

**2009 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB287)**

Received: **02/16/2010**

Received By: **emueller**

Wanted: **As time permits**

Identical to LRB:

For: **Kathleen Vinehout (608) 266-8546**

By/Representing: **Larry Konopacki**

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

Drafter: **emueller**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Sen.Vinehout@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Transfer of jurisdiction of highway to Indian tribe or United States agency; mandatory provisions in transfer agreement.

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**Instructions:**

See attached.

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**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>
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/1	emueller 02/16/2010	kfollett 02/18/2010	jfrantze 02/18/2010	_____	cduerst 02/18/2010	cduerst 02/18/2010	

FE Sent For:

<END>

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1?	emueller	1/15/10		2/1/10			
1/1	EVN 2/16/10	2/1/10					

FE Sent For:

<END>

## Mueller, Eric

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**From:** Konopacki, Larry  
**Sent:** Tuesday, February 16, 2010 12:05 PM  
**To:** Mueller, Eric  
**Subject:** RE: SB 287

Hi Eric, thanks for the question. The draft should allow transfer directly to the tribe or band, or to an agency of the US govt. acting on behalf of an Am. Indian tribe or band.

Thanks,

Larry

---

Larry A. Konopacki  
Wisconsin Legislative Council  
(608) 267-0683  
larry.konopacki@legis.wisconsin.gov

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

**From:** Mueller, Eric  
**Sent:** Tuesday, February 16, 2010 12:03 PM  
**To:** Konopacki, Larry  
**Subject:** RE: SB 287

Larry,

One clarification. I see that this draft restores the ability to transfer a highway to a tribe or band itself. You've also dropped the modifier to agency of the U.S. government that was added in the most recent amendment. Does this mean that the draft should allow transfer to any agency of the U.S. government? Or is it okay for me to add the qualifier any agency of the U.S. government acting on behalf of an Am. Indian tribe or band?  
Thanks.

Eric

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

**From:** Konopacki, Larry  
**Sent:** Monday, February 15, 2010 4:13 PM  
**To:** Mueller, Eric  
**Cc:** Nilsestuen, Joel  
**Subject:** FW: SB 287

Hi Eric, per Joel's direction in Sen. Vinehout's office, could you please draft an amendment to SB 287 that would result in the affect of the language below? It seems to me a substitute amendment would be the best way to go, but I will leave that up to you.

Thanks,

Larry

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Larry A. Konopacki  
Wisconsin Legislative Council  
(608) 267-0683  
larry.konopacki@legis.wisconsin.gov

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

**From:** Nilsestuen, Joel

Sent: Monday, February 15, 2010 4:09 PM  
To: Konopacki, Larry  
Subject: RE: SB 287

Looks good Larry. Thanks!

Joel Nilsestuen  
Office of Sen. Kathleen Vinehout

PO Box 7882  
Madison, WI 53707-7882

(608) 266-8546  
Joel.Nilsestuen@legis.wisconsin.gov

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

From: Konopacki, Larry  
Sent: Monday, February 15, 2010 3:46 PM  
To: Nilsestuen, Joel  
Subject: RE: SB 287

Joel, see the language below for your review. I will wait to send this on to Eric Mueller until I hear from you.

AN ACT to create 86.257....

Transfer of highways. The department or a political subdivision, as defined in s. 86.31 (1) (d), may transfer jurisdiction and ownership of, or other property interest in, a highway that is under the jurisdiction of the department or political subdivision to a federally recognized American Indian tribe or band in this state or an agency of the United States government by entering into a jurisdictional transfer agreement with the tribe or agency, provided that the jurisdictional transfer agreement includes a dispute resolution process and a requirement that the transferred highway remain open to the use of the public as a matter of right unless the tribe, band or agency conducts proceedings, makes findings, and meets other conditions for discontinuation that would be applicable to the governing body of a 1st class city under s. 62.73, if the highway is located in a 1st class city; the governing body of a village or city other than a 1st class city, under s. 66.1003, if the highway is located in a village or city other than a 1st class city; or the governing body of a town under s. 82.10, if the highway is located in a town.

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Larry A. Konopacki  
Wisconsin Legislative Council  
(608) 267-0683  
larry.konopacki@legis.wisconsin.gov

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

From: Nilsestuen, Joel  
Sent: Monday, February 15, 2010 1:51 PM  
To: Konopacki, Larry  
Subject: RE: SB 287

Hi Larry,

I believe this is the latest.

Yes, please do contact Eric and request the changes. Thanks! --Joel

Joel Nilsestuen  
Office of Sen. Kathleen Vinehout

PO Box 7882  
Madison, WI 53707-7882

(608) 266-8546  
Joel.Nilsestuen@legis.wisconsin.gov

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From: Konopacki, Larry  
Sent: Monday, February 15, 2010 1:47 PM  
To: Nilsestuen, Joel  
Subject: SB 287

Hi Joel, I just spoke with Tom Springer who had a couple of comments about the SB 287 amendment for me. He also said that you were going to contact me to have me send these changes to Eric at the LRB. Would you like me to do so?

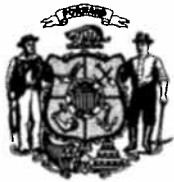
Also, I never got the newest version of the previous amendments. Could you send that to me?

Thanks,

Larry

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Larry A. Konopacki  
Wisconsin Legislative Council  
(608) 267-0683  
larry.konopacki@legis.wisconsin.gov



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBs0294/1  
EVM: *ef*

*RMR*

SENATE SUBSTITUTE AMENDMENT ,  
TO 2009 SENATE BILL 287

*2/14/10*

*Today  
2/18*

*gen*

1 AN ACT ...; **relating to:** transferring ownership and jurisdiction of a highway to  
2 an American Indian tribe or agency of the United States government that is  
3 acting on behalf of an American Indian tribe.

***Analysis by the Legislative Reference Bureau***

Under this substitute amendment, a city, village, town, or county (political subdivision) or the Department of Transportation (DOT) may transfer jurisdiction and ownership of, or other property interest in, a highway that is under the jurisdiction of the political subdivision or DOT to a federally recognized American Indian tribe or band in this state (tribe or band) or an agency of the United States government acting on behalf of a tribe or band (agency) by entering into a jurisdictional transfer agreement with the tribe or band or agency. The jurisdictional transfer agreement must contain a dispute resolution provision and a provision requiring that the highway remain open to vehicular traffic unless the tribe or band or agency conducts a highway discontinuation proceeding similar to the proceeding that would occur if the city, village, or town in which the highway is located were discontinuing the highway.

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

1           **SECTION 1.** 86.257 of the statutes is created to read:

2           **86.257 Transfer of highways.** The department or a political subdivision, as  
3 defined in s. 86.31 (1) (d), may transfer jurisdiction and ownership of, or other  
4 property interest in, a highway that is under the jurisdiction of the department or  
5 political subdivision to a federally recognized American Indian tribe or band in this  
6 state or an agency of the United States government that is acting on behalf of a  
7 federally recognized American Indian tribe or band in this state by entering into a  
8 jurisdictional transfer agreement with the tribe or band or agency. The jurisdictional  
9 transfer agreement shall contain all of the following:

10           (1) A dispute resolution procedure.

11           (2) A provision that requires that the transferred highway remain open to the  
12 use of the public as a matter of right for the purposes of vehicular traffic unless the  
13 tribe or band or agency conducts proceedings, makes findings, and meets other  
14 conditions for discontinuation that would be applicable to the governing body of a 1st  
15 class city under s. 62.73, if the highway is located in a 1st class city; the governing  
16 body of a village or city, except a 1st class city, under s. 66.1003, if the highway is  
17 located in a village or city, except a 1st class city; or the governing body of a town  
18 under s. 82.10, if the highway is located in a town.

19                                           (END)