



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

Hearing Testimony
Assembly Committee on Local Government
June 19, 2019

Chairman Novak and members of the Assembly Committee on Local Government, thank you for affording me with the opportunity to testify on behalf of Assembly Bill 256 relating to: condemnation payments made by a redevelopment authority or community development authority.

Assembly Bill 256 is a technical fix to 2017 Wisconsin Act 243, which increased caps for Business Replacement Payments when the condemnor is a village, city, or town. For these entities, Act 243 increased the caps to \$80,000 for tenants and \$100,000 for owner-occupants. Municipalities throughout the state contacted my office to inquire as to why redevelopment authorities (RDAs), community development authorities (CDAs), and counties, were not subject to these caps. To address these concerns, I authored Assembly Bill 256.

Assembly Bill 256, with the amendment, extends the same BRP caps to all entities granted condemnation authority under section 32.02 of Wisconsin state statutes. It is important to note that BRP caps are applicable to RDAs and CDAs when conducting economic development project on behalf of cities or villages.

This is a common-sense, straightforward bill designed to correct a drafting oversight. I worked closely with the League of Wisconsin Municipalities and Wisconsin Counties Association and appreciate their support of Assembly Bill 256

I am happy to answer any questions you might have regarding Assembly Bill 256.



MEMORANDUM

TO: Honorable Members of the Assembly Committee on Local Government

FROM: Michael J. Lanzdorf, Racine County Corporation Counsel

DATE: June 19, 2019

SUBJECT: Support for Assembly Bill 256 – Limiting Condemnation Payments Made by a County or a Redevelopment or Community Development Authority

Racine County supports Assembly Bill 256, which caps the amount of additional payment required under the eminent domain law to persons who are displaced from a business or farm operation when the condemnor is a county, redevelopment authority, or community development authority.

It is well settled that the Fifth Amendment of the U.S. Constitution and Article I, Section 13 of the Wisconsin Constitution require the government to pay just compensation when private property is taken for public use. However, there is no constitutional right to unlimited recovery for all consequential damages in eminent domain cases. Wis. Stat. § 32.19(4m) sets limits on payments for certain persons displaced from a business or farm operation as a result of condemnation.

2017 Wisconsin Act 243 revised the maximum amount of payments that certain condemnors must pay to such persons for the cost of purchasing or renting a replacement business or farm operation. Whereas payment caps were previously set at \$50,000 for purchase and \$30,000 for rental, 2017 Act 243 set the caps at \$100,000 and \$80,000 respectively. Notably, however, 2017 Act 243 effectively removed all payment caps for counties and condemnors other than a village, town, or city. In other words, there is no limit to the amount of payments that a county must pay to persons for the cost of purchasing or renting a replacement business or farm operation and such payments may exceed the maximum amount that a village, town, or city must pay.

Assembly Bill 256 eliminates this difference in treatment for a county and redevelopment or community development authority and sets limits on payments for certain persons displaced from a business or farm operation by such condemnors. The changes are necessary for counties to limit the amount of payments that it must pay when private property is taken for public use.

Racine County respectfully requests your support for Assembly Bill 256.

Thank you for considering our comments.



131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

To: Assembly Committee on Local Government

From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities

Date: June 19, 2019

Re: AB 256, Extending to RDAs, CDAs and Counties Caps on Business Replacement Payments in Condemnation Actions

The League of Wisconsin Municipalities supports AB 256, extending to redevelopment authorities (RDAs), community development authorities (CDAs), and counties the same caps on business replacement payments in condemnation actions that are applicable to cities, villages, and towns. This bill corrects a technical oversight in 2017 Wisconsin Act 243. Historically, state law capped the maximum business replacement payments a public entity using condemnation powers would have to pay to a tenant or owner. Those caps for many years were set at \$30,000 for a tenant-occupant and \$50,000 for an owner of the property being condemned. 2017 Act 243 eliminated the caps for all condemners but cities, villages and towns and increased the caps for those entities to \$80,000 and \$100,000, respectively.

RDAs and CDAs use their eminent domain authority on behalf of cities and villages to assemble property for redevelopment projects. RDAs can be created by municipalities to eliminate blight and engage in redevelopment of downtowns and other neighborhoods within the creating municipality. RDAs may acquire by purchase, lease, or eminent domain any property necessary to a redevelopment or urban renewal project. A CDA is essentially a combination RDA and housing authority. A CDA has the same blight elimination and redevelopment powers, including eminent domain, as an RDA.

The caps on business replacement payments should apply to RDAs and CDAs to the same extent they apply to cities and villages. This is a common-sense technical fix that reduces the costs imposed on RDAs and CDAs when conducting critical economic development and redevelopment projects on behalf of cities and villages.

We urge you to recommend passage of AB 256. Thanks for considering our comments.

YOUR VOICE. YOUR WISCONSIN.

Paul Farrow
County Executive



Allison Bussler
Director

WAUKESHA COUNTY
DEPARTMENT OF PUBLIC WORKS

To: Assembly Committee on Local Government
Date: Wednesday, June 19, 2019
Re: Support Assembly Bill 256

Thank you Chairman Novak and members of the Assembly Committee on Local Government for having a hearing today. Waukesha County is urging you to support Assembly Bill 256 which is a technical fix to 2017 Wisconsin Act 243 that revised the maximum amount of payments that a city, town or village must pay for the cost of purchasing or renting a replacement business or farm operation, but removed those caps for counties. Assembly Bill 256 extends the payment caps to counties and redevelopment or community development authorities.

The county acquires private property for new highways, roundabouts, intersections and road expansions. It is done carefully to respect the property owner's rights. County roads connect communities and in many cases serve as their "main street" where many businesses are located. Waukesha County expanded the City of Muskego's main street, CTH L - Janesville Road, where we worked with many businesses to purchase their properties and relocate their operations to accommodate the new roadway, and we are now in the process of widening North Avenue, CTH M, in the City of Brookfield which also houses many businesses.

Waukesha County currently does not relocate businesses when acquiring land for a project due to the unknown financial burden it could place on the county. Our inability to relocate business properties for our projects results in issues in our design and in addressing traffic and safety concerns. Giving counties the same caps that other local governments have in place would limit our financial exposure and provide us one more tool in the toolbox when working on these projects.

Thank you for your time and consideration. Please do not hesitate to reach out to me if you have any questions.