



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-2442/1  
MDK:cjs

## 2015 ASSEMBLY BILL 319

August 26, 2015 – Introduced by Representatives WEATHERSTON, KUGLITSCH, KAHL, MACCO, MURPHY, QUINN and STEFFEN, cosponsored by Senator ROTH. Referred to Committee on Energy and Utilities.

1     **AN ACT** *to renumber and amend* 196.491 (3e) (ag); *to amend* 196.491 (title),  
2           196.491 (3e) (title), 196.491 (3e) (am) and 196.491 (3e) (b); and *to create*  
3           196.491 (3e) (ag) 1., 196.491 (3e) (ag) 3. and 196.491 (3e) (ag) 4. of the statutes;  
4           **relating to:** conveying interests in local government land for construction of  
5           natural gas lines.

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### *Analysis by the Legislative Reference Bureau*

Current law generally prohibits the condemnation of real property owned by the state, a municipality, or a county. However, an exception applies for high-voltage transmission lines constructed by electric public utilities and cooperative associations. Under current law, if such a utility or cooperative association receives a certificate of public convenience and necessity (CPCN) from the Public Service Commission (PSC) for a high-voltage transmission line constructed over, on, or under land owned by a county, city, village, town, public board, or commission, the owner of the land must convey to the utility or cooperative association, at fair market value, the interest in land necessary for the construction, operation, and maintenance of the line.

Current law imposes a 90-day deadline for the parties to agree on the fair market value, except that the parties can agree to extend the deadline by an additional 90 days. The deadline begins to run when the utility or cooperative association notifies the landowner that the PSC has issued a CPCN for the line. If the parties cannot reach agreement before the deadline expires, current law requires

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the circuit court of the county in which the land is located to appoint an arbitrator to determine fair market value. Current law requires the interest in the land to be conveyed to the utility or cooperative association upon commencement of the arbitration proceeding. The arbitrator's determination is binding on the parties, unless a court modifies or vacates the determination under limited circumstances specified under the Wisconsin Arbitration Act. Those circumstances include fraud, partiality, misconduct, and material miscalculating.

This bill expands the exception regarding condemnation described above to include natural gas distribution and transmission lines constructed by natural gas public utilities. Under the bill, if a natural gas public utility receives a certificate from the PSC authorizing construction of such a line over, on, or under land owned by a county, city, village, town, public board, or commission, the owner of the land must convey to the utility, at fair market value, the interest in land necessary for the construction, operation, and maintenance of the line. The deadlines for agreeing to fair market value, as well as the arbitration requirements, which are described above also apply to the parties.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 196.491 (title) of the statutes is amended to read:

2           **196.491 (title) Strategic energy assessment; electric generating**  
3 **facilities and transmission lines; natural gas lines.**

4           **SECTION 2.** 196.491 (3e) (title) of the statutes is amended to read:

5           196.491 **(3e)** (title) CONVEYANCE OF PROPERTY TO AN ELECTRIC OR NATURAL GAS  
6 UTILITY.

7           **SECTION 3.** 196.491 (3e) (ag) of the statutes is renumbered 196.491 (3e) (ag)  
8 (intro.) and amended to read:

9           196.491 **(3e)** (ag) (intro.) In this subsection, “electric;

10           2. “Electric utility” has the meaning given in s. 196.485 (1) (bs).

11           **SECTION 4.** 196.491 (3e) (ag) 1. of the statutes is created to read:

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1           196.491 (3e) (ag) 1. “Certificate” means, with respect to an electric utility, a  
2 certificate of public convenience and necessity under sub. (3) and, with respect to a  
3 natural gas public utility, a certificate under s. 196.49.

4           **SECTION 5.** 196.491 (3e) (ag) 3. of the statutes is created to read:

5           196.491 (3e) (ag) 3. “Line” means, with respect to an electric utility, a  
6 high-voltage transmission line and, with respect to a natural gas public utility, a  
7 natural gas transmission or distribution line.

8           **SECTION 6.** 196.491 (3e) (ag) 4. of the statutes is created to read:

9           196.491 (3e) (ag) 4. “Utility” means an electric utility or natural gas public  
10 utility.

11           **SECTION 7.** 196.491 (3e) (am) of the statutes is amended to read:

12           196.491 (3e) (am) Notwithstanding s. 32.03 (1), if an electric utility receives  
13 a certificate of public convenience and necessity from the commission under sub. (3)  
14 for the construction of a high-voltage transmission line that will be constructed over,  
15 on, or under land owned by a county, city, village, town, public board or commission,  
16 the owner of the land shall convey to the electric utility, at fair market value as  
17 determined under par. (b), the interest in the land necessary for the construction,  
18 operation, and maintenance of the high-voltage transmission line. This paragraph  
19 applies to a line for which construction commences before, on, or after the effective  
20 date of this paragraph .... [LRB inserts date], except that this paragraph does not  
21 affect the terms of any conveyance of an interest in land that was completed before  
22 the effective date of this paragraph .... [LRB inserts date].

23           **SECTION 8.** 196.491 (3e) (b) of the statutes is amended to read:

24           196.491 (3e) (b) If the electric utility and owner of the land cannot agree on the  
25 fair market value of the interest in land sought by the electric utility within 90 days

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1 after the electric utility notifies the owner that the certificate of public convenience  
2 and necessity has been issued, the issue of the fair market value of the interest shall  
3 be determined by an arbitrator appointed by the circuit court of the county in which  
4 the land is located, except that the electric utility and owner of the land may agree  
5 to extend the 90-day period by an additional 90 days if necessary to reach an  
6 agreement concerning fair market value in lieu of arbitration. The interest in land  
7 shall be conveyed to the electric utility upon commencement of the arbitration  
8 proceeding. Any arbitration under this paragraph shall be conducted on an  
9 expedited basis to the extent that an expedited proceeding is available. The  
10 arbitrator and circuit court appointing the arbitrator shall have the powers and  
11 duties specified in ch. 788. The decision of an arbitrator concerning fair market value  
12 shall be binding on the parties, except as otherwise provided under ch. 788.

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**(END)**