



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2003 Senate Bill 478**

**Senate  
Amendment 1**

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This memorandum summarizes the provisions of 2003 Senate Bill 478, relating to major highway projects, southeast Wisconsin freeway rehabilitation projects, and the transportation projects commission, and *Senate Amendment 1* to the bill.

Senate Bill 478 and Senate Amendment 1 are identical companions to Assembly Bill 893 and Assembly Amendment 1 to that bill. The companion bills were introduced by Joint Legislative Audit Committee Co-Chairs Roessler and Jeskewitz, respectively, in response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (Audit Report 03-13) and to testimony offered at the Joint Audit Committee's January 26, 2004 public hearing on the audit report.

### **BACKGROUND**

Under *current law*, the Department of Transportation (DOT) administers the major highway projects program. A major highway project is defined, with limited exceptions, as a project having a total cost of more than \$5 million and involving either construction of a new highway of at least 2.5 miles, reconstruction or reconditioning of specified existing highways, or improvement of certain existing highways to freeway standards. Unlike other highway construction projects undertaken by DOT, major highway projects must generally receive the approval of the Transportation Projects Commission (TPC) and the Legislature (referred to as "enumeration") before the project may be constructed.

Current law distinguishes and provides separate funding for southeast Wisconsin freeway rehabilitation projects, including reconstruction of the Marquette interchange in Milwaukee County. Current law specifically exempts any southeast Wisconsin freeway rehabilitation project from the definition of a major highway project, even if the rehabilitation project would meet the criteria for a major highway project. Therefore, southeast Wisconsin freeway rehabilitation projects are not required to be reviewed or approved by the TPC.

Currently, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. The DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without approval of the TPC and the Legislature, the Legislature may enumerate and approve the construction of major highway projects without approval of the TPC. The TPC may not recommend approval of a major highway project unless it determines that there is sufficient funding to begin construction of the project within six years.

Under current law, membership of the TPC includes the Governor (who serves as chairperson), three citizen members appointed by and serving at the pleasure of the Governor, and five Senators (three from the majority party and two from the minority party), and five Representatives (three from the majority party and two from the minority party), appointed as are members of standing committees. The secretary of transportation serves as a nonvoting member.

### **Senate Bill 478**

The bill, *as introduced*, contains the following provisions:

#### *1. Timing of TPC Project Approval*

The bill prohibits the TPC from recommending approval of any major highway project prior to the completion by DOT, and review by the TPC, of a final EIS or EA that has been approved by the Federal Highway Administration.

#### *2. Project Enumeration*

The bill prohibits the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project, with or without modifications.

#### *3. Creation of Change Management System*

The bill requires DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects and all southeast Wisconsin freeway rehabilitation projects.

#### *4. DOT Reports to TPC*

The bill requires DOT to submit a report every three months to the TPC on the activities of DOT's change management system relating to major highway program projects and southeast Wisconsin freeway rehabilitation projects. The report must summarize the current status of each project approved by the TPC and each project enumerated, and identify all actual and estimated project costs as of the date of the report. The project information must be reported on both a cumulative basis from the inception of the project and on an updated basis for the period since the previous report.

## 5. *TPC Membership*

The bill increases the membership of the TPC by adding one additional Senator and one additional Representative, so that the membership would include six Senators (four from the majority party and two from the minority party) and six Representatives (four from the majority party and two from the minority party).

### **Senate Amendment 1**

Senate Amendment 1 does the following:

#### 1. *DOT Reports to TPC*

The amendment requires DOT to submit a report to the TPC about the change management system every six months, instead of every three months under the bill.

#### 2. *Approval of Certain Design Changes*

The amendment requires that the TPC have the opportunity to review and approve certain project design changes proposed by DOT after a major highway project has been enumerated or approved, prior to implementation of the design changes. The following design changes are subject to this requirement:

- a. Upgrading any portion of the project from a highway to a freeway or expressway.
- b. Upgrading any portion of the project to increase the number of traffic lanes.
- c. Upgrading any at-grade intersection to an interchange.
- d. Upgrading an interchange to accommodate higher-speed traffic.

Prior to implementing any of the listed design changes, DOT must report the proposed changes, any reason for the changes, and the estimated project cost attributable to the changes to the TPC.

The amendment provides for passive review by the TPC of these design changes. If, within 14 days after the report's submission, the TPC does not notify DOT that it has scheduled a public hearing, DOT may implement the changes. Any member of the TPC may request a public hearing. If, within 14 days, the TPC notifies DOT that a public hearing has been scheduled, the TPC must conduct the public hearing and, within 60 days of DOT's submission of the report, notify DOT of the proposed changes that the TPC approves, or approves with modifications, or notify DOT that it does not approve any of the proposed changes. If the TPC notifies DOT that a public hearing has been scheduled, DOT may not implement any proposed changes unless the TPC notifies DOT that the changes, with or without modifications, are approved.

#### 3. *Availability of Information to Public*

The amendment requires that DOT make certain information available to the public, including making it available at no charge on DOT's Internet site, within specified time periods. The information generally includes reports, materials, or other documents prepared by DOT for the TPC, and any other

information the TPC asks to be made available. Reports relating to proposed project design changes must be made available on the 15th day after the report is submitted if no public hearing is scheduled and on the day of the hearing, at a time following the hearing, if one is scheduled.

**LEGISLATIVE HISTORY**

Senate Bill 478 was introduced and referred to the Joint Legislative Audit Committee. The committee held a public hearing and executive session on the bill (as well as its companion bill, Assembly Bill 893) on February 26, 2004. By unanimous consent, the committee introduced LRBa2409/1, which became Senate Amendment 1, and adopted the amendment on a vote of Ayes, 8; Noes, 1. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 9; Noes, 0. (The committee took the same actions, with the same votes, on companion Assembly Bill 893 and LRBa2408/1, which became Assembly Amendment 1 to that bill.)

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