

LEGISLATIVE HEARING CALENDAR

Positions to be taken by the City of Milwaukee on the following bills will be discussed by the

COMMITTEE ON JUDICIARY-LEGISLATION

MONDAY, OCTOBER 10, 2005 AT 1:30 PM

Room 301-B City Hall

- | | |
|------------|--|
| AB-656 | Determining fair market value of property taken by condemnation. |
| AB-657 | Prohibiting the condemnation of property under certain circumstances. |
| AB-675 | Compensation for the reduction in the fair market value of private real property. |
| AB-682 | Prohibiting the condemnation of property for any purpose not expressly authorized. |
| LRB-2690/2 | Allowing municipalities to exempt contaminated property from the property tax and granting rulemaking authority. |

2005 ASSEMBLY BILL 656

September 9, 2005 – Introduced by Representatives SUDER, WOOD, M. WILLIAMS, MOULTON, MUSSER, PETROWSKI, GRONEMUS, GUNDERSON, HINES, KERKMAN, AINSWORTH, FREESE and MCCORMICK, cosponsored by Senators ZIEN, BROWN and REYNOLDS. Referred to Committee on Property Rights and Land Management.

- 1 AN ACT *to amend* 32.09 (1m); and *to create* 32.09 (1m) (b) of the statutes;
2 **relating to:** determining fair market value of property taken by condemnation.
-

Analysis by the Legislative Reference Bureau

Under current law, a property owner whose property is taken for a public purpose is entitled to the fair market value of the property taken. In determining fair market value, evidence of the income of a business is not admissible if there is evidence of the sale of comparable property. See *Leathem Smith Lodge, Inc. v. State*, 94 Wis. 2d 406 (1980).

This bill permits provides that an appraisal of property based on the income approach may be considered even if there is evidence of the sale of comparable property.

For further information see the *state and local* 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:

- 3 SECTION 1. 32.09 (1m) of the statutes is amended to read:
4 32.09 (1m) As a basis for determining value, a commission in condemnation
5 or a court may consider the price and other terms and circumstances of any good faith

2005 ASSEMBLY BILL 657

September 9, 2005 – Introduced by Representatives M. WILLIAMS, WOOD, GRONEMUS, DAVIS, MOULTON, HONADEL, JENSEN, HINES, KESTELL, PETTIS, OWENS, MEYER, AINSWORTH, KERKMAN, OTT, LEMAHIEU, MUSSER, VAN ROY, FREESE, LEHMAN, ALBERS, HUNDERTMARK, SUDER, STRACHOTA, NISCHKE, HAHN and GARD, cosponsored by Senators ZIEN, DARLING, HARS DORF, REYNOLDS, OLSEN, ROESSLER, BROWN, LAZICH, LEIBHAM and GROTHMAN. Referred to Committee on Property Rights and Land Management.

1 **AN ACT** *to create* 32.03 (6) of the statutes; **relating to:** prohibiting the
2 condemnation of property under certain circumstances.

Analysis by the Legislative Reference Bureau

This bill prohibits the condemnation of property that is not blighted if the condemnor intends to convey or lease the acquired property to a private entity. The bill defines "blighted property" and provides that property that includes one or more dwelling units is not blighted unless the property has been abandoned or the property has been converted from a single dwelling unit to multiple dwelling units and the crime rate in, on, or adjacent to the property is higher than in the rest of the municipality.

The bill also requires a condemnor, before commencing the condemnation of property that the condemnor intends to convey or lease to a private entity, to make a written finding that the property is blighted.

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

3 **SECTION 1.** 32.03 (6) of the statutes is created to read:
4 32.03 (6) (a) In this subsection, "blighted property" means any property that,
5 by reason of abandonment, dilapidation, deterioration, age or obsolescence,

2005 ASSEMBLY BILL 675

September 19, 2005 – Introduced by Representative ALBERS. Referred to Committee on Property Rights and Land Management.

- 1 AN ACT *to create* 895.45 of the statutes; **relating to:** compensation for the
2 reduction in the fair market value of private real property.

Analysis by the Legislative Reference Bureau

This bill allows an owner of private real property to seek compensation from the state or a political subdivision of the state (governmental unit) if the governmental unit enacts or enforces a statute, administrative rule, ordinance, or plan (land use regulation) that restricts the use of the property and reduces its fair value. The amount of the compensation is equal to the sum of the lost fair market value, the value of any improvements ordered removed, plus the cost of removing those improvements.

Under the bill, an aggrieved property owner is generally entitled to compensation if the land use regulation continues to be enforced against the property 180 days after the owner sends a written demand for compensation to the governmental unit. Instead of paying the owner compensation, the governmental unit may modify, remove, or not apply the land use regulation to allow the owner to use the property in a manner that was permitted at the time the owner acquired the property. If the land use regulation remains in effect 180 days after a written demand for compensation, the property owner may bring suit against the governmental unit in the county in which the property is located. Finally, if court-ordered compensation is not paid within two years after the order is entered or if the governmental unit has not modified or removed or not applied the land use regulation within two years after the owner has made a written demand for compensation, the owner may use or develop the property in a manner that was permitted at the time the owner acquired the property.

2005 ASSEMBLY BILL 682

September 22, 2005 – Introduced by Representatives SHERMAN, AINSWORTH, BIES, SHERIDAN, FREESE, LEHMAN, STASKUNAS, OWENS, TURNER, POPE-ROBERTS, POCAN, TRAVIS, BOYLE, MOLEPSKE, ZIEGELBAUER, VRUWINK, HUBLER, NELSON and SINICKI, cosponsored by Senators HANSEN, DECKER, ERPENBACH and WIRCH. Referred to Committee on Property Rights and Land Management.

1 **AN ACT** *to amend* 32.02 (1); and *to create* 32.03 (6) of the statutes; **relating to:**
2 prohibiting the condemnation of property for any purpose not expressly
3 authorized.

Analysis by the Legislative Reference Bureau

This bill prohibits the acquisition of property by condemnation unless the purpose of the condemnation is expressly authorized by statute.

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

4 **SECTION 1.** 32.02 (1) of the statutes is amended to read:
5 32.02 **(1)** Any county, town, village, city, including villages and cities
6 incorporated under general or special acts, school district, the department of health
7 and family services, the department of corrections, the board of regents of the
8 University of Wisconsin System, the building commission, a commission created by
9 contract under s. 66.0301, with the approval of the municipality in which

2005 2006 LEGISLATURE

LRB2690/2

JK:lmk:dh

2005 BILL

1 **AN ACT to amend** 70.337 (1) (intro.) and 70.339 (1) (intro.); and **to create** 70.1104
2 of the statutes; **relating to:** allowing municipalities to exempt contaminated
3 property from the property tax and granting rulemaking authority.

Analysis by the Legislative Reference Bureau

This bill allows municipalities to exempt real property from property taxes if the real property is contaminated by a hazardous substance.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the **state and local** 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:

4 **SECTION 1.** 70.1104 of the statutes is created to read:
5 **70.1104 Property contaminated by a hazardous substance exempted**
6 **from taxation. (1) DEFINITIONS.** In this section:
7 (a) "Department" means the department of natural resources.

2005 2006 Legislature

2

LRB2690/2
JK:lmk:ch**BILL****SECTION 1**

1 (b) "Discharge" has the meaning given in s. 292.01 (3).

2 (c) "Hazardous substance" has the meaning given in s. 292.01 (5).

3 (2) EXEMPTION AUTHORIZED. The governing body of a taxation district may, for
4 up to 5 consecutive years, exempt real property from property taxes if all of the
5 following apply:

6 (a) An environmental assessment has been conducted on the real property,
7 according to rules promulgated by the department, and the environmental
8 assessment concludes that the real property is contaminated by the discharge of a
9 hazardous substance.

10 (b) The real property owner has entered into an agreement with the
11 department to remediate, maintain, and monitor the real property.

12 (c) The real property owner agrees to report the status of the remediation under
13 par. (b) annually to the department and to the governing body of the taxation district
14 in which the real property is located.

15 (3) ADMINISTRATION. (a) If the governing body of a taxation district exempts real
16 property from property taxes under sub. (2), the taxation district treasurer shall send
17 the real property owner a statement that identifies the exempt real property and
18 shall correct the assessment roll to reflect the exemption.

19 (b) The department shall notify the governing body of a taxation district of any
20 exempt real property under sub. (2) that is located in the taxation district and that
21 either has been remediated according to the agreement under sub. (2) (b) or has not
22 been remediated because the property owner has failed to remediate the property
23 according to the agreement under sub. (2) (b). Beginning with the property tax
24 assessment that is conducted one year after the department notifies the taxation
25 district under this paragraph and ending with the property tax assessment

2005 2006 Legislature

3

LRB2690/2
JK:lmk:ch
SECTION 1**BILL**

1 conducted no later than 4 years after such notification, as determined by the taxation
2 district, the taxation district may assess property taxes on the real property and, if
3 the taxation district assesses property taxes on the real property, the taxation
4 district treasurer shall correct the assessment roll to reflect that the real property
5 is no longer exempt under this section. Beginning with the property tax assessment
6 that is conducted no later than 5 years after the department notifies the taxation
7 district under this paragraph, as determined by the taxation district, the taxation
8 district shall assess property taxes on the real property and the taxation district
9 treasurer shall correct the assessment roll to reflect that the real property is no
10 longer exempt under this section.

11 **SECTION 2.** 70.337 (1) (intro.) of the statutes is amended to read:

12 70.337 (1) (intro.) By March 31 of each evennumbered year, the owner of each
13 parcel of property that is exempt under ~~s. ss.~~ 70.11 and 70.1104 shall file with the
14 clerk of the taxation district in which the property is located a form containing the
15 following information:

16 **SECTION 3.** 70.339 (1) (intro.) of the statutes is amended to read:

17 70.339 (1) (intro.) By March 15 each person that owns property that is exempt
18 under s. 70.11, except s. 70.11 (1) and (2), and under s. 70.1104 and that was used in
19 the most recently ended taxable year in a trade or business for which the owner of
20 the property was subject to taxation under sections 511 to 515 of the ~~internal revenue~~
21 ~~code~~ Internal Revenue Code, as defined in s. 71.22 (4m), shall file with the clerk of
22 the taxation district in which the property is located a statement containing the
23 following information:

24 **SECTION 4. Initial applicability.**

