



Property Rights: Budget would change eminent domain law

- Thomas [Thomas Content](#) of the Journal Sentinel

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Owners of land that sits in the way of a highway or power line project would have a harder time challenging a government takeover of their property if [a proposal inserted into the state budget](#) becomes law, property rights advocates say.

The measure, adopted on a 12-4 party-line vote by the Legislature's Republican-dominated budget-writing committee, pits the state Department of Transportation and power-line builder American Transmission Co. against property rights advocates and lawyers.

It would raise the threshold for which landowners could obtain legal fees if they go to court to challenge the amount being offered for land that's seized by eminent domain to widen highways or build new power lines.

Supporters of the change say the measure would reduce the legal fees won by a "cottage industry" of lawyers who challenge the amount of money offered to property owners in eminent domain cases.

"We're trying to strike a balance between owners' property rights at the same time making sure we minimize taxpayer dollars at DOT to do projects on schedule, under budget and to stretch our dollars further," said Reggie Newson, executive assistant at the Department of Transportation. "We have a cottage industry of attorneys who are out there, and what they do is follow projects and approach landowners and tell them they shouldn't negotiate with DOT and with ATC."

But property-rights lawyers say the change will lead to far fewer opportunities for property owners to get fair compensation for land that's taken from them for the public good.

"The majority of condemnations involve small amounts of land taken from ordinary people. Taken together, that adds up to a lot of value that should be protected, and property rights are fundamental to our republic," said Robert Roth, a Menomonee Falls lawyer who specializes in eminent domain cases. "This is very serious and is something that should not be slipped into a financial bill."

Awarding legal fees was a linchpin of landmark eminent domain legislation that Wisconsin passed in the 1970s to protect private property rights, opponents of the change say.

The change, added to the budget on May 27, comes as utilities are gearing up for major power-line projects in southern and western Wisconsin. It also surfaced weeks after the [state Supreme Court](#) ruled unanimously against ATC, awarding legal fees in their eminent domain case to a Marathon County couple.

This story will be updated later on JSOnline and in Tuesday's Journal Sentinel.