

**2003 DRAFTING REQUEST**

**Bill**

Received: 02/11/2004

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Joseph Leibham (608) 266-2056

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Transportation - highways

Extra Copies: ARG, Ron Sklansky

Submit via email: YES

Requester's email: Sen.Leibham@legis.state.wi.us

Carbon copy (CC:) to: ron.sklansky@legis.state.wi.us

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Department approval for platting land

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**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	phurley 02/11/2004	kgilfoy 02/11/2004	rschluet 02/12/2004	_____	Inorthro 02/12/2004		
/2	agary 02/13/2004	kgilfoy 02/13/2004	pgreensl 02/13/2004	_____	lemery 02/13/2004	mbarman 02/16/2004	

FE Sent For:

*none  
needed*

<END>

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02/13/2004 03:09:01 PM

Page 2

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/?							
/1	phurley 02/11/2004	kgilfoy 02/11/2004	rschlue 02/12/2004	<u>2/13</u> <i>[Signature]</i>	Inorthro 02/12/2004		

FE Sent For:

*2/13*  
*PV*  
**<END>**

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Pre Topic:

No specific pre topic given

Topic:

Department approval for platting land

Instructions:

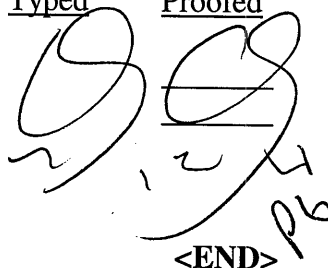
See Attached

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/? phurley

1 - 2/11  
Kmg



FE Sent For:

PJH:.....  
*king*

**2003 BILL**

*By-2-13-04*

*Gen. Act.*

*rules*

1 AN ACT ~~relating to~~; **relating to:** suspending ~~the~~ Department of Transportation ~~rule~~ related  
2 to dividing or developing lands.

***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.

This bill limits the rule-making authority of DOT to rules relating to a proposed plat of a subdivision.

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

3 **SECTION 1.** 236.13 (1) (e) of the statutes is amended to read:  
4 236.13 (1) (e) The ~~If the preliminary or final plat is a subdivision,~~ the rules of  
5 the department of transportation relating to provision for the safety of entrance upon

**BILL**

1 and departure from the abutting state trunk highways or connecting highways and  
2 for the preservation of the public interest and investment in such highways. The  
3 department of Transportation may ~~only~~ promulgate rules under this section relating only  
4 to a preliminary or final plat of a subdivision.

History: 1977 c. 29 ss. 1384, 1654 (8) (c); 1977 c. 162; 1979 c. 221, 248; 1981 c. 289 s. 19; 1981 c. 354; 1993 a. 414; 1995 a. 27 ss. 6310, 6311, 9116 (5); 1995 a. 227; 1997 a. 27; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 30.

5

(END)



2/13/04

Meeting w/ Ron Sklansky

- redraft per Sklansky draft

1 **AN ACT** to amend 85.16 (1) and 236.13 (1) (e) of the statutes; relating to: regulation  
2 of land divisions.

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

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

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

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

13 236.13 (1) (e) The rules of the department of transportation relating to provision for the  
14 safety of entrance upon and departure from the abutting state trunk highways or connecting  
15 highways and for the preservation of the public interest and investment in such highways. The  
16 rules shall apply only to land in a subdivision that abuts a state trunk highway or connecting  
17 highway and that is not owned or controlled by the subdivider. If the rules provide for a  
18 setback area from a state trunk highway or connecting highway within which improvements  
19 may not be installed, the rule shall define improvements to mean only buildings.

20 (END)

## Gary, Aaron

---

**From:** Gary, Aaron  
**Sent:** Friday, February 13, 2004 1:07 PM  
**To:** Sklansky, Ron  
**Cc:** Hurley, Peggy  
**Subject:** Trans 233 draft - LRB\_4246

Ron,

This looks good except for the language at line 17 "and that is not owned or controlled by the subdivider." Is the "not" supposed to be there? I know we discussed this, but now I'm not sure what you are getting at. The provision should only apply if the land is owned by the subdivider: Under s. 236.13 (1) (intro), in combination with s. 236.02 (8), (9), and (12), the scope should only be "a division of .... land by the owner thereof or the owner's agent." Please give me a 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](mailto:aaron.gary@legis.state.wi.us)

**Gary, Aaron**

---

**From:** Sklansky, Ron  
**Sent:** Friday, February 13, 2004 2:16 PM  
**To:** Gary, Aaron  
**Subject:** RE: Trans 233

Aaron:

This looks fine. If you have any other edits or good ideas, let me know. Thanks.

Ron

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

**From:** Gary, Aaron  
**Sent:** Friday, February 13, 2004 2:11 PM  
**To:** Sklansky, Ron  
**Subject:** Trans 233

<< File: 03-4246/2ins >>

Ron,

This is the language that I sketched out. It works in part off the definitions applicable in ch. 236 and also tries to incorporate other language in ch. 236 and Trans 233.017, as we discussed. Does this work for you? Thanks. Aaron  
P.S. This is just a rough draft to get your feedback - it hasn't been through editing yet.

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

Needs by 2/16 afternoon

2003 BILL

AMR #ARG

relating to land subdivisions abutting state trunk highways and connecting highways

Gen. Cat.

- 1
- 2

AN ACT to amend 236.13 (1) (e) of the statutes; relating to: ~~suspending~~  
 Department of Transportation rules ~~related to dividing or developing lands.~~

Insert ANAL-A

**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.

This bill limits the rule-making authority of DOT to rules relating to a proposed ~~plat of a subdivision.~~

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

Insert 1-3

- 3
- 4
- 5

~~SECTION 1. 236.13 (1) (e) of the statutes is amended to read:  
 236.13 (1) (e) The If the preliminary or final plat is a subdivision, the rules of the department of transportation relating to provision for the safety of entrance upon~~

**BILL**

1 and departure from the abutting state trunk highways or connecting highways and  
2 for the preservation of the public interest and investment in such highways. The  
3 department of transportation may promulgate rules under this section relating only  
4 to a preliminary or final plat of a subdivision.

5

(END)

**INSERT ANAL-A:**

(no R) 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.

**INSERT ANAL-B:**

(no R) 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.

**INSERT 1-3:**

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

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

History: 1983 a. 175 ss. 1, 3; 1983 a. 538; 1989 a. 31.

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

236.13 (1) (e) The rules of the department of transportation relating to provision for the safety of entrance upon and departure from the abutting state trunk

highways or connecting highways and for the preservation of the public interest and investment in such highways. The rules shall apply only to a subdivision and only if land within the subdivision abuts a state trunk highway or connecting highway. 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 shall define improvements to mean only buildings. For purposes of this paragraph, subdivision land does not abut a state trunk highway if there is any separation, whether by unplatted lands, a service road, or otherwise, between the exterior boundary shown in the preliminary or final plat submitted for approval and the highway right-of-way.

**History:** 1977 c. 29 ss. 1384, 1654 (8) (c); 1977 c. 162; 1979 c. 221, 248; 1981 c. 289 s. 19; 1981 c. 354; 1993 a. 414; 1995 a. 27 ss. 6310, 6311, 9116 (5); 1995 a. 227; 1997 a. 27; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 30.



**Basford, Sarah**

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**From:** Vander Sanden, Patrick  
**Sent:** Monday, February 16, 2004 9:25 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-4246/2 Topic: Department approval for platting land

It has been requested by <Vander Sanden, Patrick> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-4246/2 Topic: Department approval for platting land