

2003 DRAFTING REQUEST

Bill

Received: **11/22/2002**

Received By: **smiller**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Schaeffer**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**

Extra Copies: **TNF, PJH**

Submit via email: **NO**

Pre Topic:

DOA:.....Vail - BB0224,

Topic:

Wisconsin scenic byways

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>
/?							S&L
/1	agary 12/04/2002	kgilfoy 12/04/2002	rschluet 12/05/2002		amentkow 12/05/2002		S&L
/2	agary 01/24/2003	kgilfoy 01/24/2003	rschluet 01/27/2003		mbarman 01/27/2003		

FE Sent For:

<END>

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	agary			_____			

1/2-1/24/03
kmg

1-27-03
CPH
OG
<END>

FE Sent For:

Gary, Aaron

From: Grinde, Kirsten
Sent: Thursday, January 23, 2003 8:03 PM
To: Gary, Aaron
Cc: Vail, Benjamin
Subject: RE: BB0224 - LRB-0863

Aaron,

Please redraft as you feel necessary.

Thanks,

Kirsten

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

From: Gary, Aaron
Sent: Thursday, January 23, 2003 2:36 PM
To: Grinde, Kirsten
Cc: Vail, Benjamin
Subject: BB0224 - LRB-0863

Kirsten,

With regard to the e-mail communications below, I have now had the opportunity to spend more time deciphering state and federal law and comparing it to the draft and Attorney Bird's comments below. Upon doing so, I believe LRB-0863/1 should probably be redrafted. May I proceed to do so? Thanks. Aaron

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

Gary, Aaron

From: Bird, Barbara
Sent: Tuesday, December 10, 2002 10:50 AM
To: Gary, Aaron
Subject: RE: LRB-0863/1dn draft of changes to 84.30

I spoke with staff in our planning area and they feel the language in the definition of "primary highway" appropriately describes the process by which both the original primary system and the new national highway system were chosen. So I am not recommending any change in that part of your draft. I will get you Paul's comments ASAP. Thanks.

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

From: Gary, Aaron
Sent: Tuesday, December 10, 2002 10:46 AM
To: Bird, Barbara; Schaeffer, Carole
Cc: Kuecker, Karl; Maassen, Joe; Nilsen, Paul
Subject: RE: LRB-0863/1dn draft of changes to 84.30

Thank you for your comments and analysis. I will wait to hear Paul's suggestions and whether any additional changes need to be made to the definition of "primary highway" before I redraft this.

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

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

From: Bird, Barbara
Sent: Friday, December 06, 2002 3:12 PM
To: Schaeffer, Carole; Gary, Aaron
Cc: Kuecker, Karl; Maassen, Joe
Subject: LRB-0863/1dn draft of changes to 84.30

I was asked to review the first draft of changes which DOT suggested be made to s. 84.30, Stats. The draft and the analysis state that the purpose of the draft is to conform to federal law which makes scenic byways subject to the **same** restrictions on outdoor advertising as are applicable to primary highways. That is not a correct statement of federal law and is not the basis of the DOT's request for amendment of s. 84.30, Stats. If the same restrictions were applicable, I agree with Aaron Gary's comments as to why an amendment would be needed. The problem is that 23 USC 131(s) places **more** restrictions on the subset of primary highways (and national highway system highways) that are designated as scenic byways. That is why s. 84.30, Stats. must be amended. The simplest way to explain this is to state that some of the sign categories listed in 84.30(3) cannot be built along those primary highways designated as scenic byways. Section 23 USC 131 has two subsections that describe types of signs that may be erected along primary highways. Signs identified in 23 USC 131(c) and 23 USC 131(d) may be constructed along all primary highways. However, only signs identified in 23 USC 131(c) may be built along those primary highways designated as scenic byways. (Conversely, signs identified in 23 USC 131(d) cannot be built along those primary highways designated as scenic byways.) However, our state law (84.30) was not drafted with a parallel structure. In s. 84.30(3), Stats., the signs from both 23 USC 131(c) and 23 USC 131(d) have been thrown together. What we need to do is identify which of the paragraphs of 84.30(3), Stats., correspond to signs identified in 23 USC 131(d) and provide in the simplest and clearest way that those signs can be erected **unless** the primary highway has been designated as a scenic byway. I will consult with Attorney Paul Nilsen on our DOT staff to see what suggestion Paul may have on how to do this. Paul was until recently worked as an LRB drafter. I hope this note explains more clearly what the DOT is requesting with respect to scenic byways. The current draft does not accomplish what we need to do. If the basis for our request is still not clear, I would be happy to discuss this directly with Attorney Gary. My number is 266-8807.

I may have additional comments which I will provide ASAP with regard to the draft amendment to the definition of "primary highway".

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By/Representing: Schaeffer

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Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - highways

Extra Copies: TNF, PJH, DOT (Carol Buck)

[Handwritten signature]

Submit via email: NO

no
as of

Pre Topic:

1/24/03

DOA:.....Schaeffer - BB0224,

Topic:

Wisconsin scenic byways

Instructions:

See Attached

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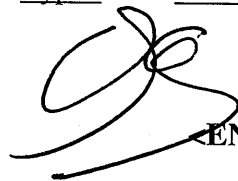
See Attached

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FE Sent For:

1-12/4
Kmg


<END>
12-4-2



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT McCALLUM
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: November 19, 2002

To: Stephen R. Miller, Chief
Legislative Reference Bureau

From: Carole J. Schaeffer
Policy and Budget Analyst
ECR Team

Subject: **Biennial Budget Drafting Request**
Agency 395 – Department of Transportation (DOT)

AG

B30 224

Budget Office Request Title:
Wisconsin scenic byways

Request Description:

Amend Wisconsin scenic byways statutes by providing for effective control of outdoor advertising. Thereby bringing state statutes into conformity with federal law to avoid jeopardizing discretionary funding and incurring a 10% penalty on highway funds apportioned to Wisconsin (compliance interpreted by FHWA). Further description is provided in the attached issue paper prepared by the department.

**Department of Transportation
2003-2005 Biennial Budget Request
STATUTORY MODIFICATIONS**

TOPIC: Control of Outdoor Advertising on Scenic Byways

DESCRIPTION OF CHANGE:

Amend s. 84.30 Wis. Stats., to bring it into conformity with 23 USC 131(s) and 23 USC 131(t).

Under subsection (s), this federal law prohibits the erection of signs, other than signs described in subsection (c), along any highway on the interstate system or federal aid primary system which is designated as a scenic byway under a state scenic byway program.

Under subsection (t) for purposes of outdoor advertising control, the federal primary system includes highways on the federal aid primary system as of June 1, 1991 and any additional highway not on the primary system at that time but which is on the National Highway System.

JUSTIFICATION:

In 1999 Wisconsin Act 9, the Legislature made the policy decision that Wisconsin should have a scenic byways program that is consistent with federal requirements by adopting s. 84.106 Wis. Stats. Failure to provide for control of outdoor advertising along highways that are designated as scenic byways under s. 84.106 Wis. Stats., will not only jeopardize the eligibility of projects on those highways for discretionary federal funding under the national scenic byways program, but can also affect the amount of annual federal aid highway funds that Wisconsin receives. Failure to provide for the control of outdoor advertising signs along scenic byways is considered by the Federal Highway Administration to be a failure to provide for effective control of outdoor advertising under 23 USC 131(b). This failure subjects the state to a penalty of a reduction equal to 10% of the amount of highway funds which would otherwise be apportioned to the state.

Scenic
in 12/4

D-Note

DOA:.....Schaeffer - BB0224, Wisconsin scenic byways

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT ^{DON'T} _{GEN. CAT.} relating to: outdoor advertising signs along interstate and

2 federal-aid primary highways, highways designated as scenic byways, and the

3 Great River Road.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary (primary) highways. Under current state law, no person may erect or maintain an outdoor advertising sign visible from the main-traveled way of an interstate or primary highway unless he or she possesses a license issued by ~~the Department of Transportation~~ DOT, the sign complies with applicable regulations, including restrictions on size and location, and, if DOT has promulgated a rule requiring payment of an annual permit fee for the sign, the person has paid ~~the annual permit fee.~~ that

Also under current law, DOT administers a scenic byways program, under which DOT may designate as "scenic byways" highways that have outstanding scenic, historic, cultural, natural, recreational, or archeological qualities. Federal law restricts advertising along scenic byways on the interstate and primary highway system.

Under current law, the Great River Road in Wisconsin consists of a scenic highway route along the Mississippi River that is designated by DOT and approved

by the federal government. State and federal law restricts advertising along the Great River Road.

This bill changes the definition of primary highway to conform to current federal law, specifies that interstate and primary highways designated as state scenic byways are subject to the same restrictions on outdoor advertising signs that apply to primary highways, and clarifies the restrictions on outdoor advertising signs along the Great River Road.

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:

SECTION 1. 84.30 (1) of the statutes is amended to read:

84.30 (1) LEGISLATIVE FINDINGS AND PURPOSE. To promote the safety, convenience, and enjoyment of public travel, to preserve the natural beauty of Wisconsin, to aid in the free flow of interstate commerce, to protect the public investment in highways, and to conform to the expressed intent of congress to control the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to the national system of interstate and defense highways, it is hereby declared to be necessary in the public interest to control the erection and maintenance of billboards and other outdoor advertising devices adjacent to said system of interstate and federal-aid primary highways, scenic byways, and the Great River Road.

SECTION 2. 84.30 (2) (a) of the statutes is amended to read:

84.30 (2) (a) "Adjacent area" means an area which is adjacent to and within 660 feet of the nearest edge of the right-of-way of any interstate or primary highway, scenic byway, or the Great River Road, which 660 feet distance shall be measured horizontally along a line normal or perpendicular to the center line of the highway.

SECTION 3. 84.30 (2) (i) of the statutes is amended to read:

1 84.30 (2) (i) "Primary highway" means any highway, other than an interstate
2 highway, ~~at any time~~ officially designated by the department, and approved by the
3 appropriate authority of the federal government, as a part of the federal-aid primary
4 system ~~by the department and approved by the appropriate authority of the federal~~
5 government in existence on June 1, 1991, or as a part of the national highway system
6 identified in 23 USC 103 (b).

7 **SECTION 4.** 84.30 (2) (im) of the statutes is created to read:

8 84.30 (2) (im) "Scenic byway" means any interstate or primary highway, or
9 portion thereof, designated by the department as a scenic byway under s. 84.106.

10 **SECTION 5.** 84.30 (3) (intro.) of the statutes is amended to read:

11 84.30 (3) SIGNS PROHIBITED. (intro.) No sign visible from the main-traveled way
12 of any interstate or federal-aid primary highway, ^{any} scenic byway, or the Great River
13 Road may be erected or maintained, except the following:

14 **SECTION 6.** 84.30 (3) (c) 2. of the statutes is amended to read:

15 84.30 (3) (c) 2. Signs that are not effectively shielded ⁵⁰ as to prevent beams or
16 rays of light from being directed at any portion of the traveled ways of the interstate
17 or federal-aid primary highway, scenic byway, or Great River Road and that are of
18 such intensity or brilliance as to cause glare or to impair the vision of the driver of
19 any motor vehicle, or that otherwise interfere with any driver's operation of a motor
20 vehicle, are prohibited.

21 **SECTION 7.** 84.30 (3) (h) of the statutes is amended to read:

22 84.30 (3) (h) Signs outside the adjacent area which are not erected with the
23 purpose of their message being read from the main-traveled way of an interstate or
24 primary highway, ^a scenic byway, or the Great River Road.

25 **SECTION 8.** 84.30 (4) (b) 2. of the statutes is amended to read:

1 84.30 (4) (b) 2. Signs which are not effectively shielded^{so} as to prevent beams or
2 rays of light from being directed at any portion of the traveled ways of the interstate
3 or federal-aid primary highway, scenic byway, or Great River Road and which are
4 of such intensity or brilliance as to cause glare or to impair the vision of the driver
5 of any motor vehicle, or which otherwise interfere with any driver's operation of a
6 motor vehicle¹ are prohibited.

7 **SECTION 9.** 84.30 (4) (c) 1. of the statutes is amended to read:

8 84.30 (4) (c) 1. On interstate and federal-aid primary highways, scenic byways,
9 and the Great River Road, signs may not be located in such a manner as to obscure,
10 or otherwise physically interfere with the effectiveness of² an official traffic sign,
11 signal, or device, obstruct or physically interfere with the driver's view of
12 approaching, merging, or intersecting traffic.

13 **SECTION 10.** 84.30 (4) (c) 3. of the statutes is amended to read:

14 84.30 (4) (c) 3. On nonfreeway federal-aid primary highways outside
15 incorporated villages and cities, scenic byways, and the Great River Road, no 2
16 structures shall be spaced less than 300 feet apart. Within incorporated villages and
17 cities, no 2 structures shall be spaced less than 100 feet apart.

18 **SECTION 11.** 84.30 (6) (b) of the statutes is amended to read:

19 84.30 (6) (b) Signs lawfully in existence on land adjoining any highway made
20 an interstate or primary highway, scenic byway, or part of the Great River Road after
21 March 18, 1972.

22 **SECTION 9453. Effective dates; transportation.**

1 (1) OUTDOOR ADVERTISING SIGNS. The treatment of sections 84.30 (1), (2) (a), (i),
 2 and (im), (3) (intro.), (c) 2., and (h), (4) (b) 2., (c) 1. ~~and (c) 3.~~ and (6) (b) of the statutes
 3 takes effect on the first day of the ~~fourth~~ month beginning after publication.

4

(END)

→ 4th

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0863/1dn

ARG:.....
kmg

ATTN: Carole Schaeffer

The attached draft amends s. 84.30 to conform to current federal law by updating the definition of federal-aid primary highway and by specifically including scenic byways within the scope of s. 84.30's general prohibition on outdoor advertising signs along interstate and federal-aid primary highways. As I interpret 23 USC 131 (s), it is not necessary to amend s. 84.30 to specifically refer to scenic byways because 23 USC 131 (s) covers only advertising signs "along any highway on the Interstate System or Federal-aid primary system... designated as a [state] scenic byway/...." Since s. 84.30 already covers all interstate and federal-aid primary highways, it necessarily already covers the subset of such highways that may be designated under s. 84.106 as scenic byways. Nonetheless, pursuant to the drafting instructions and for the sake of clarity, I have amended s. 84.30 to expressly include treatment of scenic byways. I have also limited the treatment to scenic byways on interstate and federal-aid primary highways, as opposed to all scenic byways.

I have also amended s. 84.30 to "clean up" various provisions relating to the Great River Road, which is referenced in several places in s. 84.30 but which does not appear in the operative provision of the statute, s. 84.30 (3) (intro.). (Under 23 USC 148 (a) (4), federal law imposes the outdoor advertising restrictions of 23 USC 131 on the Great River Road.)

I have also included a delayed effective date to allow DOT three months to implement the provisions in the attached draft, particularly those changes that may be necessitated by the change in definition of federal-aid primary highway.

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

DRAFTER'S NOTE
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LRB-0863/1dn
ARG:kmg:rs

December 4, 2002

ATTN: Carole Schaeffer

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



Vail

DOA:.....~~Schaeffer~~ - BB0224, Wisconsin scenic byways

RMR

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

D-Note

incorporates these requirements. insert A

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17 ~~interstate or federal-aid primary highway, scenic byway, or Great River Road and~~
18 ~~that are of such intensity or brilliance as to cause glare or to impair the vision of the~~
19 ~~driver of any motor vehicle, or that otherwise interfere with any driver's operation~~
20 ~~of a motor vehicle, are prohibited.~~

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insert
4-1

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22 **SECTION 9453. Effective dates; transportation.**

1
2
3
4

~~(1) OUTDOOR ADVERTISING SIGNS. The treatment of section 84.30 ~~(2) (i),~~
~~(3) (intro.), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), and (1), 2, and 3,~~ and (6) (b) of the statutes
takes effect on the first day of the 4th month beginning after publication.~~

(END)

J - Note

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0863/2ins
ARG:.....

INSERT A: ✓

(no R) Current law prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs within 660 feet of, or beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or primary highway. The exceptions to this prohibition include (with some restrictions):

1. Directional and other official signs, including signs relating to natural wonders and scenic and historical attractions.
2. Landmark signs.
3. Signs advertising the sale or lease of property on which the signs are located.
4. Signs advertising activities conducted on the property on which the signs are located.
5. Signs located beyond 660 feet of the highway in urban areas.
6. Signs located within 660 feet of the highway in areas zoned for business, industrial, or commercial activities or in unzoned areas used for commercial or industrial activities.
7. Certain signs erected on farm buildings.
8. Certain signs erected by "Crime Stoppers" ✓

INSERT B: ✓

(no R) Under the bill, exceptions 6., 7., and 8. identified above, applicable generally to outdoor advertising signs along interstate and primary highways, do not apply to outdoor advertising signs along interstate and primary highways designated as scenic byways.

INSERT 4-1: ✓

SECTION [#]3. 84.30 (3) (d) of the statutes is amended to read:

84.30 (3) (d) Signs located in business areas on March 18, 1972. This paragraph does not apply to a sign in a business area adjoining that portion of an interstate or primary highway designated by the department as a scenic byway under s. 84.106. ✓

SECTION [#]4. 84.30 (3) (e) of the statutes is amended to read:

84.30 (3) (e) Signs to be erected in business areas subsequent to March 18, 1972, ✓
which when erected will comply with sub. (4). This paragraph does not apply to a sign

in a business area adjoining that portion of an interstate or primary highway designated by the department as a scenic byway under s. 84.106.

~~#~~
SECTION 5. 84.30 (3) (i) of the statutes is amended to read:

84.30 (3) (i) Signs on farm buildings which are utilized by owners of the building for agricultural purposes if the signs promote a Wisconsin agricultural product unless prohibited by federal law. This paragraph does not apply to a sign in an adjacent area adjoining that portion of an interstate or primary highway designated by the department as a scenic byway under s. 84.106.

~~#~~
SECTION 6. 84.30 (3) (j) 1. of the statutes is amended to read:

84.30 (3) (j) 1. Signs erected by the Crime Stoppers, the nationwide organization affiliated with local police departments, on or before October 14, 1997, without regard to whether the department has issued a license for the sign. The department may not remove a sign authorized under this paragraph unless the sign does not conform to federal requirements. The requirements under s. 86.19 do not apply to signs described in this subdivision. This subdivision does not apply to a sign in an adjacent area adjoining that portion of an interstate or primary highway designated by the department as a scenic byway under s. 84.106.

~~#~~
SECTION 7. 84.30 (6) (b) of the statutes is amended to read:

84.30 (6) (b) Signs lawfully in existence on land adjoining any highway made an interstate or primary highway after March 18, 1972² or on land adjoining that portion of an interstate or primary highway designated by the department as a scenic byway under s. 84.106 after the effective date of this paragraph [revisor inserts date].

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0863/2dn

ARG: *King*

APS: make this space an "esc s" space.

ATTN: Benjamin Vail

The attached "/2" draft makes substantial changes to the "/1" draft based upon the comments of Attorney Bird at DOT and her clarification of DOT's intentions with regard to this drafting request.

Federal law imposes restrictions on advertising along interstate and federal-aid primary (primary) highways, but includes certain exceptions to these restrictions. 23 USC 131 (c). Federal law also recognizes additional exceptions to these restrictions for signs located within 660 feet of an interstate or primary highway in zoned or certain unzoned industrial or commercial areas. 23 USC 131 (d). Under 23 USC 131 (s), a state that administers a scenic byways program may not allow advertising along an interstate or primary highway designated as a scenic byway unless the advertising is permitted under 23 USC 131 (c). As I interpret 23 USC 131 (s), it is not necessary to amend s. 84.30, stats., to specifically refer to scenic byways because 23 USC 131 (s) covers only advertising signs "along any highway on the Interstate System or Federal-aid primary system ... designated as a [state] scenic byway..." Since s. 84.30 already covers all interstate and federal-aid primary highways, it necessarily already covers the subset of such highways that may be designated under s. 84.106 as scenic byways. However, permissible advertising along interstate and primary highways designated as scenic byways is more restrictive than advertising along interstate and primary highways generally because the exceptions to such advertising under 23 USC 131 (d) (relating to zoned or unzoned industrial or commercial areas) do not apply to advertising along interstate and primary highways designated as scenic byways. The attached draft treats s. 84.30 to reflect the inapplicability of certain advertising exceptions along interstate and primary highways designated as scenic byways.

The attached draft also eliminates treatment of the Great River Road, which was not included in the drafting instructions but was added to the prior draft simply for clarification and to parallel the prior draft's scenic byways provisions; advertising restrictions on the Great River Road already appear in a general but not optimal form in the statutes. (See drafter's note to the "/1" draft and s. 84.30 (1) and (2) (a) and (em).) As I interpret federal law, signs along the Great River Road might be subject to the more restrictive advertising constraints of signs along scenic byways, but this is not clear. See 23 USC 148 (a) (4) (referring to "effective control, as defined in section 131" of advertising signs along the Great River Road; only 23 USC 131 (c), not (d), includes

the

the operative provision "effective control"). Absent specific instructions to modify state law regarding advertising along the Great River Road, I have omitted such treatment from the attached draft. The attached draft also eliminates the delayed effective date.

Aaron R. Gary
Legislative Attorney
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0863/2dn
ARG:kmg:rs

January 27, 2003

ATTN: Benjamin Vail

The attached “/2” draft makes substantial changes to the “/1” draft based upon the comments of Attorney Bird at DOT and her clarification of DOT’s intentions with regard to this drafting request.

Federal law imposes restrictions on advertising along interstate and federal-aid primary (primary) highways, but includes certain exceptions to these restrictions (23 USC 131 (c)). Federal law also recognizes additional exceptions to these restrictions for signs located within 660 feet of an interstate or primary highway in zoned or certain unzoned industrial or commercial areas (23 USC 131 (d)). Under 23 USC 131 (s), a state that administers a scenic byways program may not allow advertising along an interstate or primary highway designated as a scenic byway unless the advertising is permitted under 23 USC 131 (c). As I interpret 23 USC 131 (s), it is not necessary to amend s. 84.30, stats., to specifically refer to scenic byways because 23 USC 131 (s) covers only advertising signs “along any highway on the Interstate System or Federal-aid primary system ... designated as a [state] scenic byway...” Since s. 84.30 already covers all interstate and federal-aid primary highways, it necessarily already covers the subset of such highways that may be designated under s. 84.106 as scenic byways. However, permissible advertising along interstate and primary highways designated as scenic byways is more restrictive than advertising along interstate and primary highways generally because the exceptions to such advertising under 23 USC 131 (d) (relating to zoned or unzoned industrial or commercial areas) do not apply to advertising along interstate and primary highways designated as scenic byways. The attached draft treats s. 84.30 to reflect the inapplicability of certain advertising exceptions along interstate and primary highways designated as scenic byways.

The attached draft also eliminates treatment of the Great River Road, which was not included in the drafting instructions but was added to the prior draft simply for clarification and to parallel the prior draft’s scenic byways provisions; advertising restrictions on the Great River Road already appear in a general but not optimal form in the statutes. (See the drafter’s note to the “/1” draft and s. 84.30 (1) and (2) (a) and (em).) As I interpret federal law, signs along the Great River Road might be subject to the more restrictive advertising constraints of signs along scenic byways, but this is not clear. See 23 USC 148 (a) (4) (referring to “effective control, as defined in section

131” of advertising signs along the Great River Road; only 23 USC 131 (c), not (d), includes the operative provision “effective control”). Absent specific instructions to modify state law regarding advertising along the Great River Road, I have omitted such treatment from the attached draft. The attached draft also eliminates the delayed effective date.

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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0863/2
ARG:kmg:rs

DOA:.....Vail – BB0224, Wisconsin scenic byways

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

- 1 AN ACT ...; relating to: outdoor advertising signs along interstate and
2 federal-aid primary highways designated as scenic byways.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary (primary) highways, and current state law incorporates these requirements. Current law prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs within 660 feet of, or beyond 660 feet but visible (and erected for the purpose of being visible) from, the main-traveled way of an interstate or primary highway. The exceptions to this prohibition include (with some restrictions):

1. Directional and other official signs, including signs relating to natural wonders and scenic and historical attractions.
2. Landmark signs.
3. Signs advertising the sale or lease of property on which the signs are located.
4. Signs advertising activities conducted on the property on which the signs are located.
5. Signs located beyond 660 feet of the highway in urban areas.
6. Signs located within 660 feet of the highway in areas zoned for business, industrial, or commercial activities or in unzoned areas used for commercial or industrial activities.

7. Certain signs erected on farm buildings.

8. Certain signs erected by “Crime Stoppers.”

Also under current law, DOT administers a Scenic Byways Program, under which DOT may designate as “scenic byways” highways that have outstanding scenic, historic, cultural, natural, recreational, or archeological qualities. Federal law imposes slightly greater restrictions on advertising along scenic byways on the interstate and primary highway system than on advertising along the interstate and primary highway system generally.

This bill changes the definition of “primary highway” to conform to current federal law and imposes additional restrictions on advertising along interstate and primary highways designated as state scenic byways to conform to current federal law. Under the bill, exceptions 6., 7., and 8., identified above, applicable generally to outdoor advertising signs along interstate and primary highways, do not apply to outdoor advertising signs along interstate and primary highways designated as scenic byways.

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.** 84.30 (2) (i) of the statutes is amended to read:

2 84.30 (2) (i) “Primary highway” means any highway, other than an interstate
3 highway, at any time officially designated by the department, and approved by the
4 appropriate authority of the federal government, as a part of the federal-aid primary
5 system ~~by the department and approved by the appropriate authority of the federal~~
6 ~~government~~ in existence on June 1, 1991, or as a part of the national highway system
7 identified in 23 USC 103 (b).

8 **SECTION 2.** 84.30 (3) (intro.) of the statutes is amended to read:

9 84.30 (3) SIGNS PROHIBITED. (intro.) No sign visible from the main-traveled way
10 of any interstate or federal-aid primary highway may be erected or maintained,
11 except the following:

12 **SECTION 3.** 84.30 (3) (d) of the statutes is amended to read:

1 84.30 (3) (d) Signs located in business areas on March 18, 1972. This
2 paragraph does not apply to a sign in a business area adjoining that portion of an
3 interstate or primary highway designated by the department as a scenic byway
4 under s. 84.106.

5 **SECTION 4.** 84.30 (3) (e) of the statutes is amended to read:

6 84.30 (3) (e) Signs to be erected in business areas subsequent to March 18,
7 1972, which when erected will comply with sub. (4). This paragraph does not apply
8 to a sign in a business area adjoining that portion of an interstate or primary
9 highway designated by the department as a scenic byway under s. 84.106.

10 **SECTION 5.** 84.30 (3) (i) of the statutes is amended to read:

11 84.30 (3) (i) Signs on farm buildings which are utilized by owners of the
12 building for agricultural purposes if the signs promote a Wisconsin agricultural
13 product unless prohibited by federal law. This paragraph does not apply to a sign in
14 an adjacent area adjoining that portion of an interstate or primary highway
15 designated by the department as a scenic byway under s. 84.106.

16 **SECTION 6.** 84.30 (3) (j) 1. of the statutes is amended to read:

17 84.30 (3) (j) 1. Signs erected by the Crime Stoppers, the nationwide
18 organization affiliated with local police departments, on or before October 14, 1997,
19 without regard to whether the department has issued a license for the sign. The
20 department may not remove a sign authorized under this paragraph unless the sign
21 does not conform to federal requirements. The requirements under s. 86.19 do not
22 apply to signs described in this subdivision. This subdivision does not apply to a sign
23 in an adjacent area adjoining that portion of an interstate or primary highway
24 designated by the department as a scenic byway under s. 84.106.

25 **SECTION 7.** 84.30 (6) (b) of the statutes is amended to read:

