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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Transportation, Tourism,
Forestry, and Natural Resources (SC-TTFNR)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Transportation, Tourism, Forestry, and Natural Resources

Senate Bill 343

Relating to: the rail passenger service assistance and promotion program.

By Senators Cowles, Hopper, Kedzie, Harsdorf, Schultz and Olsen; cosponsored by Representatives Mursau, Vos, Montgomery, Nygren, Roth, Brooks, LeMahieu, Davis, Murtha, Lothian, Ripp, Petersen, A. Williams, A. Ott, Kaufert, Nass, Gunderson, Bies, Suder, Knodl and Townsend.

October 09, 2009 Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

February 4, 2010 **PUBLIC HEARING HELD**

Present: (6) Senators Holperin, Sullivan, Hansen, Leibham, Kedzie and Grothman.

Absent: (1) Senator Plale.

Appearances For

- Rob Cowles — 2nd Senate District
- Will Sandstrom, Madison

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Jeff Mursau — 36th Assembly District

Registrations Against

- Royce Williams, Madison
- Tim Deneen — United Transportation Union

Registrations for Information Only

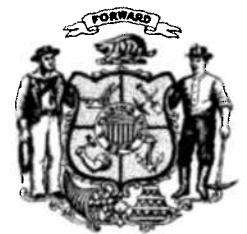
- None.

April 22, 2010 Failed to pass pursuant to Senate Joint Resolution 1.

Elizabeth Novak
Committee Clerk



WISCONSIN STATE LEGISLATURE



Timothy S. Deneen (312), Director
Jeffrey J. Thompson (582), Assistant Director
William A. Hauck (581), Secretary



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united transportation union

Wisconsin Legislative Board

Committee on Transportation, Tourism, Forestry, and Natural Resources

03 February 2010

The United Transportation Union is opposed to Senate Bill 343. As a matter of public safety, we do not feel that the competitive bidding requirement is in the best interest of the taxpayers of Wisconsin.

Recent history includes the tragic events in Chatsworth, California on the commuter operations of Metrolink. Amtrak crews had been replaced due to a lower bid. I have included some articles relating to this incident and the costs.

I have also included copies of articles relating to the airline transportation industry.

Simply put, corners are cut to reduce costs. Cuts in labor costs, training, safety equipment, and oversight are but a few.

We are concerned that this legislation could prevent WisDOT from making decisions based on overall project performance and safety.

Thank you,

T. S. Deneen
State Director

1-800-362-9472
Madison, Wisconsin

Legislative Hotlines



1-202-225-3121
Washington, D.C.



Metrolink hires Amtrak crews

LOS ANGELES -- Metrolink officials tentatively agreed Oct. 23 to hire Amtrak engineers to operate commuter trains and replace a private company that employed an engineer who was at the throttle during a 2008 crash that killed 25 people in the San Fernando Valley, the Associated Press reported.

Metrolink's board approved a memorandum of understanding with Amtrak to provide train crews for the Southern California commuter trains that run through five counties from Ventura to San Diego.

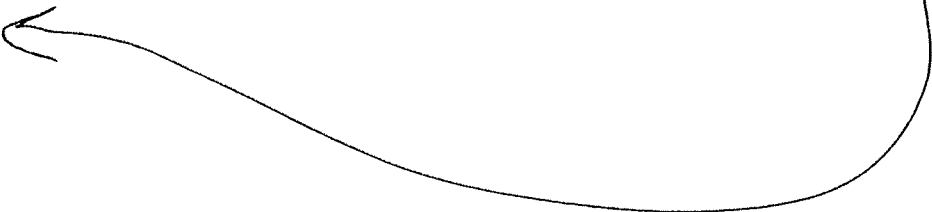
The tentative agreement, which must be completed by year's end, would be worth more than \$100 million. It calls for the national rail service to begin providing crews for all seven Metrolink lines next July.

(The preceding Associated Press article was published October 27, 2009, by the San Diego Union-Tribune.)

October 27, 2009

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folder

Date



Calif. train derailment settlements reach \$39M

LOS ANGELES — A lawyer says Southern California's commuter rail agency has agreed to pay about \$39 million to settle nearly all of the lawsuits filed over a 2005 train derailment, the Associated Press reports.

The lead attorney representing the crash victims said Tuesday that all but one of the 186 wrongful death and injury suits against Metrolink have been resolved.

A Los Angeles Superior Court judge has vacated a Jan. 4 trial date and is urging both parties to resolve the remaining suit.

In October, the attorney said Metrolink agreed to settle 90 percent of the cases for about \$30 million. The recent settlement deals are awaiting approval by Metrolink's board.

Metrolink spokeswoman Angela Starr says the cases are pending and declined to comment.

Eleven people were killed and 180 injured when a man who later claimed he was suicidal parked his SUV on the tracks in Glendale.

(This item was distributed Dec. 30, 2009, by the Associated Press.)

December 30, 2009

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Date





Planes with maintenance problems still fly

Alerted by a brake warning light in the cockpit, the captain on a U.S. airline flight last August warned passengers he was making an emergency landing and called for firetrucks to be standing by, USA Today reports.

The trucks weren't needed, it turned out. The Boeing 767-300 jet landed safely, the pilot said in his account to NASA's Aviation Safety Reporting System, which allows airline employees to report incidents confidentially and without identifying the airline or the flight.

The pilot reported that he later was told by mechanics that the incident was caused by a landing-gear wheel that was missing a part and had been installed incorrectly.

The passengers on the unidentified international flight were on a jet that should never have left the ground. Improper repair work made it unsafe to fly. It was no isolated incident.

During the past six years, millions of passengers have been on at least 65,000 U.S. airline flights that shouldn't have taken off because planes weren't properly maintained, a six-month USA TODAY investigation has found.

The investigation -- which included an analysis of government fines against airlines for maintenance violations and penalty letters sent to them that were obtained through the Freedom of Information Act -- reveals that substandard repairs, unqualified mechanics and lax oversight by airlines and the Federal Aviation Administration (FAA) are not unusual.

"Many repairs are not being done or done properly, and too many flights are leaving the ground in what the FAA calls 'unairworthy,' or unsafe, condition," says John Goglia, a former airline mechanic who was a National Transportation Safety Board (NTSB) member from 1995 to 2004.

Airlines contract about 70 percent of their maintenance work to repair shops in the USA and abroad, where mistakes can be made by untrained and ill-equipped personnel, the Department of Transportation's inspector general says. Airlines also disregard FAA inspectors' findings to keep planes flying, defer necessary repairs beyond permissible time frames, use unapproved parts and perform their own sloppy maintenance work, according to FAA documents.

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02-02-2010

Though many maintenance problems go undetected, the FAA levied \$28.2 million in fines and proposed fines against 25 U.S. airlines for maintenance violations that occurred during the past six years. In many cases, planes operated for months before the FAA found maintenance deficiencies. In some cases, airlines continued to fly planes after the FAA found deficiencies in them.

The 65,000 flights that took off when they shouldn't have represent a fraction of the 63.8 million flights that all U.S. airlines flew during the past six years. The FAA doesn't always document how many times planes with maintenance problems have flown.

The FAA says it "sets an exceptionally high bar" for the required level of safety for airlines and says the fines indicate that problems were detected and corrected. The airline industry also says its planes are safe and points to millions of incident-free flights.

U.S. airlines "regard safety as their highest responsibility," and "their maintenance programs reflect that commitment to safety," says Elizabeth Merida, a spokeswoman for the Air Transport Association, which represents big U.S. airlines. The ATA says members haven't had a fatal accident "attributable to maintenance" since Jan. 1, 2000.

That year, an Alaska Airlines jet flying from Puerto Vallarta, Mexico, to San Francisco, crashed into the Pacific Ocean about 3 miles north of Anacapa Island, Calif., killing all 88 people aboard. The accident was caused by a loss of plane pitch control after threads of a screw assembly on the tail failed, according to the NTSB, which investigates air accidents. Alaska Airlines didn't sufficiently lubricate the assembly, causing excessive thread wear. The FAA had approved extending the time between lubrications, which contributed to the accident, the NTSB said.

A USA TODAY analysis of NTSB data shows that maintenance was "a cause, factor or finding" in 18 other accidents since Jan. 1, 2000. Some were on scheduled flights of airlines that are ATA members, some were on airlines that aren't members. No one was killed or injured in 10 of the accidents; 43 people were killed and 60 injured in the others.

Last April, the NTSB determined that American Airlines failed to catch mistakes by maintenance workers before an engine on a jet caught fire during takeoff from St. Louis on Sept. 28, 2007. The plane had substantial damage. After an emergency landing, passengers were safely evacuated on the runway.

Thirteen days before the flight, mechanics replaced the engine's air turbine starter valve six times, but none of the replacements solved an engine-start problem, the NTSB said. At the gate prior to the flight, a mechanic used "an unapproved tool" to start the engine, and damaged a component.

In October, the FAA proposed a \$3.8 million fine against United Airlines for allegedly operating a Boeing 737 jet "not in airworthy condition" on more than 200 flights Feb. 10-April 28, 2008.

After takeoff from Denver on April 28, pilots noticed low oil pressure, shut down an engine and returned to the airport. United mechanics inspecting the engine found that two towels, instead of required protective caps, had been used to cover openings in the oil sump area when maintenance was done four months earlier, the FAA says.

United immediately reported what it found to the FAA, says Megan McCarthy, the airline's spokeswoman. United "took appropriate and necessary measures" to ensure its maintenance standards are met and "issues like this will not happen in the future," she says.

FAA inspectors have found maintenance problems at many airlines.

A review of hundreds of pages of documents obtained through the Freedom of Information Act chronicles repeated instances in the past six years of shoddy maintenance and improper procedures done by ill-trained and ill-equipped workers, even some instances of coverups of bad repairs that put fliers' safety in jeopardy:

- Before a Jan. 16, 2006, flight from El Paso, Continental Airlines contacted a certified repair station, Julie's Aircraft Services, about a possible engine leak on a Boeing 737-500. Julie's assigned three mechanics to assess the situation. They hadn't received training from Continental on engine troubleshooting, had no Continental maintenance manuals to address problems and didn't have the required tools or equipment, the FAA says.

The mechanics opened the cowlings of one of the plane's two engines and told pilots to start that engine. The FAA says the engine was run at excessive speed, contrary to Boeing's caution to not go "above idle power with the fan cowls panels open," and that the mechanics didn't maintain required communication with the cockpit. One mechanic was "ingested" into the engine and killed. Continental was fined \$45,000.

- In July 2008, the FAA revoked the flying certificate of Alaska-based L.A.B Flying Service after several accidents, incidents and maintenance violations dating to April 2002. The airline flew passengers on planes with missing, loose, corroded and damaged parts, and maintenance personnel put false repair entries into logbooks, according to FAA documents.

In June 2007, an aircraft was destroyed by a fire caused by a leaking exhaust system. Significant engine damage "may have occurred" during the fire, the FAA says, but a year later, L.A.B. installed the damaged engine on another plane. In 2002 and 2003, there were five instances of parts breaking or falling off L.A.B. planes in flight. Since 2004, L.A.B. "has committed an astounding number of maintenance and maintenance-related regulatory violations," the FAA says.

- Shortly after takeoff on Jan. 19, 2004, an American Eagle plane returned to Bangor, Maine, because rudder pedals and the rudder "jammed in the full right rudder position." The FAA, which fined the airline \$600,000, found that the airline had "prior knowledge of an aircraft vibration, yet continued to dispatch and operate the aircraft until actual rudder control failure at Bangor." The FAA says American Eagle "failed to employ competent personnel to ensure the highest degree of safety in its operations," and flying the plane "in an unairworthy condition" on 20 flights with a vibration "was careless and endangered the life or property of another."

- The FAA fined Atlantic Southeast Airlines \$250,000 for operating a Canadair CL-600 aircraft on 20 flights in May 2005 in "unairworthy condition." The plane earlier had been taken to a West Virginia repair station for "retrofitting of the ejector pump" and installation of a "communication addressing and reporting system," the FAA says.

Knowing that the work "either had not been completed or that the documentation of these tasks had not been completed," Atlantic Southeast nevertheless put the plane back in service on passenger flights.

- On 374 occasions from May 23 to June 23, 2004, JetBlue released jets from its New York and Long Beach, Calif., maintenance facilities without performing required work on their in-flight entertainment systems. The FAA said JetBlue flew passengers with planes in "unairworthy condition" and fined the airline \$49,000.

- In October 2006, the FAA fined American Eagle \$25,000 after a June 2005 inspection of its facility at Dallas/Fort Worth

International Airport found "inadequate" aircraft parts, supplies and materials "available for use" for maintenance and alterations. Unidentified items with expired shelf lives were found in cabinets and mechanics' toolboxes.

Seven months after that inspection, the FAA did another inspection at the facility, and again found "inadequate" parts, supplies and materials. Expiration-date stickers had been removed from unidentified items. The FAA fined American Eagle \$43,750.

The Department of Transportation's inspector general also has identified maintenance deficiencies during the past nine years.

In November, Inspector General Calvin Scovel told a House subcommittee that more than 100 mechanics working on an unidentified airline's planes at an unidentified repair station didn't have sufficient training and lacked required tools. At other repair stations, the inspector general found untrained mechanics, lack of required tools and unsafe storage of aircraft parts.

Besides nearly 4,900 repair stations in the USA and abroad, uncertified repair stations and mechanics are doing maintenance work, including engine replacement and other critical repairs.

FAA regulations allow an airline to use uncertified repair facilities and mechanics if a certified mechanic approves the repairs and the airline oversees them. Such facilities aren't required to be in aircraft hangars or to employ supervisors and inspectors to monitor repair work.

In a December 2005 report, the inspector general said it was widely believed that uncertified repair stations performed minor work, but the inspector general found the stations were performing work critical to aircraft safety without the FAA's knowledge.

Use of uncertified facilities can "create safety vulnerabilities," Scovel told the House in November. Of 10 uncertified repair facilities visited by the inspector general, two "were operated by only one mechanic with a truck and basic tools."

Use of uncertified repair facilities -- which can be less costly for airlines -- was questioned in January 2003 after an Air Midwest plane operating on a US Airways Express flight crashed following takeoff from Charlotte. All 21 aboard were killed.

NTSB investigators said mechanics working for a maintenance contractor incorrectly adjusted a flight-control system that

contributed to the accident. The mechanics were certified, but the contractor wasn't, Scovel told a House subcommittee in 2007.

Cost-squeezed airlines also try to save money by farming out an increasing amount of maintenance work to foreign repair stations. The number of FAA-certified foreign repair stations increased from 344 in 1994 to 731 in 2009, according to Scovel.

FAA oversight of such stations is "weak at best," and more than 90-- of "people turning the wrenches" at foreign repair stations are not certified mechanics, says Goglia, the former NTSB board member.

Unions representing certified airline mechanics, including the Transport Workers Union of America and the International Brotherhood of Teamsters, are angry about the loss of jobs to other countries and the quality of work abroad. In December in Washington, TWU mechanics distributed leaflets to members of Congress pointing out safety and security concerns with foreign repair work. The TWU thinks airlines "are fleeing federal oversight" and questions whether reliance on overseas repair work is "a disaster waiting to happen," says Robert Gless, assistant director of the union's Air Transport Division.

"Just because there's an absence of disaster, it doesn't mean you have a safe circumstance with overseas maintenance facilities," he says. "What does it take -- one or two planes to fall out of the sky -- to say, 'Why did this happen?' "

The FAA says there's no need to worry about work done abroad.

"Just as aviation safety is in no way compromised by allowing U.S. carriers to fly aircraft made in Europe, in Brazil or in Canada, safety is in no way compromised by allowing other countries' facilities, which perform to our safety standards, to conduct repair and maintenance on our aircraft," Doug Dalbey, an FAA deputy director, told a House subcommittee last November.

Besides maintenance issues, the inspector general's office found "security vulnerabilities" -- including susceptibility to sabotage -- at airport and off-airport repair stations.

Concerns are so great that since August 2008, Congress has barred the FAA from certifying any new foreign repair station until the Transportation Security Administration (TSA) issues a rule to improve security.

In November, the TSA said a proposed rule was open for comment. Congress has also introduced bills to close regulatory gaps between foreign and domestic repair stations.

Shoddy work or failure to do repairs can often go undetected because of inconsistent or ineffective FAA and airline oversight.

In November, Scovel told a House subcommittee that it "may be months or even years" before FAA inspectors do an on-site review of a repair station after it's approved for use by an airline.

FAA inspectors for an unidentified airline inspected only four of the carrier's 15 main maintenance providers during a three-year period. And a major engine repair facility abroad, which worked on 39 of 53 engines repaired for an airline, wasn't visited by FAA inspectors for five years after the facility was certified.

"As a result of FAA's flawed approval and untimely inspection processes, maintenance problems either went undetected or reoccurred," the inspector general said.

Scovel said his office made 23 recommendations to improve FAA oversight of domestic and foreign repair stations during the previous seven years. Sixteen have not been addressed -- including "a number" that "are critical."

In a written statement to USA TODAY, the FAA says it has made changes "when appropriate." The agency says it is "confident that proper FAA oversight is being given to domestic and foreign repair stations, and our safety record underscores that point."

In a September 2008 report, the inspector general's office blamed airlines' audits of repair stations for not detecting problems. At one heavy airframe repair station, two airline audits and two FAA inspections "failed to detect significant weaknesses" at the facility.

The problems, which were later discovered by another airline interested in contracting with the repair station, "were so serious" that the facility stopped operating for more than a month, the report says.

FAA documents also reveal poor airline oversight.

In July 2007, the agency fined United \$15,000 for putting an unqualified person in charge of its engine overhaul shop in San Francisco "on multiple occasions" from Aug. 30 through Nov. 1, 2004. The person approving work wasn't licensed to sign off on it.

United spokeswoman McCarthy says the airline has changed how it reviews qualifications and certifies supervisors.

"All these departures from the rules," Goglia says, "raise the risk little by little until there's an incident or a crash."

(The preceding article by Gary Stoller was published February 2, 2010, by USA Today.)

February 2, 2010



NTSB pins N.Y. crash on pilot errors

Pilot error was the probable cause of an airline crash into a house near Buffalo, N.Y., last year, but the accident's root problems extend far beyond a single event, a federal safety panel said Feb. 2, reports the Associated Press.

The head of the National Transportation Safety Board, Deborah Hersman, said the accident casts doubt on whether regional airlines are held to the same level of safety as are major airlines, and she promised the board will pursue the issue.

She also criticized the Federal Aviation Administration for taking too long to address safety problems raised by the crash, saying the same issues have turned up before.

"Today is Groundhog Day, and I feel like we are in that movie," Hersman said, referring to the 1993 Bill Murray movie about a Pittsburgh weatherman who repeatedly lives through the same day. "We have made recommendations time after time after time. They haven't been heeded by the FAA."

The FAA said in a statement that it has driven significant improvements in pilot professionalism, training and background checks in the past year. The agency said it will soon propose new rules to prevent pilot fatigue, further improve training and increase the qualifications required to be an airline pilot.

The three-member board agreed unanimously that an "inappropriate response" by the captain of Continental Connection 3307 to a key piece of safety equipment caused the crash.

The board also said the flight crew's inattention to airspeeds, their violation of regulations prohibiting unnecessary conversation during takeoffs and landings, and the air carrier's inadequate procedures for entering airspeeds for freezing weather were contributing factors.

The board issued more than 20 safety recommendations to the FAA as a result of the accident. They included recommendations related to pilot fatigue, remedial training for pilots who have failed skills tests, making pilot's test records available to prospective employers, training on how to recover from a stall and airspeed selection procedures.

Hersman praised FAA Administrator Randy Babbitt for initiating

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regulation changes in response to the crash on Feb. 12, 2009, when the plane dove into a house, killing all 49 people aboard and one man in the house. But Hersman said Babbitt has been unable so far to push reforms "across the finish line" and that congressional action may be needed.

Flight 3407, operated for Continental Airlines by Colgan Air Inc., was approaching Buffalo-Niagara International Airport when the twin-engine turboprop experienced an aerodynamic stall and went into a dive. The board said Capt. Marvin Renslow should have been able to recover from the stall but that he did the opposite of what he should have done.

In the final seconds of the flight, two pieces of safety equipment activated -- a stick shaker to alert the crew their plane was nearing a stall and a stick pusher that points a plane's nose down so it can recover speed, investigators said. The correct response to both situations would have been to push forward on the control column to increase speed, they said.

But Renslow pulled back on the stick shaker, investigators said. When the plane stalled and the pusher activated, Renslow again pulled back three times.

"It wasn't a split-second thing," NTSB safety investigator Roger Cox said. "I think there was time to evaluate the situation and initiate a recovery, but I can't give you a number of seconds."

Seventy-five percent of pilots who had experienced the stick-pusher activation in training also responded by pulling back instead of pushing forward, even though they knew ahead of time to expect a stall, investigators said.

The first officer, Rebecca Shaw, 24, should have stepped in to push the plane's nose down herself when Renslow, 47, responded improperly, but she may not have because she was a relatively inexperienced pilot, investigators said.

Shaw commuted across the country overnight to Newark, N.J., to make Flight 3407. It's not clear how much sleep either pilot received the night before the flight, but investigators said both pilots likely were suffering from fatigue.

Hersman wanted to list fatigue as a contributing factors to the crash. The board's other two members declined, saying it couldn't conclusively be determined if fatigue had impaired the pilots' performance.

Shaw erred at the beginning of the flight by programming an

ordinary airspeed into the plane's computer, rather than the higher airspeed needed for freezing weather, investigators said. The plane didn't accumulate enough ice on the wings to stall, but the mix-up on speeds caused the stick shaker to warn of a stall even though one wasn't actually imminent.

Colgan's pilot training program was also criticized for not giving Renslow remedial attention despite his failures on several tests of piloting skill and for not emphasizing procedures for recovering from a full stall, including how to respond to the stick pusher.

Colgan said in a statement that the pilots were properly trained in how to recover from a stall.

"We have taken a number of important and specific steps to further enhance all of our training and hiring programs," the statement said.

(The preceding article was published Feb. 3, 2010, by the Associated Press.)

February 3, 2010





Jeff Mursau

STATE REPRESENTATIVE • 36TH ASSEMBLY DISTRICT

Senate Bill 343
Restoring Oversight of Rail Purchases
February 4, 2010
Representative Jeffery Mursau

Chairman Holperin and committee members; I would like to present testimony in favor of Senate Bill 343.

SB 343 was introduced to restore some reasonable checks and balances to the state bidding process. Under current law, most state capital projects are let through a competitive bidding process. There is an exception for the purchase of passenger rail equipment, however.

As you know, in May of 2009 Governor Doyle signed a \$47.5 million contract with the Spanish firm Talgo. The contract was for the purchase of passenger railcars for use between Milwaukee and Chicago.

After the details of the contract became public, several other firms expressed their frustration at having been excluded from the process. They too would have liked the opportunity to provide railcars to Wisconsin.

While the Talgo cars will be assembled in Wisconsin, the primary fabrication will occur in Spain. Some of the other firms indicated that they would be willing to fabricate parts in Wisconsin and pass business on to local companies.

One such company is Wausaukee Composites located in Wausaukee in Marinette County. Wausaukee Composites has worked with other railcar builders to fabricate parts for high speed passenger railcars, including some that are in use on Amtrak's Acela service in the Northeast Corridor.

Was the Talgo contract the best deal the Wisconsin could have gotten? Maybe. Maybe not. Without a competitive bidding process, it's really hard to know. As stewards of the taxpayers' money, we owe it to them to make sure those funds are spent wisely.

I ask that you vote to pass SB 343 and restore some balance to the bidding process.

Thank you for allowing me to testify in favor of SB 343.



ROBERT L. COWLES

TO: Senate Committee on Transportation

FROM: State Senator Robert Cowles

DATE: February 4, 2010

RE: Senate Bill 343

Good morning, Chairman Holperin and members of the committee, and thank you for allowing me to testify in support of Senate Bill 343.

Senate Bill 343 eliminates the exemption currently in state law that allows the Department of Transportation to contract for rail passenger equipment, facilities or services without using a competitive bidding or sealed bid process.

This issue came to my attention last summer when it became public that the Department of Transportation signed a \$47.5 million contract with the Spanish company Talgo to build two trains without using a competitive bidding or sealed bid process.

The no-bid contract that the administration signed with Talgo was legal due to a 1997 state law that exempts passenger rail contracts from the normal bidding rules. Senate Bill 343 will close that loophole by making passenger rail contracts subject to the same bidding requirements as other state contracts.

Taxpayers in the state are hurting right now, and we have to do everything we can to make sure their money is being spent wisely. It is fiscally irresponsible for **any** administration to be able to negotiate and sign such a large contract without using a competitive bidding process. Bringing more accountability to state contracts is a step in the right direction, and Senate Bill 343 accomplishes that goal.

According to administration officials, Talgo was the only company to show interest in the contract, which they said was one of the main reasons why a competitive bidding process was not used. After the no-bid contract was announced, three other train manufacturers came forward to say they were interested in the train contract, and disappointed that the project was not put out for bid.

It should be noted that in October of last year, DOT announced plans to purchase two more trains. Unlike the Talgo purchase, that contract was to be put out to competitive bid, because the purchase was to be made using federal dollars, and federal rules require competitive bids for these sorts of contracts. Shouldn't the people of Wisconsin receive the same protections that the rest of the country receives when their money is being spent? Once again, this shows why Senate Bill 343, which requires the DOT to use competitive bidding for purchasing trains, is so badly needed. The taxpayers of Wisconsin deserve nothing less.

Wisconsin is facing difficult economic times right now, and the last thing we need is to find out that the taxpayers might not be getting the best deal possible. Making the most efficient use of scarce taxpayer dollars has to be our number one priority right now, which is why Senate Bill 343 is common sense.

Thank you for the opportunity to testify, and once again I urge your support for Senate Bill 343.



This legislation is very important to Wisconsin's towing and recovery industry because Wisconsin statute 779.715 is often the only way operator's may legally dispose of wrecked, disabled and abandoned motor vehicles and receive at least some compensation for the service of recovering, towing and storing those vehicles. Most often operators are paid for their services by vehicle owners or their insurers and it is not necessary to enforce their lien rights. However many owners simply abandoned their vehicle when the costs of repair as well as towing and storage exceed the value of the vehicle. Then the burden of disposal falls on the operator as most local units of government choose not assume their statutory responsibility under s. 342.40 to deal with abandoned motor vehicles. Thus the only legal means of disposition for the operator is lien enforcement under s. 779.415.

Vehicles that have value are almost always claimed, and if not by the owner, by a lending institution with a perfected security interest through repossession. Under this scenario, operators must give up the vehicle to the lending institution (senior lien holder) upon payment of amounts less than their actual towing and storage charges. These amounts have been given a priority over the lending institution's security interest and are currently for automobiles at \$7 a day for storage and \$75 for recovery and towing. They are high for large vehicles. These amounts were last adjusted with 1995 Wisconsin Act 62. The industry believes these priority amounts should reflect at a minimum the inflationary impact on the cost of doing business since 1995.

The industry has also asked for changes in the statute that will clarify terms and provisions to make it easier to use and make it consistent with the mechanic's lien law at 779.41. The rationale and details for each change is noted below.

RATIONALE FOR THE PROPOSED CHANGES TO 779.415

1. 779.415(1) (a) "manufacture's gross weight rating" in lieu of "gross weight." This change makes the criteria for determining the size of a motor vehicle the same statutory language as noted in 779.41 – Mechanic's liens. This is the customary manner in which vehicle size is determined in most regulations.
2. Change the current priority amount of \$75 for towing a motor vehicle having a gwvr of 20,000 lbs. or less to \$100. The current priority amount was enacted by 1995 Wisconsin Act 62 and has not been adjusted since. Using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the inflationary adjustment as of 2008 would amount to \$104.50.
3. Change the current priority amount of \$250 for towing a motor vehicle having a gwvr of more than 20,000 lbs. to \$350. The current priority amount was enacted by 1995 Wisconsin Act 62 and has not been adjusted since. Using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the inflationary adjustment as of 2008 would amount to \$348.47.
4. Change the current priority amount of \$7 for storing a motor vehicle having a gwvr of 20,000 lbs. or less to \$10 per day for a total amount of not more than \$600 (60 days). The current priority amount was enacted by 1995 Wisconsin Act 62 and has not been adjusted since. Using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the inflationary adjustment as of 2008 would amount to \$9.76.
5. Change the current priority amount of \$20 for storing a motor vehicle having a gwvr of more than 20,000 lbs. to \$25 per day for a total amount of not more than \$1,500 (60 days). The current priority amount was enacted by 1995 Wisconsin Act 62 and has not been adjusted since. Using the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator, the inflationary adjustment as of 2008 would amount to \$27.88.
6. Adjust the vehicle value for enforcement under 779.48(2) to \$750. The current amount of \$500 was last changed by enactment of 1995 Wisconsin Act 62. Using the CPI Calculator, that amount would be \$696.93.

7. Add the word "exclusively" to the last sentence of sub. (1) (a) to insure that the lien on vehicles valued less than \$500 (proposed \$750) is enforced under sub. 2
8. Add a paragraph to adjust the dollar amounts in Sub (1) (a) according to the annual CPI. This would make 779.415 consistent with the same provision in 779.41 – Mechanic's lien.
9. Amend paragraph (1m) to eliminate any ambiguity that the provision to repossess a motor vehicle after paying the priority amounts for towing and storage is exclusive to parties with a lien perfected under Chapter 342.
10. In paragraph (2), provide that notice may be given to owner(s) and lienholder(s) by certified mail rather than registered mail. Certified mail provides for documentation that notice was sent and is more economical than registered mail.

There are at least ten definitions of "motor vehicle" or "vehicle" in the current Wisconsin statutes. To eliminate any confusion of which should apply to s. 779.415 and to insure that the many conveyances that are towed and recovered are applicable to the law, the proposed legislation provides the more inclusive definition of "vehicle" at s. 29.001(87) apply.

29.001(87) "Vehicle" means any device for moving persons or property or pulling implements from one place to another on land or rails or in the air.

Link to CPI Inflation Calculator - http://www.bls.gov/data/inflation_calculator.htm



WISCONSIN STATE LEGISLATURE



1 enumeration under s. 84.013 (3) as a major highway project. The evaluation
2 procedure may include any criteria that the department considers relevant. The
3 rules shall establish a minimum score that a project shall meet or exceed when
4 evaluated under the procedure established under this section before the department
5 may recommend the project to the transportation projects commission for
6 consideration under s. 13.489.

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~~*-0401/4.4* SECTION 2477.~~ 85.06 (2) (b) of the statutes is amended to read:

8 85.06 (2) (b) Contract with Amtrak or an applicable railroad, railroads or other
9 persons to provide rail passenger service or support services, equipment, station
10 improvements, passenger platforms, equipment maintenance shops, parking areas
11 or other support facilities for rail passenger service. ~~The contract may provide for~~
12 ~~the sale or lease of any equipment or facilities acquired by the department under par.~~
13 ~~(g). Notwithstanding s. 16.75 (1) and (2m), the department may contract under this~~
14 ~~paragraph without competitive bidding or competitive sealed proposals.~~

15 *-0401/4.5* SECTION 2478. 85.06 (2) (e) of the statutes is amended to read:

16 85.06 (2) (e) Subject to sub. (3), Conduct or contract for marketing studies and
17 promotional activities to increase rail passenger service ridership in this state, to
18 identify potential riders and to educate the public about the availability and
19 advantages of rail passenger service.

20 *-0401/4.6* SECTION 2479. 85.06 (2) (g) of the statutes is created to read:

21 85.06 (2) (g) Acquire equipment or facilities for the purpose of providing rail
22 passenger service or support services for rail passenger service.

23 *-0401/4.7* SECTION 2480. 85.06 (2) (h) of the statutes is created to read:

24 85.06 (2) (h) Enter into agreements with other states to assist or promote rail
25 passenger service.

97 Wis. Act 27, s. 2477 - continued

85.06 (2) (b) ~~Contract with Amtrak or an applicable railroad,~~ railroads or other persons to provide rail passenger service or support services, equipment, station improvements, passenger platforms, equipment maintenance shops, parking areas or other support facilities for rail passenger service. The contract may provide for the sale or lease of any equipment or facilities acquired by the department under par. (g). Notwithstanding s. 16.75 (1) and (2m), the department may contract under this paragraph without competitive bidding or competitive sealed proposals.

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85.06 (2) (b) Contract with Amtrak ~~or an applicable railroad~~, railroads or other persons to provide rail passenger service or support services, equipment, station improvements, passenger platforms, equipment maintenance shops, parking areas or other support facilities for rail passenger service. The contract may provide for the sale or lease of any equipment or facilities acquired by the department under par. (g). Notwithstanding s. 16.75 (1) and (2m), the department may contract under this paragraph without competitive bidding or competitive sealed proposals.