



2005 ASSEMBLY BILL 10

January 18, 2005 – Introduced by JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES. Referred to Committee on Transportation.

- 1 **AN ACT to amend** 85.16 (1) and 236.13 (1) (e) of the statutes; **relating to:**
2 Department of Transportation rules relating to land subdivisions abutting
3 state trunk highways and connecting highways.

Analysis by the Legislative Reference Bureau

Under current law, a proposed plat of a subdivision must have the approval of the Department of Administration before the plat can be recorded. Among other criteria for approval is compliance with rules promulgated by the Department of Transportation (DOT) relating to the safety of entrance upon and departure from the abutting state trunk highways or connecting highways. A subdivision is defined as a division of a lot, parcel, or tract of land by the owner or the owner's agent for the purpose of sale or of building development if the act of division (or subsequent acts within five years) creates five or more parcels or building sites of one and one-half acres each or less in area.

This bill limits the rule-making authority of DOT. Under the bill, DOT's rules are restricted to subdivisions abutting state trunk highways or connecting highways. A subdivision does not abut a state trunk highway or connecting highway if there is any separation between the exterior boundary shown in the subdivision plat and the highway right-of-way. If the rules provide for a setback area from a state trunk highway or connecting highway within which improvements may not be installed, the rule must define improvements to mean only buildings.

This bill is introduced as required by s. 227.26 (2) (j), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending a

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portion of ch. Trans 233, Wis. Adm. Code, on January 28, 2004. The suspended rules related to dividing or developing lands that were not necessarily a proposed subdivision.

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

1 **SECTION 1.** 85.16 (1) of the statutes is amended to read:

2 85.16 (1) The secretary may make reasonable and uniform orders and rules
3 deemed necessary to the discharge of the powers, duties and functions vested in the
4 department. Except as provided in s. 236.13 (1) (e), the department is not vested with
5 any power, duty, or function regarding a division of land abutting a state trunk
6 highway or connecting highway. The secretary may also prescribe forms for
7 applications, notices and reports required by law to be made to the department or
8 which are deemed necessary to the efficient discharge of all powers, duties and
9 functions and prescribe the form and manner in which those applications, notices
10 and reports may be filed or submitted.

11 **SECTION 2.** 236.13 (1) (e) of the statutes is amended to read:

12 236.13 (1) (e) The rules of the department of transportation relating to
13 provision for the safety of entrance upon and departure from the abutting state trunk
14 highways or connecting highways and for the preservation of the public interest and
15 investment in such highways. The rules shall apply only to a subdivision and only
16 if land within the subdivision abuts a state trunk highway or connecting highway.
17 If the rules provide for a setback area from a state trunk highway or connecting
18 highway within which improvements may not be installed, the rule shall define
19 improvements to mean only buildings. For purposes of this paragraph, subdivision
20 land does not abut a state trunk highway if there is any separation, whether by

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1 unplatted lands, a service road, or otherwise, between the exterior boundary shown
2 in the preliminary or final plat submitted for approval and the highway
3 right-of-way.

4 (END)