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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

**2003-04**

(session year)

**Joint**

(Assembly, Senate or Joint)

**Committee on Audit...**

### **COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### **INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (November 2012)

## Senate

### Record of Committee Proceedings

#### **Joint Legislative Audit Committee**

##### **Senate Bill 478**

Relating to: major highway projects, southeast Wisconsin freeway rehabilitation projects, and the transportation projects commission.

By Senator Roessler; cosponsored by Representative Jeskewitz.

February 20, 2004 Referred to Joint Legislative Audit Committee.

February 26, 2004 **PUBLIC HEARING HELD**

Present: (9) Senators Roessler, Darling, Plale and Lassa;  
Representatives Jeskewitz, Kaufert, Kerkman,  
Cullen and Pocan.  
Absent: (1) Senator Cowles.

##### Appearances For

- Representative Suzanne Jeskewitz, Wisconsin State Assembly, Menomonee Falls
- Senator Carol Roessler, Wisconsin State Senate, Oshkosh
- Pat Riley, Franklin
- Ward Lyles, 1000 Friends of Wisconsin, Madison

##### Appearances Against

- None.

##### Appearances for Information Only

- Randy Romanski, Wisconsin Department of Transportation, Madison
- Mark Wolfgram, Wisconsin Department of Transportation, Madison

##### Registrations For

- Representative John Ainsworth, Wisconsin State Assembly, Shawano

##### Registrations Against

- None.

February 26, 2004 **EXECUTIVE SESSION HELD**

Present: (9) Senators Roessler, Darling, Plale and Lassa;  
Representatives Jeskewitz, Kaufert, Kerkman,  
Cullen and Pocan.  
Absent: (1) Senator Cowles.

Moved by Representative Jeskewitz that **Senate Amendment LRBa2409** be recommended for introduction.

Ayes: (9) Senators Roessler, Darling, Plale and Lassa;  
Representatives Jeskewitz, Kaufert,  
Kerkman, Cullen and Pocan.  
Noes: (0) None.  
Absent: (1) Senator Cowles.

INTRODUCTION OF SENATE AMENDMENT LRBA2409  
RECOMMENDED, Ayes 9, Noes 0

Moved by Representative Kerkman, seconded by Senator Plale  
that **Senate Amendment LRBa2409** be recommended for  
adoption.

Ayes: (8) Senators Roessler, Darling, Plale and Lassa;  
Representatives Jeskewitz, Kerkman, Cullen  
and Pocan.  
Noes: (1) Representative Kaufert.  
Absent: (1) Senator Cowles.

ADOPTION OF SENATE AMENDMENT LRBA2409  
RECOMMENDED, Ayes 8, Noes 1

Moved by Senator Roessler, seconded by Representative Pocan  
that **Senate Bill 478** be recommended for passage as amended.

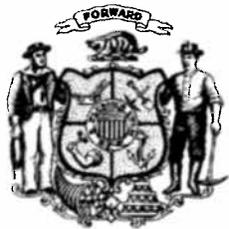
Ayes: (9) Senators Roessler, Darling, Plale and Lassa;  
Representatives Jeskewitz, Kaufert,  
Kerkman, Cullen and Pocan.  
Noes: (0) None.  
Absent: (1) Senator Cowles.

PASSAGE AS AMENDED RECOMMENDED, Ayes 9, Noes 0

  
Karen Asbjornson  
Committee Clerk



# WISCONSIN STATE LEGISLATURE



2/17/04

## Key Elements for Bill Draft on Transportation Projects Commission

### Procedural:

- To be introduced by Senator Carol A. Roessler (Senate Bill)
- To be introduced by Representative Suzanne Jeskewitz (Assembly Companion Bill)
- To be referred to Joint Legislative Audit Committee (Senate and Assembly Bills)

### Background:

In response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (report 03-13), and reflective of testimony offered before the Joint Legislative Audit Committee in a public hearing on January 26, 2004, the co-chairpersons of the Joint Legislative Audit Committee wish to draft legislation that would increase Legislative involvement and oversight in managing major highway program expenditures by making procedural and process changes to the operations of the Transportation Projects Commission.

### Key Elements for Proposed Legislation:

The composition, duties, and responsibilities of the Transportation Projects Commission are identified in s. 13.489 Wis. Stats. The proposed legislation would modify these responsibilities as follows:

1. Establish a change management system within the Department of Transportation. To provide ongoing oversight and accountability for project changes and costs, the Department of Transportation shall implement a change management system. This system will include a review of changes in project cost, design, and timeline by senior officials in the Department.
2. Increased reporting to the Transportation Projects Commission. On a quarterly basis, the Department shall report to the Transportation Projects Commission on the activities of the Department's change management system relating to major highway program projects and projects in Southeast Wisconsin. These reports will summarize the current status of each project approved by the Commission, summarize the current status of each project enumerated, and identify all actual and estimated project costs in comparison to original estimates.
3. A major highway project may not be enumerated by the Transportation Projects Commission until it has received and reviewed the final environmental impact statement or environmental assessment. Section 13.489 (4)(d), Wis. Stats., requires the Commission to notify the Department of those potential major highway projects that the Commission has approved for preparation of an environmental impact statement or an environmental assessment. The Commission must have received and reviewed the final environmental impact statement or environmental assessment before the Commission may enumerate the project.
4. Only the Transportation Projects Commission shall have statutory authority to enumerate a major highway project. The Legislature may not independently enumerate a major highway project. No major highway project shall be enumerated without the approval of the Transportation Projects Commission.
5. Increase the membership of the Transportation Projects Commission. The membership of the Transportation Projects Commission will increase by two members. Under the bill, the membership would include six senators (4 from the majority party, 2 from the minority party) and six representatives (4 from the majority party, 2 from the minority party).



February 25, 2004—4:30 p.m.

Hi Carol and Sue,

At Karen and Pam's request, I am sending over copies of the remarks I wrote for the two of you for the hearing on the DOT bills tomorrow. They are marked "PRELIMINARY" because they have not yet been updated to take into account the latest version of the amendment, which is still being drafted. If our secretarial staff can update them first thing in the morning, I'll have that version for you at the hearing. (Unfortunately, they are dealing with several rush projects at once).

You'll see that I divided the remarks roughly in half and you two can decide who will read which part.

I'm in the process of finalizing my memo summarizing the bills, as amended, to reflect the latest version of the amendment. Given the lateness of the final changes to the amendment, I will most likely have to distribute the memo to the members at the hearing.

A handwritten signature in cursive script that reads "Pam".

Pam Shannon  
6-2680

# DRAFT

## Talking Points for Senator Carol Roessler and Representative Suzanne Jeskewitz on Senate Bill 478 and Assembly Bill 893

### Speaker one:

Good morning and thank you for being here early on this busy day.

Before you today are companion bill--Senate Bill 478 and Assembly Bill 893--that we have introduced in response to recommendations contained in the Legislative Audit Bureau's recent evaluation of the Major Highway Program and in testimony the committee heard at its January 26<sup>th</sup> public hearing on the audit report.

Once again, we want to publicly acknowledge the thorough and professional job the Audit Bureau did in preparing this complex report, as well as the cooperation of Secretary Busalacchi and his staff at the Department of Transportation during the audit process and as we developed this legislation.

The Audit report noted significant cost increases in the major highway program over the past ten years and cited several reasons for those increases, including inaccurate initial estimates of project costs, expansion of the scope of projects after initially designed, and high real estate costs.

The Audit Bureau found that because the cost of major highway projects increases after enumeration--sometimes significantly--the funding available to undertake future projects is reduced. In addition, the Bureau reported that DOT does not track the total cost of individual projects, which prevents a complete analysis of the program's finances, and that tracking *changes* to major highway projects is also difficult.

The Audit Bureau's recommendations regarding the major highway program addressed the need for:

1. Improving financial and project cost reporting.
2. Providing consistent information in project planning documents.
3. Consistently communicating changes in project design and scope so effects on costs can be monitored.

In developing these companion bills, we have been conscious of the need to require DOT to provide more complete information about project costs, while at the same time not overburdening them with reporting requirements that may divert time and attention away from the actual management of these very complex projects.

**Speaker two:**

After having the companion bills drafted, we had continuing discussions with the department and other interested parties. Yesterday, we had a companion simple amendment drafted to each bill to further refine our recommendations. A copy of the amendments should be at your places this morning. You also have a Legislative Council memo describing the bills, as amended by the simple amendments.

At this time I would like to describe the provisions of the bills, as amended.

**1. Timing of TPC Project Approval.** The bills, as amended, would prohibit the TPC from recommending approval of any major highway project until the DOT has completed, and the TPC has reviewed, a final environmental impact statement (EIS) or environmental assessment (EA) approved by the Federal Highway Administration.

Under current law, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. DOT may not begin preparing an EIS or EA for a potential major highway project without TPC approval. However, there is currently no requirement that the TPC review the final EIS or EA before giving final approval to a project.

**2. Project Enumeration.** The bills, as amended, would prohibit the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project. Currently, the Legislature sometimes enumerates and approves construction of major highway projects without approval by the TPC.

**3. Creation of a Change Management System.** The bills, as amended, would require 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, including the Marquette interchange project. DOT has indicated that they have already established this process for the southeast freeway rehabilitation projects.

**4. Approval of Certain Design Changes.** The bills, as amended, would require that certain project design changes proposed by DOT after a major highway project has been enumerated or approved, be reviewed and approved by the TPC prior to implementation. The following types of 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 the interchange to accommodate higher-speed traffic.

Prior to implementing any of the listed proposed project 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 for review and approval. Within 60 days of the report's submission, the TPC must meet to review the report, conduct a public hearing, and render a decision to approve the changes, with or without modifications, or not to approve the changes. The DOT may not implement any proposed project design changes required to be submitted to the TPC unless the TPC notifies DOT that the proposed design changes, with or without modification, are approved.

5. **DOT Reports to TPC.** The bills, as amended, require DOT to submit reports to the TPC twice a year on the activities of the change management system created in the bills. The reports must summarize the current status of each project approved by the TPC and each project enumerated, and must identify all actual and estimated project costs as of the date of the report.

The project information included in the reports must be reported both cumulatively from the start of the project and also on an updated basis for the period since the previous report.

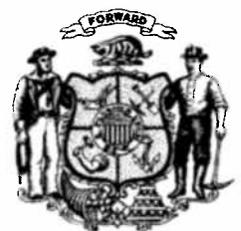
6. **Availability of Reports to Public.** The bills, as amended, would require DOT to make certain information available to the public, including at no charge on DOT's Internet site, within specified time periods. The information includes reports, materials or other documents prepared by DOT for the TPC, and any other information the TPC asks to have made available.

7. **TPC Membership.** The bills, as amended, would increase the membership of the TPC by two members, adding one more senator and one more representative from the majority party, for a total of six senators and six representatives (four of each from the majority party and two of each from the minority party). Currently, there are five senators and five representatives (three of each from the majority party and two of each from the minority party).

That concludes our summary of Senate Bill 478 and Assembly Bill 893. At this time, we'd be happy to answer any questions.



# WISCONSIN STATE LEGISLATURE





## Statement Regarding AB 893/SB 478 at Joint Legislative Audit Committee

Ward Lyles, Transportation Policy Director  
608-259-1000

February 26, 2004

Thank you for the opportunity to share 1000 Friends of Wisconsin's position with you today on Assembly Bill 893 and Senate Bill 478. I am Ward Lyles, Transportation Policy Director for 1000 Friends of Wisconsin.

1000 Friends of Wisconsin supports Assembly Bill 893 and Senate Bill 478 relating to Major Highway Projects, southeast Wisconsin freeway rehabilitation projects and the Transportation Projects Commission. The recent Legislative Audit Bureau report on Major Highway Projects indicated that there is a lack of sufficient accountability or restraint with respect to spending on Major Highway Projects. Significant problems, including a total of \$381 million in cost overruns on seven recent projects, clearly point to the need for increased transparency in budget reporting by the Wisconsin Department of Transportation, as well as the implementation of a Fix-it-First policy in the upcoming budget process.

These bills represent a good first step towards increased accountability, but it is only a first. We are pleased to see that the Major Highway Projects approval process would include increased review by the Transportation Project Commission by requiring that an Environmental Impact Statement or Environmental Assessment is completed *before* the TPC approves a Major Highway Project. Similarly, we are glad to see that the legislature and governor would no longer be able to ignore the recommendations of the TPC by enumerating projects that the TPC refused to approve.

The increased reporting requirement also should also be an important improvement. 1000 Friends has repeatedly pointed out that the way in which transportation budgeting is reported is confusing and inaccessible and thereby reduces accountability to the public. While we feel that even more transparency is needed than is included in these bills, quarterly reports on the status of potential Major Highway Projects, enumerated Major Highway Projects and each southeast Wisconsin Freeway Rehabilitation project would increase the public's awareness of how their transportation dollars are being spent. The

inclusion of southeast Wisconsin Freeway Rehabilitation projects is particularly important. These very expensive projects will have a statewide impact and they certainly should receive appropriate oversight. While we would prefer that the state err on the side of caution and too much oversight, it may make sense that only reconstruction projects in southeastern Wisconsin, not reconstruction, reconditioning, and resurfacing projects, be reported on quarterly.

While we do not have a major concern with the number of legislators on the TPC being eight instead of six, it does give us pause. If one of the points of this bill is to increase the influence of the TPC and to depoliticize the process of enumeration, why would more legislators being introduced into the process? This change may be a fair trade-off for the removal of the legislature's authority to enumerate without TPC approval, but we are not clear as to the rationale behind this element of the bill or the benefit that it would produce.

Again, we commend the Audit Bureau on its report and we commend the co-chairs of this committee on their quick response to the audit in developing these bills. We support their passage, allowing for the minor concerns I just mentioned. We also hope that these bills will not be the end of this process, but instead will be a first step towards restoring balance and accountability to Wisconsin's out of control state highway spending.

I would like to leave you with two suggestions today.

First, do not stop with this audit of the Major Highway Projects program and these two bills. Continue on with your scrutiny and redirect it towards the Maintenance and Rehabilitation programs.

Increased scrutiny of the Maintenance program, whether in the form of an audit or otherwise, may show that the 6.36% reduction in inflation-adjusted Maintenance funding from 1990 to 2005 identified by the Wisconsin Department of Transportation means that the basic maintenance needs of our state highways are not being met. If so, this is a tremendous problem that merits immediate attention.

Similarly, an audit or other investigation into the Rehabilitation program, specifically the criteria used in defining Rehabilitation projects, will also be very instructive. The largest problem that we have identified is the arbitrary boundary that distinguishes a Major Highway Project from a Rehabilitation project. While the boundary is very distinct, it is not intuitive. Instead of simply separating expansion projects from repair projects, the statutory definition of the Major Highway Projects program only includes projects costing more than \$5 million and involving any one of the following: adding 2.5 or more miles of new highway, relocating 2.5 or more miles of highway, adding one or more lanes of at least 5 miles, and improving at least 10 miles of divided highway to freeway standards. Since the distinction is so technical, it gives advantage to special interests that can influence the planning and budgeting process to their own advantage and to confuse the public about how its tax dollars are being spent.

In the following examples the statutory distinction between Major Highway Projects and Rehabilitation means that the following projects in the Six Year Highway Plan are not Major Highway Projects, but fall under the class of Rehabilitation:

- The work on US Highway 14 in Dane County titled "Oregon Bypass" is 4.99 miles long, is estimated to cost between \$5,000,000 and \$5,999,999 and the project description is: "Reconstruct USH 14 on a new alignment from STH 138 to STH 92."
- The work on US Highway 14 in Richland County titled "Richland Center – Gotham/Incl. B-583" is a 7.81 miles long, is estimated to cost between \$10,000,000 and \$10,999,999 and the project description is: "Extend existing 4 lane roadway to STH 58, widen roadbed to provide 12 foot driving lanes, construct passing lanes, and pave 3 feet of shoulders from STH 58 to Gotham."
- The work on STH 33 in Ozaukee County titled "STH 33 I-43 to Tower Dr" is 1.50 miles long, is estimated to cost \$8,000,000 to \$8,999,999 and the project description is "Reconstruct with added capacity."

Each of these three examples is a project that exceeds the \$5,000,000 threshold and either builds on a new highway alignment or adds new capacity, but do not meet the length requirements set forth in the statute. Rehabilitation work is commonly portrayed as the equivalent of repair work but our analysis suggests that increased scrutiny of this program would clearly demonstrate that such a portrayal is misleading the general public. Don't the people of Wisconsin deserve a clear accounting of where their money is being spent? And, does an \$8 or \$10 million Rehabilitation with expansion project not merit increased oversight similar to an \$8 or \$10 million Major Highway Project, regardless of whether the expansion is one, five, or twenty-five miles long?

Put together, the data from these two additional audits, or a similar audit that reviews the whole state highway program, would allow the Wisconsin Department of Transportation, the legislature and members of the general public to step back and look at the big picture, identify key problem areas and move forward towards practical solutions to these problems.

1000 Friends of Wisconsin's other suggestion is that the state move forward immediately to adopt a policy that sets strict state highway program budgeting priorities. Whether it is called Fix it First, Preserve First or something else, this policy needs to set forth that Wisconsin will spend taxpayers' money on meeting the total demand of maintenance and repair work before funding capacity expansion. It's a matter of common sense. Once the maintenance and repair needs have been fully funded, then there can be a debate as to whether the remaining funds will best be used to fund capacity expansion of the state highway system, transportation aids to local governments, or other programs.

Thank you for considering these comments and for the opportunity to speak today.



Remarks of Senator Carol Roessler and  
Representative Suzanne Jeskewitz  
on Senate Bill 478 and Assembly Bill 893

Speaker one:

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Once again, we want to publicly acknowledge the thorough and professional job the Audit Bureau did in preparing this comprehensive report, as well as the cooperation of Secretary Busalacchi and his staff at the Department of Transportation during the audit process and in the development of this legislation.

The Audit report noted significant cost increases in the major highway program over the past ten years and cited several reasons for those increases, including inaccurate initial estimates of project costs, expansion of the scope of projects after initially designed, and high real estate costs.

The Audit Bureau found that because the cost of major highway projects increases after enumeration--sometimes significantly--the funding available to undertake future projects is reduced. In addition, the Bureau reported that DOT does not track the total cost of individual projects, which prevents a complete analysis of the program's finances, and that tracking changes to major highway projects is also difficult.

The Audit Bureau's recommendations regarding the major highway program addressed the need for:

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In developing these companion bills, we have been conscious of the need to require DOT to provide more complete information about project costs, while at the same time not overburdening them with reporting requirements that may divert time and attention from the actual management of these very complex projects.

After having the companion bills drafted, we had continuing discussions with the department and other interested parties. Yesterday, we had a companion simple amendment drafted to each bill to further refine our recommendations. A copy of the amendments should be at your places this morning. You also have a Legislative Council memo describing the bills, as amended. *Fiscal estimate*

**Speaker two:**

At this time I would like to describe the provisions of the bills, as amended.

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Under current law, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. DOT may not begin preparing an EIS or EA for a potential major highway project without TPC approval. However, there is currently no requirement that the TPC review the final EIS or EA before giving final approval to a project.

**2. Project Enumeration.** The bills, as amended, would prohibit the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project. Currently, the Legislature sometimes enumerates and approves construction of major highway projects without approval by the TPC.

**3. Creation of a Change Management System.** The bills, as amended, would require 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, including the Marquette interchange project. DOT has indicated that they have already established this process for the southeast freeway rehabilitation projects.

**4. Approval of Certain Design Changes.** The bills, as amended, would require that the TPC be given 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 DOT implementing the 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 those changes, DOT must report the proposed changes, any reason for the changes, and the estimated project cost attributable to the changes, to the TPC for review. The bills provide for passive review by the TPC, similar to Joint Finance Committee review of certain items. If within 14 days of receiving the report, the TPC does not notify DOT that it has scheduled a public hearing on the proposed design changes, DOT may implement the changes. Any TPC member may request a public hearing. If a public hearing is scheduled, the TPC must conduct the hearing and, within 60 days of the report's submission, notify DOT of its approval of the design changes,

with or without modifications, or its decision not to approve any changes. The DOT may not implement any proposed project design changes required to be submitted to the TPC unless the TPC notifies DOT that the proposed design changes, with or without modifications, are approved.

**5. DOT Reports to TPC.** The bills, as amended, require DOT to submit reports to the TPC twice a year on the activities of the change management system created in the bills. The reports must summarize the current status of each project approved by the TPC and each project enumerated, and must identify all actual and estimated project costs as of the date of the report.

The project information included in the reports must be reported both cumulatively from the start of the project and also on an updated basis for the period since the previous report.

**6. Availability of Reports to Public.** The bills, as amended, would require DOT to make certain information available to the public, including making them 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 15<sup>th</sup> 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.

**7. TPC Membership.** The bills, as amended, would increase the membership of the TPC by two members, adding one more senator and one more representative from the majority party, for a total of six senators and six representatives (four of each from the majority party and two of each from the minority party). Currently, there are five senators and five representatives on the TPC (three of each from the majority party and two of each from the minority party).

That concludes our summary of Senate Bill 478 and Assembly Bill 893. We would be happy to answer any questions.