actions taken by the department are considered as having been submitted to or taken by the commission.

(g) *Contracts.* All contracts entered into by the department primarily relating to the office or relocation administration, as determined by the department, in effect on the effective date of this paragraph remain in effect and are transferred to the commission. The commission shall carry out any obligations under those contracts unless modified or rescinded to the extent allowed under the contract.

(h) *Rules and orders.* All rules promulgated by the department under sections 32.19 to 32.27 of the statutes in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until amended or are repealed by the commission. All orders issued by the department under sections 32.19 to 32.27 of the statutes in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until modified or rescinded by the commission.

(END)