

## 2001 SENATE BILL 291

October 23, 2001 – Introduced by Senators GROBSCHMIDT, COWLES, HUELSMAN, SCHULTZ and DARLING, cosponsored by Representatives WARD, STONE, GRONEMUS, MONTGOMERY, LADWIG, RYBA, TURNER, HAHN, MUSSER, JESKEWITZ, DUFF, OWENS, AINSWORTH, OTT, PLOUFF, SINICKI, BOYLE, PLALE, HUBER, COLON and FREESE. Referred to Committee on Insurance, Tourism, and 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 department of transportation  
3             land abutting highways.

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### *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 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 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

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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, 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.

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*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 applicable ordinance or resolution specified in s. 349.28 (1) and shall make any  
4 payment 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 department**  
7 **land abutting highways. (1)** The governing body of any municipality may adopt  
8 a resolution requiring the department to comply with an ordinance or resolution of  
9 the municipality relating to the maintenance of grass and weeds at or below a  
10 specified height, of not less than 12 inches, on any land owned, occupied, or controlled  
11 by the department that abuts the roadway of any highway, including land within or  
12 abutting the highway right-of-way, and that is located within the corporate limits  
13 of the municipality.

14           **(2)** (a) If the department neglects to maintain grass or weeds in violation of an  
15 applicable ordinance or resolution specified in sub. (1) after the municipality has  
16 provided reasonable notice to the department that the department is not in  
17 compliance with the ordinance or resolution, the municipality may cut, trim, or mow,

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1 or have cut, trimmed, or mowed, the grass or weeds in the most economical manner  
2 if reasonable care is exercised.

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

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

14 (END)