

2001 DRAFTING REQUEST

Bill

Received: **08/22/2001**

Received By: **fasttn**

Wanted: **As time permits**

Identical to LRB:

For: **David Ward (608) 266-3790**

By/Representing: **Charlene Rodriguez (aide)**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**
Transportation - miscellaneous

Extra Copies: **TNF, PJH**

Submit via email: **YES**

Requester's email: **Charlene.Rodriguez@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Requiring DOT to comply with local ordinances related to grass or weed height

Instructions:

See attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	agary 09/24/2001	rschluet 09/28/2001	pgreensl 10/01/2001	_____	lrb_docadmin 10/01/2001	lrb_docadminS&L 10/03/2001	
/2	agary 10/05/2001	csicilia 10/05/2001	jfrantze 10/05/2001	_____	lrb_docadmin 10/05/2001	lrb_docadminS&L 10/05/2001	

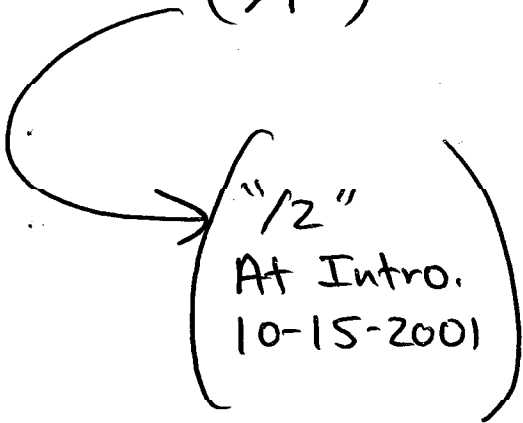
10/05/2001 10:46:04 AM

Page 2

FE Sent For: 10/02/2001.

(" / 1 ")

<END>



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/1	agary 09/24/2001	rschluet 09/28/2001	pgreensl 10/01/2001	_____	lrb_docadmin 10/01/2001	lrb_docadminS&L 10/03/2001	

FE Sent For: 10/02/2001.

1/2 cjs 10/5
01 10/6
J/ck
10/6
<END>

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/1	agary 09/24/2001	rschlue 09/28/2001	pgreensl 10/01/2001	_____	lrb_docadmin 10/01/2001		S&L

FE Sent For:

"/1" sent for 10/2/01

<END>

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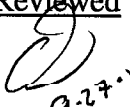
Topic:

Requiring DOT to comply with local ordinances related to grass or weed height

Instructions:

See attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	agary	 9-27-01	10/1 PS	10/1 SELF			

FE Sent For:

<END>

Gary, Aaron

From: Rodriguez, Charlene
Sent: Friday, August 31, 2001 11:09 AM
To: Gary, Aaron
Subject: RE: LRB-3655 - noxious weeds

Aaron:

Rep. Ward will be contacting you personally via phone to discuss this issue further with you.

Thanks,

Char

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

From: Gary, Aaron
Sent: Thursday, August 30, 2001 4:49 PM
To: Rodriguez, Charlene
Subject: LRB-3655 - noxious weeds

Charlene,

Dr. Fast is on vacation and passed along to me your drafting request, on behalf of Rep. Ward, to require DOT to comply with local ordinances requiring property owners to cut and trim noxious weeds on property abutting highways. The request is now LRB-3655. I am writing for clarification of the request.

Under s. 66.0407 (3) and (4), all persons (whether natural, corporate, or politic) are required to destroy noxious weeds on property owned, occupied, or controlled by them, and all persons must also comply with local requirements for the destruction of noxious weeds within the municipality. The only exception is for DNR land used as a wild bird habitat. Under s. 84.07 (3), the state highway patrol (part of DOT) must destroy all noxious weeds on any highway which it patrols. Under s. 66.0517, local weed commissioners have broad authority over noxious weeds, including authority to enter land to destroy such weeds and then recover the expense related thereto from the landowner. However, s. 66.0517 probably does not allow recovery of this expense from the landowner if the landowner is the state.

With the foregoing as a background, the approach I will take in preparing this draft depends on the specific problem that needs to be addressed. Does the request stem from a DOT denial that these provisions apply to DOT? Is the request intended to allow local authorities to recover the cost of destruction of noxious weeds from DOT under s. 66.0517? Is there a "loophole" that Rep. Ward would like fixed? If you can advise me more particularly of the genesis of the request or the particular problem intended to be addressed, I can better draft the bill to meet your needs.

If you would prefer to discuss this matter by phone rather than e-mail, please call. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

8/31/01 Telephone conversation with Rep. Ward. Not really concerned with noxious weeds. DOT does control noxious weeds through spraying. Situation is that Lake Mills and other municipalities have ordinances that prohibit grass and weeds from being more than a foot high. Under the ordinance, the municipality can require a landowner to mow grass or weeds that exceed the height limit, and if the landowner refuses, the municipality can mow it and then collect the cost of mowing from the landowner. Wants a bill that allows municipalities to enforce these ordinances against DOT and allows the municipality to mow and collect the cost of mowing from DOT if DOT refuses to mow, i.e., that treats DOT like other landowners within the municipality. Wants to make it permissive, not mandatory. Does not want to require DOT to comply with all such municipal ordinances, but wants to allow municipalities to enforce such ordinances against DOT if they choose (though they would not be required to). Draft should apply only to property abutting the highways. Advises there are places along I 94 where the grass is growing 5 feet tall, as well as places along the median strip and near exit ramps where the grass is so high that it is hard to see past and creates a safety hazard.

ARG



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3655/1

ARG:.....

rs
+ un 4

2001 BILL

D-Note

Gen

1 AN ACT relating to: maintenance of grass and weeds below a specified height
2 on land abutting highways.

Analysis by the Legislative Reference Bureau

Current law requires every person to destroy all noxious weeds on lands that the person owns, occupies, or controls, including on public lands. Current law also requires a highway patrolman on all federal, state, and county highways to destroy all noxious weeds on the portion of highways that the highway patrolman patrols. The governing body of any town, city, or village (municipality) or the county board of any county may, by ordinance or resolution, declare any weed to be noxious within the municipality's or county's boundaries. A municipality may also appoint a weed commissioner, who has authority to enter land and destroy noxious weeds, and then charge the landowner for the cost of destruction.

This bill allows the governing body of any municipality, by ordinance or resolution, to require the department of transportation (DOT) to maintain grass and weeds at or below a specified height, of not less than 12 inches, on land owned, occupied, or controlled by DOT that abuts the roadway of a highway, including land within or abutting the highway right-of-way, and that is located within the corporate limits of the municipality. DOT may contract with any municipality or private entity for performance of such ^{maintenance} maintenance work. If DOT neglects to maintain grass or weeds on the specified property at or below the height required by the municipality, and the municipality has provided reasonable notice to DOT of its failure to comply with the requirement, the municipality may enter upon the land and cut, trim, or mow, or cause any person to enter upon the land to cut, trim, or mow,

BILL

the grass or weeds. DOT must compensate a municipality for the reasonable cost of cutting, trimming, or mowing grass or weeds, upon submission to DOT of an itemized account for the work, verified under oath, within one month following the work.

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:

1 **SECTION 1.** 85.07 (9) of the statutes is created to read:

2 85.07 (9) GRASS AND WEED CONTROL. The department shall comply with any
3 ordinance or resolution specified in s. 349.28 (1) and shall make any payment
4 required under s. 349.28 (2).

5 **SECTION 2.** 349.28 of the statutes is created to read:

6 **349.28 Authority to regulate length of grass and weeds on land**
7 **abutting highways.** (1) The governing body of any municipality may by ordinance
8 or resolution require the department to maintain grass and weeds at or below a
9 specified height, of not less than 12 inches, on land owned, occupied, or controlled by
10 the department that abuts the roadway of any highway, including land within or
11 abutting the highway right-of-way, and that is located within the corporate limits
12 of the municipality.

13 (2) (a) If the department neglects to maintain grass or weeds in violation of an
14 ordinance or resolution specified in sub. (1) after the municipality has provided
15 reasonable notice to the department that the department is not in compliance with
16 the ordinance or resolution, the municipality may cut, trim, or mow, or have cut,
17 trimmed, or mowed, the grass or weeds in the most economical manner if reasonable
18 care is exercised.

BILL

1 (b) The department shall pay to a municipality the reasonable cost of the
2 cutting, trimming, or mowing under par. (a) upon submission by the municipality to
3 the department of a properly itemized account for the work, verified under oath, no
4 later than one month following performance of the work. The account shall include
5 a description of the land on which the work was performed, a description of the work
6 performed, the date the work was performed, and the amount charged for each item
7 of work performed, as well as the method of calculating the amount charged for each
8 item of work.

9 (3) The department may contract with any municipality or private entity to
10 have all or certain parts of the maintenance specified in sub. (1) performed by the
11 municipality or private entity.

12

(END)



D - Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3655/1dn

ARG:.....

05

Date

The attached draft allows municipalities, by ordinance or resolution, to require the department of transportation (DOT) to maintain grass and weeds at or below a specified height on land owned, occupied, or controlled by DOT that abuts a highway. The draft does not authorize municipalities to require DOT to maintain grass or weeds at a height of less than 12 inches. The draft also includes provisions allowing municipalities to charge DOT for the cost of cutting, trimming, or mowing grass and weeds if DOT neglects its obligations imposed by an ordinance or resolution.

The draft includes numerous details to effectuate implementation and administration of the provision. Please carefully review the draft to ensure that it is consistent with your intent.

If you have any questions, comments, or concerns, please feel free to call.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3655/1dn
ARG:rs:pg

October 1, 2001

The attached draft allows municipalities, by ordinance or resolution, to require the department of transportation (DOT) to maintain grass and weeds at or below a specified height on land owned, occupied, or controlled by DOT that abuts a highway. The draft does not authorize municipalities to require DOT to maintain grass or weeds at a height of less than 12 inches. The draft also includes provisions allowing municipalities to charge DOT for the cost of cutting, trimming, or mowing grass and weeds if DOT neglects its obligations imposed by an ordinance or resolution.

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If you have any questions, comments, or concerns, please feel free to call.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

October 1, 2001

MEMORANDUM

To: Representative Ward

From: Aaron R. Gary, Attorney

Re: LRB-3655/1 Requiring DOT to comply with local ordinances related to grass or weed height

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-6926 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

LRB 3655

10/04/01 – 4:30 pm Telephone conversation with Char in Rep. Ward's office. Do not want to require DOT to comply with ordinances - want two step process: local may pass resolution specifically requiring DOT to comply with another local ordinance on grass/weed height. Need by noonish tomorrow.

ARG

Gary, Aaron

From: Gary, Aaron
Sent: Friday, October 05, 2001 9:57 AM
To: Rodriguez, Charlene
Subject: LRB-3655 redraft

Importance: High

Charlene,

I have redrafted LRB-3655 per our telephone conversation yesterday. Proposed s. 349.28 (1), on p. 2 lines 6-12, now reads as follows:

"The governing body of any municipality may adopt a resolution requiring the department to comply with an ordinance or resolution of the municipality relating to the maintenance of grass and weeds at or below a specified height, of not less than 12 inches, on any land owned, occupied, or controlled by the department that abuts the roadway of any highway, including land within or abutting the highway right-of-way, and that is located within the corporate limits of the municipality."

The new provisions are underlined. Is this what you want? Please let me know ASAP so that I can rush this through editing and get it to you. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

10/5/01 10:15 am

He w/ Char - looks fine

so long as locals can regulate by

either ordinance or resolution; ~~conf~~

• confirmed w/ MES that ^{both} local ordinance & resolution have the force of law in terms of local regulation

Memo

To: Rep. Ward

(The Bill's Requestor)

Attached is a fiscal estimate prepared for your 2001 draft that has not yet been introduced.

LRB Number: LRB 3055

Version: "/ 1 "

Entered In Computer And Copy Sent To Requestor Via E-Mail: 10 / 11 / 2001

Fiscal Estimate Prepared By: (agency abbr.) DOT

If you have questions about the attached fiscal estimate, you may contact the agency/individual who prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

* * * * *

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is **re-drafted** to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
- If this draft gets **introduced** ... and the version of the attached fiscal estimate is correct ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2001 _____

- If this draft gets **introduced** ... and the version of the attached fiscal estimate is for a previous version ... please attach this early fiscal estimate to the back of the draft's file between the old version and the new version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

Emery, Lynn

From: Emery, Lynn
Sent: Thursday, October 11, 2001 9:55 AM
To: Rep.Ward
Subject: LRB-3655/1 (FE by DOT-attached-for your review)



FE_Ward.pdf

FE_Ward.pdf

Fiscal Estimate - 2001 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 01-3655/1	Introduction Number
Subject Requiring DOT to comply with local ordinances related to grass or weed height	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate	
<input checked="checked" type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input checked="checked" type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="checked" type="checkbox"/> No <input type="checkbox"/> Decrease Costs
Local:	
<input checked="checked" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate	
1. <input checked="checked" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input checked="checked" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="checked" type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.395 (3) (eq)	
Affected Ch. 20 Appropriations	
Agency/Prepared By	Authorized Signature
DOT/ David Vieth (608) 267-8999	Carol Buckmaster (608) 267-6979
	Date
	10/10/01

Fiscal Estimate Narratives

DOT 10/11/01

LRB Number 01-3655/1	Introduction Number	Estimate Type Original
Subject Requiring DOT to comply with local ordinances related to grass or weed height		

Assumptions Used in Arriving at Fiscal Estimate

Since there would be local cost to municipalities, it is assumed the majority of municipalities would require the department to provide the no cost mowing services.

The additional mowing effort would consist of: 1) mowing additional portions of the right of way, beyond the current safety and operational needs that cover a basic fifteen foot swath along each side of the roadway, the vision corners, and some periodic mowing to control woody vegetation growth; and, 2) increased frequency of mowing to achieve requirements that could restrain growth to 12 inches or less.

The estimate also assumes that the department would not be required to mow sensitive areas that may include: wetlands; stands of threatened, endangered, or rare native plants; steep slopes which pose erosion or safety threats.

Assumption of 150,000 acres of roadside along state highways, 80% of which the department would be required to mow. To achieve the standards for length of vegetation and average of four mowings per season would be required.

150,000 acres x 80% affected by this bill = 120,000 acres

120,000 acres x average cost per acre per mowing of \$56.57 = \$6.79 million per mowing \$6.79 million per mowing x 4 mowings per year = \$ 27.2 million total cost

\$ 27.2 million total cost less current costs for mowing of \$6 million per season = added cost to conform to this bill of \$21.2 million

Long-Range Fiscal Implications

Costs are expected to persist and increase with inflation as local governments have no financial stake in constraining costs for this type of service.

Fiscal Estimate Worksheet - 2001 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 01-3655/1		Introduction Number	
Subject			
Requiring DOT to comply with local ordinances related to grass or weed height			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
	State Operations - Salaries and Fringes	\$	
	(FTE Position Changes)		
	State Operations - Other Costs	21,200,000	
	Local Assistance		
	Aids to Individuals or Organizations		
	TOTAL State Costs by Category	\$21,200,000	\$
B. State Costs by Source of Funds			
	GPR		
	FED		
	PRO/PRS		
	SEG/SEG-S	21,200,000	
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$
	GPR Earned		
	FED		
	PRO/PRS		
	SEG/SEG-S		
	TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT			
		State	Local
	NET CHANGE IN COSTS	\$21,200,000	\$
	NET CHANGE IN REVENUE	\$	\$
Agency/Prepared By		Authorized Signature	Date
DOT/ David Vieth (608) 267-8999		Carol Buckmaster (608) 267-6979	10/10/01

10/5/01
Now

RMR

gjs

2001 BILL

department of transportation

1

AN ACT to create 85.07 (9) and 349.28 of the statutes; **relating to:** maintenance

2

of grass and weeds below a specified height on land abutting highways.

Analysis by the Legislative Reference Bureau

Current law requires every person to destroy all noxious weeds on lands that the person owns, occupies, or controls, including on public lands. Current law also requires a highway patrolman on all federal, state, and county highways to destroy all noxious weeds on the portion of highways that the highway patrolman patrols. The governing body of any town, city, or village (municipality) or the county board of any county may, by ordinance or resolution, declare any weed to be noxious within the municipality's or county's boundaries. A municipality may also appoint a weed commissioner, who has authority to enter land and destroy noxious weeds, and then charge the landowner for the cost of destruction.

This bill allows the governing body of any municipality ~~by ordinance or resolution, to require the department of transportation (DOT) to maintain~~ grass and weeds at or below a specified height, of not less than 12 inches, on ^{any} land owned, occupied, or controlled by DOT that abuts the roadway of a highway, including land within or abutting the highway right-of-way, and that is located within the corporate limits of the municipality. DOT may contract with any municipality or private entity for performance of such maintenance work. If DOT neglects to maintain grass or weeds on the specified property at or below the height required by the municipality, and the municipality has provided reasonable notice to DOT of its failure to comply with the requirement, the municipality may enter upon the land and cut, trim, or mow, or cause any person to enter upon the land to cut, trim, or mow,

to adopt a resolution requiring the department of transportation (DOT) to comply with an ordinance or resolution of the municipality relating to the maintenance of

BILL

the grass or weeds. DOT must compensate a municipality for the reasonable cost of cutting, trimming, or mowing grass or weeds, upon submission to DOT of an itemized account for the work, verified under oath, within one month following the work.

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:

1 SECTION 1. 85.07 (9) of the statutes is created to read:

2 85.07 (9) GRASS AND WEED CONTROL. The department shall comply with any ^{applicable}
3 ordinance or resolution specified in s. 349.28 (1) and shall make any payment
4 required under s. 349.28 (2).

5 SECTION 2. 349.28 of the statutes is created to read:

6 **349.28 Authority to regulate length of grass and weeds on land**
7 **abutting highways.** (1) The governing body of any municipality may ^{department} ~~by ordinance~~
8 ~~or resolution~~ require the department to maintain grass and weeds at or below a
9 specified height, of not less than 12 inches, on ^{any} land owned, occupied, or controlled by
10 the department that abuts the roadway of any highway, including land within or
11 abutting the highway right-of-way, and that is located within the corporate limits
12 of the municipality.

13 (2) (a) If the department neglects to maintain grass or weeds in violation of an
14 ^{applicable} ordinance or resolution specified in sub. (1) after the municipality has provided
15 reasonable notice to the department that the department is not in compliance with
16 the ordinance or resolution, the municipality may cut, trim, or mow, or have cut,
17 trimmed, or mowed, the grass or weeds in the most economical manner if reasonable
18 care is exercised.

adopt a resolution requiring the department to
comply with an ordinance or resolution of the municipality
relating to the maintenance of

BILL

1 (b) The department shall pay to a municipality the reasonable cost of the
2 cutting, trimming, or mowing under par. (a) upon submission by the municipality to
3 the department of a properly itemized account for the work, verified under oath, no
4 later than one month following performance of the work. The account shall include
5 a description of the land on which the work was performed, a description of the work
6 performed, the date the work was performed, and the amount charged for each item
7 of work performed, as well as the method of calculating the amount charged for each
8 item of work.

9 (3) The department may contract with any municipality or private entity to
10 have all or certain parts of the maintenance specified in sub. (1) performed by the
11 municipality or private entity.

12 **(END)**



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3655/1
ARG:rs&cmh:pg

2001 BILL

Hi Aaron!
May I please be sent
the new draft in a PDF
file as well?

Thanks,

Charles Rodriguez

Rep. No. 25 ofc. 6-5711

This is being
redrafted & should
be out by around
noon - please
send PDF
per

- 1 AN ACT to create 85.07 (9) and 349.28 of the statutes; relating to: maintenance
- 2 of grass and weeds below a specified height on land abutting highways.

Analysis by the Legislative Reference Bureau

Current law requires every person to destroy all noxious weeds on lands that the person owns, occupies, or controls, including on public lands. Current law also requires a highway patrolman on all federal, state, and county highways to destroy all noxious weeds on the portion of highways that the highway patrolman patrols. The governing body of any town, city, or village (municipality) or the county board of any county may, by ordinance or resolution, declare any weed to be noxious within the municipality's or county's boundaries. A municipality may also appoint a weed commissioner, who has authority to enter land and destroy noxious weeds, and then charge the landowner for the cost of destruction.

This bill allows the governing body of any municipality, by ordinance or resolution, to require the department of transportation (DOT) to maintain grass and weeds at or below a specified height, of not less than 12 inches, on land owned, occupied, or controlled by DOT that abuts the roadway of a highway, including land within or abutting the highway right-of-way, and that is located within the corporate limits of the municipality. DOT may contract with any municipality or private entity for performance of such maintenance work. If DOT neglects to maintain grass or weeds on the specified property at or below the height required by the municipality, and the municipality has provided reasonable notice to DOT of its failure to comply with the requirement, the municipality may enter upon the land and cut, trim, or mow, or cause any person to enter upon the land to cut, trim, or mow,

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the grass or weeds. DOT must compensate a municipality for the reasonable cost of cutting, trimming, or mowing grass or weeds, upon submission to DOT of an itemized account for the work, verified under oath, within one month following the work.

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:

1 **SECTION 1.** 85.07 (9) of the statutes is created to read:

2 **85.07 (9) GRASS AND WEED CONTROL.** The department shall comply with any
3 ordinance or resolution specified in s. 349.28 (1) and shall make any payment
4 required under s. 349.28 (2).

5 **SECTION 2.** 349.28 of the statutes is created to read:

6 **349.28 Authority to regulate length of grass and weeds on land**
7 **abutting highways.** (1) The governing body of any municipality may by ordinance
8 or resolution require the department to maintain grass and weeds at or below a
9 specified height, of not less than 12 inches, on land owned, occupied, or controlled by
10 the department that abuts the roadway of any highway, including land within or
11 abutting the highway right-of-way, and that is located within the corporate limits
12 of the municipality.

13 (2) (a) If the department neglects to maintain grass or weeds in violation of an
14 ordinance or resolution specified in sub. (1) after the municipality has provided
15 reasonable notice to the department that the department is not in compliance with
16 the ordinance or resolution, the municipality may cut, trim, or mow, or have cut,
17 trimmed, or mowed, the grass or weeds in the most economical manner if reasonable
18 care is exercised.

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1 (b) The department shall pay to a municipality the reasonable cost of the
2 cutting, trimming, or mowing under par. (a) upon submission by the municipality to
3 the department of a properly itemized account for the work, verified under oath, no
4 later than one month following performance of the work. The account shall include
5 a description of the land on which the work was performed, a description of the work
6 performed, the date the work was performed, and the amount charged for each item
7 of work performed, as well as the method of calculating the amount charged for each
8 item of work.

9 (3) The department may contract with any municipality or private entity to
10 have all or certain parts of the maintenance specified in sub. (1) performed by the
11 municipality or private entity.

12 (END)