



---

---

## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

---

---

**2005 Assembly Bill 437**

**Assembly  
Amendment 2**

*Memo published:* June 17, 2005

*Contact:* John Stolzenberg, Chief of Research Services (266-2988)

*Assembly Bill 437* establishes that, if a public utility receives a Certificate of Public Convenience and Necessity (CPCN) from the Public Service Commission (PSC) for the construction of a high-voltage transmission line that will be constructed over, on, or under land owned by a county, city, village, town, public board or commission, public utility, or cooperative association, the owner of the land must convey to the public utility, at fair market value, the interest in the land necessary for the construction, operation, and maintenance of the high-voltage transmission line. If the public utility and landowner cannot agree on the fair market value of the affected property, they must each obtain an independent appraisal of the property, and the public utility must pay for the landowner's appraisal. The bill specifies that the fair market value for the purpose of the required conveyance is the average of the two appraisals.

*Assembly Amendment 2* makes the following changes in Assembly Bill 437:

- Expands the applicability of the bill to also apply to qualifying transmission lines being constructed by a retail or wholesale electric cooperative. The amendment accomplishes this by substituting "electric utility" for "public utility" throughout the bill and using a definition of "electric utility" that means an electric public utility or a retail or wholesale electric cooperative.
- Removes land owned by a public utility or cooperative association from the conveyance requirement in the bill.
- Sets a deadline for the electric utility and the landowner to agree on the fair market value of the affected property to be within 90 days after the electric utility notifies the landowner that the CPCN for the transmission line has been issued by the PSC, after which the arbitration process, described below, must be used to determine this value, unless the electric utility and landowner agree to extend this 90-day period by an additional 90 days if necessary to reach an agreement concerning the fair market value in lieu of arbitration.

- Replaces the process in the bill for determining the fair market value of the affected property when this value cannot be reached by agreement, by establishing that under this circumstance the value shall be determined by an arbitrator appointed by the circuit court of the county in which the land is located. The amendment specifies the following features of this arbitration process:
  - ◆ The arbitration must be conducted on an expedited basis to the extent an expedited proceeding is available.
  - ◆ The arbitrator and circuit court appointing the arbitrator shall have the powers and duties specified in the state law governing arbitrations, ch. 788, Stats.
  - ◆ The interest in the land must be conveyed to the electric utility upon commencement of the arbitration proceeding.
  - ◆ The decision of the arbitrator concerning the fair market value of the land is binding on the parties, except as otherwise provided under the state arbitration law.

**Legislative History**

On June 14, 2005, Representative Montgomery offered Assembly Amendment 2 to Assembly Bill 437, and the Assembly adopted this amendment on a voice vote. The Assembly passed Assembly Bill 437, as amended, on June 16, 2004, on a vote of Ayes, 61; Noes, 35; and Not Voting, 3.

JES:jal:rv