

**2015 DRAFTING REQUEST**

**Senate Amendment (SA-SB21)**

Received: **6/8/2015** Received By: **mduchek**  
 For: **Legislative Fiscal Bureau** Same as LRB:  
 May Contact: By/Representing: **Rick Olin**  
 Subject: **Eminent Domain - miscellaneous** Drafter: **mduchek**  
 Addl. Drafters:  
 Extra Copies:

Submit via email: **YES**  
 Requester's email:  
 Carbon copy (CC) to: **rick.olin@legis.wisconsin.gov**  
**rob.reinhardt@legis.wisconsin.gov**  
**vicki.holten@legis.wisconsin.gov**  
**eric.mueller@legis.wisconsin.gov**

**Pre Topic:**

LFB:.....Rick Olin -

**Topic:**

Condemnation authority (Motion 999)

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 6/22/2015		_____			
/P1	mduchek 7/1/2015	kfollett 7/1/2015	_____	mbarman 6/22/2015		
/P2			_____	srose		

Vers.    Drafted

Reviewed

Proofed  
\_\_\_\_\_

Submitted  
7/1/2015

Jacketed

Required

FE Sent For:

<END>

1

**SECTION 1.** 13.48 (12) (b) 1. of the statutes is amended to read:

13.48 (12) (b) 1. A facility constructed by or for ~~corporations~~ a corporation having condemnation authority under s. 32.02 (3) to (10) ~~and~~ or a business entity having condemnation authority under s. 32.02 (13) for purposes for which the corporation or business entity would have condemnation authority.

**SECTION 2.** 32.02 (intro.) of the statutes is amended to read:

**32.02 Who may condemn; purposes.** (intro.) The following departments, municipalities, boards, commissions, public officers, and ~~corporations~~ business entities may acquire by condemnation any real estate and personal property appurtenant thereto or interest therein which they have power to acquire and hold or transfer to the state, for the purposes specified, in case such property cannot be acquired by gift or purchase at an agreed price:

**SECTION 3.** 32.02 (13) of the statutes is amended to read:

**32.02 (13)** Any ~~corporation~~ business entity, as defined in s. 13.62 (5), licensed to do business in Wisconsin that shall transmit oil or related products including all hydrocarbons which are in a liquid form at the temperature and pressure under which they are transported in pipelines in Wisconsin, and shall maintain terminal or product delivery facilities in Wisconsin, and shall be engaged in interstate or international commerce, subject to the approval of the public service commission upon a finding by it that the proposed real estate interests sought to be acquired are in the public interest.

**SECTION 4.** 66.1035 of the statutes is amended to read:

**66.1035 Rights of abutting owners.** The owners of land abutting on any highway, street, or alley shall have a common right in the free and unobstructed use of the full width of the highway, street, or alley. No town, village, city, county, company, or corporation shall close up, use, or obstruct any part of the highway, street, or alley so as to materially interfere with its usefulness as a highway or so as to damage abutting property, or permit the same to be done, without just compensation being made for any resulting damage. This section does not impose liability for damages arising from the use, maintenance, and operation of tracks or other public improvement legally laid down, built, or established in any street, highway, or alley prior to April 7, 1889. All rights in property that could entitle an owner to damages under this section may be condemned by any ~~corporation~~ business entity that is listed in s. 32.02 in the same manner that other property may be condemned by the ~~corporation~~ business entity.

**SECTION 6. Initial applicability.**

Sections 13.48 (12) (b) 1., 32.02 (intro.) and (13), and 66.1035 of the statutes apply to applications for public interest determinations filed with the Public Service Commission of Wisconsin after March 1, 2014.



State of Wisconsin  
2015 - 2016 LEGISLATURE

ln 6-22

LRBb0325/P1

MED:...

emw

LFB:.....Rick Olin - Condemnation authority (Motion 999)

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

**SENATE AMENDMENT ,**

**TO SENATE BILL 21**

D-note

S.A. ✓  
Xref ✓

1 At the locations indicated, amend the bill as follows:

2 ✓1. Page 65, line 5: after that line insert:

3 "SECTION 42m. 13.48 (12) (b) 1. of the statutes is amended to read:

4 13.48 (12) (b) 1. A facility constructed by or for corporations a corporation  
5 having condemnation authority under s. 32.02 (3) to (10) and or a business entity  
6 having condemnation authority under s. 32.02 (13) for purposes for which the  
7 corporation would have condemnation authority."

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33, ss. 25 to 261, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20; 2009 a. 28, 185, 361; 2011 a. 7, 10, 32; 2013 a. 20; s. 35.17 correction in (39h) (c).

8 ✓2. Page 530, line 25: after that line insert:

9 "SECTION 1066m. 32.02 (intro.) of the statutes is amended to read:

1           **32.02 Who may condemn; purposes.** (intro.) The following departments,  
2 municipalities, boards, commissions, public officers, and corporations business  
3 entities may acquire by condemnation any real estate and personal property  
4 appurtenant thereto or interest therein which they have power to acquire and hold  
5 or transfer to the state, for the purposes specified, in case such property cannot be  
6 acquired by gift or purchase at an agreed price.”

History: 1971 c. 100 s. 23; 1973 c. 243, 305; 1975 c. 68, 311; 1977 c. 29, 203, 438, 440; 1979 c. 34 s. 2102 (52) (b); 1979 c. 122; 1979 c. 175 s. 53; 1981 c. 86, 346, 374;  
1983 a. 27; 1985 a. 29 s. 3200 (51); 1985 a. 30 s. 42; 1985 a. 187; 1985 a. 297 s. 76; 1987 a. 27; 1989 a. 31; 1993 a. 246, 263; 1993 a. 491 s. 284; 1995 a. 27 s. 9126 (19); 1995  
a. 201; 1997 a. 204; 1999 a. 65; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 30 s. 108; 2005 a. 335; 2007 a. 20, s. 9121 (6) (a); 2009 a. 28, 205; 2011 a. 32; 2013 a. 1.

7           ✓ **3.** Page 531, line 15: after that line insert:

8           “SECTION 1067m. 32.02 (13) of the statutes is amended to read:

9           32.02 (13) Any corporation business entity, as defined in s. 13.62 (5), licensed  
10 to do business in Wisconsin that shall transmit oil or related products including all  
11 hydrocarbons which are in a liquid form at the temperature and pressure under  
12 which they are transported in pipelines in Wisconsin, and shall maintain terminal  
13 or product delivery facilities in Wisconsin, and shall be engaged in interstate or  
14 international commerce, subject to the approval of the public service commission  
15 upon a finding by it that the proposed real estate interests sought to be acquired are  
16 in the public interest.”

History: 1971 c. 100 s. 23; 1973 c. 243, 305; 1975 c. 68, 311; 1977 c. 29, 203, 438, 440; 1979 c. 34 s. 2102 (52) (b); 1979 c. 122; 1979 c. 175 s. 53; 1981 c. 86, 346, 374;  
1983 a. 27; 1985 a. 29 s. 3200 (51); 1985 a. 30 s. 42; 1985 a. 187; 1985 a. 297 s. 76; 1987 a. 27; 1989 a. 31; 1993 a. 246, 263; 1993 a. 491 s. 284; 1995 a. 27 s. 9126 (19); 1995  
a. 201; 1997 a. 204; 1999 a. 65; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 30 s. 108; 2005 a. 335; 2007 a. 20, s. 9121 (6) (a); 2009 a. 28, 205; 2011 a. 32; 2013 a. 1.

17           19  
          **4.** Page 791, line 23: after that line insert:

18           “SECTION 1993m. 66.1035 of the statutes is amended to read:

19           **66.1035 Rights of abutting owners.** The owners of land abutting on any  
20 highway, street, or alley shall have a common right in the free and unobstructed use  
21 of the full width of the highway, street, or alley. No town, village, city, county,  
22 company, or corporation shall close up, use, or obstruct any part of the highway,  
23 street, or alley so as to materially interfere with its usefulness as a highway or so as

1 to damage abutting property, or permit the same to be done, without just  
2 compensation being made for any resulting damage. This section does not impose  
3 liability for damages arising from the use, maintenance, and operation of tracks or  
4 other public improvement legally laid down, built, or established in any street,  
5 highway, or alley prior to April 7, 1889. All rights in property that could entitle an  
6 owner to damages under this section may be condemned by any ~~corporation~~ business  
7 entity that is listed in s. 32.02 in the same manner that other property may be  
8 condemned by the ~~corporation~~ business entity.”

9 History: 2003 a. 214 s. 101; Stats. 2003 s. 66.1035.

✓ **5.** Page 1811, line 21: after that line insert:

10 (1m) CONDEMNATION AUTHORITY. The treatment of sections 13.48 (12) (b) 1.,  
11 32.02 (intro.) and (13), and 66.1035 of the statutes first applies retroactively to  
12 applications for public interest determinations under section 32.02 (13) of the  
13 statutes, as affected by this act, that are filed with the public service commission on  
14 March 1, 2014.”

15

(END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0325/P1dn

MED:...

*Draft*

*emw*

Rick (1)

I drafted this in accordance with the instructions, but as I indicated, the term "corporation" is used more than a dozen times in s. 32.02, as well as other places in chapter 32, and changing only these references may have unintended consequences. Note that the PSC already determined in 2008 that "corporation," as used in s. 32.02 (13), "can be reasonably construed to mean any form of business entity" (see "Application of Enbridge Energy, Limited Partnership...", April 3, 2008, available via LexisNexis at 2008 Wisc. PUC LEXIS 238). If only one instance of "corporation" is now changed to "business entity," this will likely be read as strongly suggesting that other uses of "corporation" in ch. 32 now do *not* include other business entities, which could have consequences for other business entities exercising condemnation authority in other contexts. In addition, note that sections 32.185 and 32.29 are among the provisions that use "corporation," but that were not on the list of provisions to be amended. Since these provisions are used in determining which condemnors have to pay relocation expenses and are subject to criminal liability, not changing them may suggest, for instance, that non-corporations never have to pay relocation expenses. ✓

\* Also, I included the retroactive initial applicability provision, but without further background, I am not sure what effect and issues there might be with that as opposed to simply having a new filing with the PSC.

Michael Duchek  
Legislative Attorney  
(608) 266-0130  
michael.duchek@legis.wisconsin.gov



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBb0325/P1dn  
MED:emw

June 22, 2015

Rick:

I drafted this in accordance with the instructions, but as I indicated, the term "corporation" is used more than a dozen times in s. 32.02, as well as other places in chapter 32, and changing only these references may have unintended consequences. Note that the PSC already determined in 2008 that "corporation," as used in s. 32.02 (13), "can be reasonably construed to mean any form of business entity" (see "Application of Enbridge Energy, Limited Partnership...", April 3, 2008, available via LexisNexis at 2008 Wisc. PUC LEXIS 238). If only one instance of "corporation" is now changed to "business entity," this will likely be read as strongly suggesting that other uses of "corporation" in ch. 32 now do *not* include other business entities, which could have consequences for other business entities exercising condemnation authority in other contexts. In addition, note that sections 32.185 and 32.29 are among the provisions that use "corporation," but that were not on the list of provisions to be amended. Since these provisions are used in determining which condemnors have to pay relocation expenses and are subject to criminal liability, not changing them may suggest, for instance, that non-corporations never have to pay relocation expenses.

Also, I included the retroactive initial applicability provision, but without further background, I am not sure what effect and issues there might be with that as opposed to simply having a new filing with the PSC.

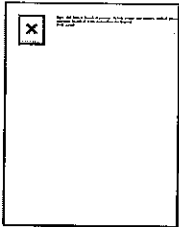
Michael Duchek  
Legislative Attorney  
(608) 266-0130  
michael.duchek@legis.wisconsin.gov

## Duchek, Michael

---

**From:** Pyper, Thomas TMP (7122) <TPYPER@whdlaw.com>  
**Sent:** Wednesday, July 01, 2015 3:19 PM  
**To:** Duchek, Michael  
**Cc:** Bill McCoshen  
**Subject:** RE: Fwd: drafters note

Thanks again.



**Thomas Pyper**

Shareholder

(608) 258-7122

(608) 258-7138

tpyper@whdlaw.com

**Whyte Hirschboeck Dudek S.C.**

33 East Main Street

Madison, WI 53701-1379

[www.whdlaw.com](http://www.whdlaw.com)



**WHD in the News:** Whyte Hirschboeck Dudek S.C. Practice Areas Named to the U.S. News - Best Lawyers 2014 "Best Law Firms" Rankings [Read more.](#)

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**From:** Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]  
**Sent:** Wednesday, July 01, 2015 3:18 PM  
**To:** Pyper, Thomas TMP (7122)  
**Cc:** Bill McCoshen  
**Subject:** RE: Fwd: drafters note

Thanks, and heard your voicemail. Looks good to me.

-Mike

---

**From:** Pyper, Thomas TMP (7122) [mailto:TPYPER@whdlaw.com]  
**Sent:** Wednesday, July 01, 2015 3:08 PM  
**To:** Duchek, Michael  
**Cc:** Bill McCoshen  
**Subject:** RE: Fwd: drafters note

Mike:

See responses below. Thanks for your help and patience. Give me a call if you would like to discuss.

Thomas Pyper  
Shareholder

Whyte Hirschboeck Dudek S.C.

<http://www.whdlaw.com>

33 East Main Street

Madison, WI 53701-1379

Phone :: (608) 258-7122

Fax :: (608) 258-7138  
Email :: [tpyper@whdlaw.com](mailto:tpyper@whdlaw.com)

-----Original Message-----

From: Duchek, Michael [<mailto:Michael.Duchek@legis.wisconsin.gov>]  
Sent: Tuesday, June 30, 2015 6:27 PM  
To: Bill McCoshen; Toftness, Jenny; Pyper, Thomas TMP (7122); Lisa Wilson  
Subject: RE: Fwd: drafters note

Answers in brackets

Tom,

After talking this over with the two drafters in our office who deal with business law and utilities/telecom, I guess I am hesitant to try to address every instance of "corporation" in ch. 32 because after discussing it I realize that it wouldn't be as easy as simply changing every reference to "corporation" to "business entity" and the changes would probably merit further scrutiny and input (however, I would note that in a 2013 supreme court case the court assumed that ATC, after noting that it was an LLC, had condemnation authority for purposes of s. 32.02 (5) (b) despite the reference there to a "Wisconsin corporation."). If this became an issue it could be dealt with later, perhaps. That said:

1. I would suggest we do change the reference to corporation in ss. 32.185 and 32.29 to business entity, which should work fine. OK? Agreed.
2. Another question raised was what "licensed to do business Wisconsin" means in s. 32.02 (13). If this is not referring to an actual license issued by the state or some other entity, the business law drafter suggested that "licensed to do business" should be changed to "authorized to do business." (The current language there, by the way, has existed since 1951, modified only once (slightly) in 1960, and if this is now the correct terminology, we should probably take this chance to use it.) Agreed.
3. I still need your final thoughts on retroactivity. No need for the retroactivity provision. That is not to say that it should not be applied retroactively. But there is no need for the law to expressly state that it applies to any application or event prior to its enactment. We believe that under current law it will be so applied.

Happy to discuss tomorrow, but time may be of the essence, I understand.

-Mike

---

From: Bill McCoshen [[bill.mccoshen@capitolconsultants.net](mailto:bill.mccoshen@capitolconsultants.net)]  
Sent: Monday, June 29, 2015 9:32 AM  
To: Duchek, Michael; Toftness, Jenny; Pyper, Thomas TMP (7122); Lisa Wilson  
Subject: FW: Fwd: drafters note

Michael,

My name is Bill McCoshen. I don't believe we have met, but I'm a lobbyist for Enbridge in Wisconsin. I got an email from Jenny Toftness on Friday with your questions regarding the proposed changes to ss 32.02 (13). Our local counsel is Mr. Tom Pyper from Whyte Hirschboeck Dudek S.C.. You can see his response below. It may be useful to get the two of you on the phone this morning to discuss. Can Tom call you this morning? If so, what would be a good time for you?

I have your number as 266-0130. Is that the best number for Tom to reach you? I copied Tom and Lisa Wilson from Enbridge on this email.

Thanks!

Bill McCoshen

-----Original Message-----

From: Pyper, Thomas TMP (7122) [mailto:TPYPER@whdlaw.com]  
Sent: Saturday, June 27, 2015 3:05 PM  
To: Bill McCoshen; Lisa Wilson; James D. Watts  
Subject: RE: Fwd: drafters note

I can do a call on Monday. The answers are as follows:

- (1) Enbridge does <sup>not</sup> oppose changing corporation to business entity every where it appears in Ch 32. It just makes the drafting more difficult to make sure the new business entity definition works and is referenced for all the changes. As long as the change to business entity is made to 32.02 (13) Enbridge is indifferent to the other changes.
- (2) The change needs to be made. The PSC is not like a court. A finding in one contested case has no binding precedential value for another contested case. There are scores of PSC decisions that merely state that the Commission has simply chosen not to follow past decisions. Also, a court is in no way bound by the PSC legal conclusion when it reviews the PSC ruling. So the PSC decision referenced by the drafter (Enbridge's last case) provides no certainty.
- (3) The retroactive application covers the pending application for Sandpiper and Line 3. The drafter is right that Enbridge could just refile but that would cost money and set the PSC public interest finding back about a year. So the retroactive provision is important to Enbridge.

Thomas Pyper  
Shareholder  
Whyte Hirschboeck Dudek S.C.  
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Madison, WI 53701-1379  
Phone :: (608) 258-7122  
Fax :: (608) 258-7138  
Email :: tpyper@whdlaw.com

---

From: Bill McCoshen  
Sent: Saturday, June 27, 2015 7:20:30 AM  
To: Lisa Wilson; James D. Watts; Pyper, Thomas TMP (7122)  
Subject: Fwd: drafters note

Can Tom or Lisa be available to chat with the LRB drafter on Monday?

Bill

Sent from my iPad

Begin forwarded message:

From: "Toftness, Jenny" <Jenny.Toftness@legis.wisconsin.gov<mailto:Jenny.Toftness@legis.wisconsin.gov>>  
Date: June 26, 2015 at 1:58:44 PM CDT

To: Bill McCoshen <bill.mccoshen@capitolconsultants.net<mailto:bill.mccoshen@capitolconsultants.net>>  
Subject: drafters note

Bill,

I think we maybe need your attorney to weigh in on this and probably talk to this drafter directly to iron this out. I don't want to there to be any unforeseen consequences.

Also, if what this note says is true about the 2008 PSC ruling already allowing other business entities under this definition, why do we need to do this at all?

I just need clarification on this and comfort from our side that we are not unknowingly messing up the statute for others.

Can we try and get together with attys and LFB on Monday?

Thanks,

Jenny

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this message has been sent to you in error, do not review, disseminate, distribute or copy it. Please reply to the sender that you have received the message in error, then delete it. Thank you for your cooperation.



ln 7-1

LFB:.....Rick Olin - Condemnation authority (Motion 999)

**FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION**  
**SENATE AMENDMENT,**  
**TO SENATE BILL 21**

lns 1-9

business entity

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 65, line 5: after that line insert:

3 **"SECTION 42m.** 13.48 (12) (b) 1. of the statutes is amended to read:

4 13.48 (12) (b) 1. A facility constructed by or for corporations a corporation

5 having condemnation authority under s. 32.02 (3) to (10) and/or a business entity

6 ~~having condemnation authority under s. 32.02~~ (13) for purposes for which the

7 ~~corporation~~ would have condemnation authority."

8 **2.** Page 530, line 25: after that line insert:

9 **"SECTION 1066m.** 32.02 (intro.) of the statutes is amended to read:

10 **32.02 Who may condemn; purposes.** (intro.) The following departments,

11 municipalities, boards, commissions, public officers, and corporations business

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5  
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it  
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plain

1 entities may acquire by condemnation any real estate and personal property  
2 appurtenant thereto or interest therein which they have power to acquire and hold  
3 or transfer to the state, for the purposes specified, in case such property cannot be  
4 acquired by gift or purchase at an agreed price:".

5 **3.** Page 531, line 15: after that line insert:

6 "SECTION 1067m. 32.02 (13) of the statutes is amended to read:

7 32.02 (13) Any ~~corporation~~ business entity, as defined in s. 13.62 (5), licensed  
8 to do business in Wisconsin that shall transmit oil or related products including all  
9 hydrocarbons which are in a liquid form at the temperature and pressure under  
10 which they are transported in pipelines in Wisconsin, and shall maintain terminal  
11 or product delivery facilities in Wisconsin, and shall be engaged in interstate or  
12 international commerce, subject to the approval of the public service commission  
13 upon a finding by it that the proposed real estate interests sought to be acquired are  
14 in the public interest.

15 **4.** Page 791, line 19: after that line insert:

16 "SECTION 1993m. 66.1035 of the statutes is amended to read:

17 **66.1035 Rights of abutting owners.** The owners of land abutting on any  
18 highway, street, or alley shall have a common right in the free and unobstructed use  
19 of the full width of the highway, street, or alley. No town, village, city, county,  
20 company, or corporation shall close up, use, or obstruct any part of the highway,  
21 street, or alley so as to materially interfere with its usefulness as a highway or so as  
22 to damage abutting property, or permit the same to be done, without just  
23 compensation being made for any resulting damage. This section does not impose  
24 liability for damages arising from the use, maintenance, and operation of tracks or

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2-14

authorized

business entity, as defined in s. 13.62 (5), licensed



1 other public improvement legally laid down, built, or established in any street,  
2 highway, or alley prior to April 7, 1889. All rights in property that could entitle an  
3 owner to damages under this section may be condemned by any ~~corporation~~ business  
4 entity that is listed in s. 32.02 in the same manner that other property may be  
5 condemned by the ~~corporation~~ business entity.”

6 **5.** Page 1811, line 21: after that line insert:

7 “(1v) CONDEMNATION AUTHORITY. The treatment of sections 13.48 (12) (b) 1.,  
8 32.02 (intro.) and (13), and 66.1035 of the statutes first applies retroactively to  
9 applications for public interest determinations under section 32.02 (13) of the  
10 statutes, as affected by this act, that are filed with the public service commission on  
11 March 1, 2014.”

12 (END)

INS  
3-5

2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb0325/P2ins  
MED:...

INSERT 1-9

1           “SECTION 1066e. 32.01 (1) of the statutes is renumbered 32.01 (1r).  
2           SECTION 1066m. 32.01 (1g) of the statutes is created to read:  
3           32.01 (1g) “Business entity” has the meaning given in s. 13.62 (5).

INSERT 2-14

4           SECTION 1076r. 32.185 of the statutes is amended to read:  
5           32.185 Condemnor. “Condemnor”, for the purposes of ss. 32.19 to 32.27,  
6           means any municipality, board, commission, public officer, or ~~corporation~~ business  
7           entity vested with the power of eminent domain which acquires property for public  
8           purposes either by negotiated purchase when authorized by statute to employ its  
9           powers of eminent domain or by the power of eminent domain. “Condemnor” also  
10          means a displacing agency. In this section, “displacing agency” means any state  
11          agency, political subdivision of the state or person carrying out a program or project  
12          with public financial assistance that causes a person to be a displaced person, as  
13          defined in s. 32.19 (2) (e).”.

History: 1975 c. 224; 1987 a. 399.

14          1. Page 540, line 4: after that line insert:  
15          “SECTION 1092m. 32.29 of the statutes is amended to read:  
16          32.29 False statements prohibited. Any officer, agent, or employee of a  
17          governmental body or ~~corporation~~ business entity granted condemnation power  
18          under s. 32.02 (1) or (3) to (16) who intentionally makes or causes to be made a  
19          statement which he or she knows to be false to any owner of property concerning the  
20          condemnation of such property or to any displaced person concerning his or her  
21          relocation benefits under s. 32.19, 32.20, 32.25, or 32.26 or who fails to provide the

1 information required under s. 32.26 (6) shall be fined not less than \$50 nor more than  
2 \$1,000, or imprisoned for not more than one year in the county jail or both.”.

History: 1977 c. 158; 1983 a. 27 s. 879; Stats. 1983 s. 32.29.

**INSERT 3-5**

3 **2.** Page 1691, line 18: after that line insert:

4 “**SECTION 4594m.** 703.195 (1) (c) of the statutes is amended to read:

5 703.195 (1) (c) “Condemnor” means a person specified in ~~s. 32.01~~ (1) who has  
6 the authority to condemn property under ch. 32.”.

History: 2003 a. 283.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBb0325/P2dn

MED: *kjf*

*Date*

Rick:

This contains a few changes after some discussion back and forth with the interested parties, which include primarily the following:

1. I eliminated the language providing that the changes are retroactive. I believe the intent is that the changes would be applied retroactively regardless (I believe because a decision has yet to be made by the PSC), and that it shouldn't be necessary to spell this out.

2. I modified ss. 32.18 and 32.29 due to their use of the standalone term "corporation," just to make it clear that these provisions would continue to apply with respect to condemnors under s. 32.02 (13). I did not endeavor to address all of the other variations of the term "corporation" (i.e., "Wisconsin corporation," "public utility corporation," etc.) in ch. 32 because after talking with other drafters here, I think making such changes would go beyond what is sought in the motion and would involve some judgment calls on my part as to what they should be changed to and it would be best to have such changes receive further scrutiny. Hopefully the changes to s. 32.02 (13) will not be read as changing the understood meaning of any of those other uses of the term "corporation."

3. In s. 32.03 (13), I changed "licensed" to "authorized" because there is apparently no license involved and "authorized" is the correct term that is used. (This is not intended to be any kind of substantive change.)

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBb0325/P2dn  
MED:kjf

July 1, 2015

Rick:

This contains a few changes after some discussion back and forth with the interested parties, which include primarily the following:

1. I eliminated the language providing that the changes are retroactive. I believe the intent is that the changes would be applied retroactively regardless (I believe because a decision has yet to be made by the PSC), and that it shouldn't be necessary to spell this out.
2. I modified ss. 32.185 and 32.29 due to their use of the standalone term "corporation," just to make it clear that these provisions would continue to apply with respect to condemnors under s. 32.02 (13). I did not endeavor to address all of the other variations of the term "corporation" (i.e., "Wisconsin corporation," "public utility corporation," etc.) in ch. 32 because after talking with other drafters here, I think making such changes would go beyond what is sought in the motion and would involve some judgment calls on my part as to what they should be changed to and it would be best to have such changes receive further scrutiny. Hopefully the changes to s. 32.02 (13) will not be read as changing the understood meaning of any of those other uses of the term "corporation."
3. In s. 32.02 (13), I changed "licensed" to "authorized" because there is apparently no license involved and "authorized" is the correct term that is used. (This is not intended to be any kind of substantive change.)

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State of Wisconsin  
2015 - 2016 LEGISLATURE

LRBb0325/P2  
MED:emw&kjf

LFB:.....Rick Olin – Condemnation authority (Motion 999)

**FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION**  
**SENATE AMENDMENT ,**  
**TO SENATE BILL 21**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 65, line 5: after that line insert:

3 “SECTION 42m. 13.48 (12) (b) 1. of the statutes is amended to read:

4 13.48 (12) (b) 1. A facility constructed by or for ~~corporations~~ a business entity  
5 having condemnation authority under s. 32.02 (3) to (10) and (13) for purposes for  
6 which ~~the corporation~~ it would have condemnation authority.”.

7 **2.** Page 530, line 25: after that line insert:

8 “SECTION 1066e. 32.01 (1) of the statutes is renumbered 32.01 (1r).

9 SECTION 1066m. 32.01 (1g) of the statutes is created to read:

10 32.01 (1g) “Business entity” has the meaning given in s. 13.62 (5).

11 SECTION 1066s. 32.02 (intro.) of the statutes is amended to read:

1           **32.02 Who may condemn; purposes.** (intro.) The following departments,  
2 municipalities, boards, commissions, public officers, and corporations business  
3 entities may acquire by condemnation any real estate and personal property  
4 appurtenant thereto or interest therein which they have power to acquire and hold  
5 or transfer to the state, for the purposes specified, in case such property cannot be  
6 acquired by gift or purchase at an agreed price.”.

7           **3.** Page 531, line 15: after that line insert:

8           “**SECTION 1067g.** 32.02 (13) of the statutes is amended to read:

9           **32.02 (13)** Any ~~corporation~~ licensed business entity authorized to do business  
10 in Wisconsin that shall transmit oil or related products including all hydrocarbons  
11 which are in a liquid form at the temperature and pressure under which they are  
12 transported in pipelines in Wisconsin, and shall maintain terminal or product  
13 delivery facilities in Wisconsin, and shall be engaged in interstate or international  
14 commerce, subject to the approval of the public service commission upon a finding  
15 by it that the proposed real estate interests sought to be acquired are in the public  
16 interest.

17           **SECTION 1067r.** 32.185 of the statutes is amended to read:

18           **32.185 Condemnor.** “Condemnor”, for the purposes of ss. 32.19 to 32.27,  
19 means any municipality, board, commission, public officer, or ~~corporation~~ business  
20 entity vested with the power of eminent domain which acquires property for public  
21 purposes either by negotiated purchase when authorized by statute to employ its  
22 powers of eminent domain or by the power of eminent domain. “Condemnor” also  
23 means a displacing agency. In this section, “displacing agency” means any state  
24 agency, political subdivision of the state or person carrying out a program or project

1 with public financial assistance that causes a person to be a displaced person, as  
2 defined in s. 32.19 (2) (e).”.

3 **4.** Page 540, line 4: after that line insert:

4 “SECTION 1092m. 32.29 of the statutes is amended to read:

5 **32.29 False statements prohibited.** Any officer, agent, or employee of a  
6 governmental body or ~~corporation~~ business entity granted condemnation power  
7 under s. 32.02 (1) or (3) to (16) who intentionally makes or causes to be made a  
8 statement which he or she knows to be false to any owner of property concerning the  
9 condemnation of such property or to any displaced person concerning his or her  
10 relocation benefits under s. 32.19, 32.20, 32.25, or 32.26 or who fails to provide the  
11 information required under s. 32.26 (6) shall be fined not less than \$50 nor more than  
12 \$1,000, or imprisoned for not more than one year in the county jail or both.”.

13 **5.** Page 791, line 19: after that line insert:

14 “SECTION 1993m. 66.1035 of the statutes is amended to read:

15 **66.1035 Rights of abutting owners.** The owners of land abutting on any  
16 highway, street, or alley shall have a common right in the free and unobstructed use  
17 of the full width of the highway, street, or alley. No town, village, city, county,  
18 company, or corporation shall close up, use, or obstruct any part of the highway,  
19 street, or alley so as to materially interfere with its usefulness as a highway or so as  
20 to damage abutting property, or permit the same to be done, without just  
21 compensation being made for any resulting damage. This section does not impose  
22 liability for damages arising from the use, maintenance, and operation of tracks or  
23 other public improvement legally laid down, built, or established in any street,  
24 highway, or alley prior to April 7, 1889. All rights in property that could entitle an



1 owner to damages under this section may be condemned by any ~~corporation~~ business  
2 entity that is listed in s. 32.02 in the same manner that other property may be  
3 condemned by the ~~corporation~~ business entity”.

4 **6.** Page 1691, line 18: after that line insert:

5 “SECTION 4594m. 703.195 (1) (c) of the statutes is amended to read:

6 703.195 (1) (c) “Condemnor” means a person ~~specified in s. 32.01 (1)~~ who has  
7 the authority to condemn property under ch. 32.”.

8 (END)