

 **09hr_SC-TTFNR_sb0173_pt01**



(FORM UPDATED: 08/11/2010)

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

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Transportation, Tourism,
Forestry, and Natural Resources (SC-TTFNR)**

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**

Senate

Record of Committee Proceedings

Committee on Transportation, Tourism, Forestry, and Natural Resources

Senate Bill 173

Relating to: the removal of nonconforming outdoor advertising signs.

By Senators Kreitlow, Taylor, Grothman, Kapanke, Leibham, Olsen, Plale and Hansen; cosponsored by Representatives Staskunas, Fields, Friske, Gunderson, Honadel, Smith, Soletski, Spanbauer, Van Roy, Vos and Zepnick.

April 23, 2009 Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

May 21, 2009 **PUBLIC HEARING HELD**

Present: (7) Senators Holperin, Sullivan, Plale, Hansen, Leibham, Kedzie and Grothman.

Absent: (0) None.

Appearances For

- Pat Kreitlow — 23rd Senate District
- Janet Swandby, Madison — Outdoor Advertising Association of Wisconsin
- Dan Poweroy, Pewaukee — Outdoor Advertising Association
- Brad Yarmark, Milton — Lamar Outdoor Advertising
- Keith Carson, LaCrosse — Collins Outdoor Advertising Inc
- Kurt Weis, Oak Creek — Lamar Advertising
- Jason Saari, Cottage Grove — Adams Outdoor Advertising

Appearances Against

- Lowell Klessig, Amherst Junction — Citizens for a Scenic Wisconsin
- Dave Veith, Madison — Wis DOT
- Vernie Smith, Viroqua — Citizens for a Scenic Wisconsin

Appearances for Information Only

- None.

Registrations For

- Jeff Plale — 7th Senate District
- Jeanne Nowinsky, Antigo — Northern Advertising Outdoor
- Amy Boyer, Madison — Wisconsin Association of Convention & Visitor Bureaus
- Billy Smith, Madison — National Federation of Independent Businesses
- Chet Gerlach, Madison — Association of Wisconsin Tourism Attractions
- Mary Ann Gerard, Madison — Wisconsin Auto & Truck Dealers Association

- Pam Christenson, Madison — Wisconsin Petroleum Marketers & Convenience Stores
- Tony Staskunas — 15th Assembly District
- Lukas Nowinsky, Antigo — Northern Advertising Outdoor
- Jim Lyke, Milton — Lamar Outdoor Advertising
- Scott Petlewski, Delafield — Adams Outdoor Advertising
- Eric Koester, Elkhorn — Lamar Outdoor Advertising
- Don Snyder, Green Bay — Next Media
- Mark Rausch, Mequon — Clear Channel Outdoor
- Bill Mitchell, Marshfield — Lamar Advertising
- Jane Sweasy, Algoma — Jag Outdoor Advertising
- Dave Babcock, Milton — Babcock Outdoor Advertising
- Ray Ten Pas, Oostburg — Ten Pas Sign Company
- Romy Snyder, Wisconsin Dells — Wisconsin Dells Visitor & Convention Bureau
- Trisha Pugal, Brookfield — Wisconsin Inn Keepers Association
- David Storey, Madison — Wisconsin Retail Council
- Eric Jensen, Madison — Wisconsin Beer Distributors Association
- Pete Hanson, Madison — Wisconsin Restaurants Association
- Douglas Johnson, Stevens Point — Midwest Hardware Association
- Michelle Kussow, Madison — Wisconsin Grocers Association

Registrations Against

- Gary Goyke, Madison — Citizens for a Scenic Wisconsin
- Ed Huck — Wisconsin Alliance of Cities

Registrations for Information Only

- None.

September 17, 2009 **EXECUTIVE SESSION HELD**

Present: (0) None.

Absent: (0) None.

Elizabeth Novak
Committee Clerk

Record of Committee Proceedings

~~Joint committee on Finance~~



Liz:
File in bill jacket.

From: Lowell Klessig [mailto:lowellklessig@hotmail.com]
Sent: Wednesday, May 13, 2009 2:32 PM
To: Sen.Holperin
Subject: FW: SB173/AB242

Acknowledged by e-mail 5/15

Dear Jim,

I want to caution you about SB 173. This bill to allow non-conforming billboards to become permanent has again been introduced by the billboard lobby.

Wisconsin has one of the very highest number of non-conforming billboards. When I was an undergraduate, Congress declared that billboards along federally financed roads meet certain standards. Those that did not meet those standards were non-conforming and could stay until their useful life was over. Only limited maintenance was allowed. Wisconsin has a terrible record in getting these billboards down. It is one of the very worst states with well over 10,000 out there (DOT doesn't even know how many). Last week Chris and I attended the tulip festival in Pella, Iowa and then went on to a meeting in St. Louis. It is very clear that Iowa, Missouri, and Illinois have done a better job.

SB 173 would make sure that we will be at the very bottom of states forever regarding non-conforming billboards because it will essentially allow them to have a permanent lease on life. It may not even be legal under federal law. In any case no owner of these billboards can claim that they have not gotten their investment back out of these structures. I got my undergraduate degree in 1967. These billboards were built before then.

You have been in several positions that have helped you understand why people come to Wisconsin. Indeed want to live in Wisconsin. Hanging on to thousands of billboards that didn't meet federal standards forty years ago is not the way to promote tourism and small business in Wisconsin.

Thanks for thinking through the long term implications of this bill.

Lowell

Hotmail® has ever-growing storage! Don't worry about storage limits. Check it out.

Hotmail® goes with you. Get it on your BlackBerry or iPhone.

OFFICE OF SENATOR JIM HOLPERIN

Date Received: 5/21/01 Date Closed: _____

Closed in Forward:

Name: Ed Kleckner

Address: W6366 Fire Ln 8

City & Zip: Menasha WI 54952

Phones: (H) (920) 886-6819 (W) _____

E-Mail: _____

- visit at _____
- phone call
- e-mail
- letter
- voice mail
- office hours at _____
- Jim personal contact

Nature of Problem: _____ Assigned to: _____

Details: Principal planner in ~~the~~ w/ East C. Planning Commission
- oppose SB 173
breach of trust to public, they are non-conforming
- will be fiscal impact on taxpayers

Ed. Kleckner



May 21, 2009

Testimony to Senate Committee on Transportation, Tourism, Forestry, and Natural Resources

My name is Lowell Klessig. I live in Amherst Junction. I am a retired educator. My principal job was an Extension lake management specialist. Over the course of 27 years I worked with over 1000 communities and traveled virtually every highway in the state and many many local roads. I also taught at the College of Natural Resources at UW-Stevens Point and held several leadership roles with the Wisconsin Rural Leadership Program.

Concurrently, and continuing to the present, I operate a beef farm and manage forest land in Ashland, Bayfield, and Portage Counties. Thus I still spend a lot of time enjoying the Wisconsin landscape from my car window. I am President of the New Hope (our township) Family Forest Alliance and active in many civic organization including Citizens for Scenic Wisconsin.

Wisconsin has a reputation as one of the most beautiful states in the Union. On top of that beauty we have overlay thousands of non-conforming billboards as well as thousands of billboards that meet standards. We are a leader in the number of non-conforming billboards. If SB 173 becomes law, we will have that distinction forever. SB 173 sounds pretty innocent. **It is not.** It allows billboards which do not meet standards to be completely rebuilt every six years. It makes non-conforming billboards **permanent.**

Billboard control has been a public issue for almost a hundred years. When the Dean of the College of Agriculture at Cornell University commissioned the first county Extension agents he told them to go out and help communities with local issues. Among the short list of examples he used was "the increasing number of signs along the roads." That was in 1917.

In the 1960s Congress and the Wisconsin Legislature set standards for billboards. Then, as now, there were strong interests opposed to regulating billboards. Your predecessors had the courage to stand up to that pressure and vote for the interests of motorists on public roadways over the interests of billboard companies. They voted for orderly placement of billboards in appropriate commercial and industrial land use districts.

If you vote for SB 173, you will betray the trust those legislators put in their successors. The legislation they passed required the continuing courage of public officials to let non-conforming billboards die a natural death.

After 35 years no billboard owner could possibly claim that their structure had been fully amortized. Passage of SB 173 would mean the non-conforming billboards, no matter how inappropriately placed, will be there forever unless purchased by the DOT for a ridiculously high price based on income rather than on the value of the structure.

The billboard companies had their chance to defeat the non-conforming use provisions 35 years ago. They failed. They have been looking for a set of legislators with less courage ever since to undo those provision. I hope they don't find them in this committee and the 2009-2010 Wisconsin Legislature or ever.

One final point regarding broader implications: Changing the DOT definition on non-conforming use will undercut local governments. Local governments have zoning (and sometimes stand alone sign ordinances) ordinances that have non-conforming language similar to the current DOT language. If signs along primary highways can be rebuilt every few years, opponents of local zoning will have a strong argument to revise local ordinances to also make the concept of non-conforming use meaningless there as well—to follow the State lead. “Non-conforming“ structures of all types could then be removed from the landscape only with condemnation and purchase. Few local governments have the resources to use those tools except for direct purchase of highway right of ways.

I ask you to not let down your predecessors who had a vision for orderly billboard placement along major roads 40 years ago.

I ask you to not let down the motorists (residents and visitors) who value the beauty of Wisconsin's landscape but as individuals do not have a big enough stake to appear at a hearing like this.

I ask you to not let down the 1200 local units of governments who will have more difficulty managing land use if you change the DOT definition of non-coming use.

I ask you to not let down the taxpayers of this State who would have to subsidize the implementation of this bad public policy.





10 EAST DOTY STREET, SUITE 403
MADISON, WISCONSIN 53703
608-286-0764
WWW.OAAW.ORG

May 21, 2009

MEMORANDUM

TO: Members of the Senate Committee on Transportation

FROM: Janet R. Swandby and Kathi Kilgore, Lobbyists

RE: **Support for Senate Bill 173 – Repair of Nonconforming Signs**

Wisconsin's outdoor advertisers urge you to support SB 173. This bill will clarify that repairs can be made to nonconforming signs up to 50% of the replacement cost of the sign every 36 months. Passage of this law will help the DOT and sign owners determine what repairs can be made to signs, help avoid costly litigation, and encourage sign owners to complete needed repairs to their signs which will be in the best interest of the traveling public and Wisconsin's tourism industry.

This bill passed the Assembly on a bi-partisan vote in the 2003-04 legislative session, and the Senate Transportation Committee voted unanimously to recommend passage, but there was not time for the Senate to vote on the bill. Last session, the Senate Transportation Committee voted unanimously to recommend passage. The vote in the Assembly Transportation Committee was 9-2 to recommend passage, but neither bill was taken up on the floor.

What's the problem?

Every year, lawfully constructed billboards become nonconforming. The owners of these signs did nothing to change the status of the sign. Instead, a change made by the state or local government means that a legal sign becomes nonconforming. Wisconsin law and administrative rules already limit the repairs that can be made to a nonconforming sign to 50% of replacement cost. This bill only clarifies the timeframe.

How large is the problem?

Almost half of all billboards in Wisconsin are considered nonconforming by Wisconsin DOT which means that repairs are limited on all of these signs.

These are not all old, wooden structures. Fewer than 3% of all the billboards in Wisconsin today were made nonconforming when the Federal Highway Beautification Act was implemented in 1972.

What do other states allow?

Almost all states have similar regulations. This bill is modeled after Minnesota and North Carolina's laws.

Why is this issue important for Wisconsin?

Most of the nonconforming signs in Wisconsin advertise tourism businesses -- hotels, tourism attractions, restaurants, golf courses, campgrounds, and gas stations. The State's economy is heavily dependent on the tourism industry.

Today owners of nonconforming signs are wary of making repairs to their signs because the limits are so vague. As a result, there are signs which are obviously in need of repair.

Dilapidated signs are an eyesore and do not reflect well on the State, especially to the out-of-state traveler. Well-maintained signs which can continue to advertise Wisconsin businesses are beneficial to the State and its economy.

Conclusion

The members of the Outdoor Advertising Association of Wisconsin urge you to recommend passage of SB 173. If you have questions about this issue, please feel free to give us a call at 608.286.0764 or at Swandby@swandby.com or Kilgore@swandby.com.



File in bill jacket...

May 25, 2009

Senator Kedzie,

Re: Our discussion of "taking" at the SB 173 Non-conforming Billboards Hearing

You may remember me as the beef farmer who you thought might like a sign for my farm.

I am investing this extra energy in our discussion because I served for 19 years the Town of New Hope (Portage County) Planning Commission. That experience has heightened my awareness of this issue.

You asked me about the issue of "taking" regarding non-conforming billboards. We did not have time to sufficiently explore the topic. This letter continues that discussion.

"Taking" is a serious issue in local zoning. The zoning changes that I supported on the Commission reduced the market value of our farm by 30-50%. The same was true for other landowners. In order that we would want to continue to live in New Hope, the town folk agreed to restrict development so we could maintain our rural character and productive ag land. While we now have an unusual degree of consensus about our land use vision, at the time some landowners wanted to subdivide their land into two acre lots. They surely felt that their private property rights have been "taken without compensation."

"Taking" is less of an issue--but still an important issue--if a building becomes non-conforming. The building owner gets to fully amortize the structure and maintain the building. However everyone expects the building to eventually disappear from the location where it is now inappropriate. While the owner might continue to use the building for many more years and while the real estate will have value for other uses beyond that, the landowner has usually had to sacrifice some property value. Had the owner been able to improve the building and sell it in that condition, he would likely have had a larger financial return on the property. He might feel that his property rights were "taken without compensation."

SB 173 deals with a much less compelling issue of "taking". The current state law regarding non-conforming billboards does not restrict large areas of real estate. (No one loses the kind of property value that I and other landowners in New Hope lost when rural zoning was adopted.) The current state law regarding non-conforming billboards does not doom buildings which often have intensely personal uses (like homes and businesses). The current state law regarding non-conforming billboards deals with a very limited property right in which a limited amount of capital and no emotional investment has been made.

The value of a billboard is created by a modest investment in the structure by the billboard company and a major investment by the public in the building, maintenance,

and policing of the highway along which the billboard is placed. The billboard has no value (except for scrap steel and firewood) without the huge public spending – most of it by motorists through gasoline taxes.

“Taking” is a very important issue because private property rights are as sacred as the right to vote in our culture. However, the corresponding right of the community to manage the placement of billboards is the least invasive of all land use regulations that I am aware of. Governmental actions created this opportunity and only a select group of property owners can take advantage of this very specific economical land use. Regulation of that opportunity is not a “taking”; it is a common sense idea.

If SB 173 becomes law, non-conforming billboards can be improved up to 50% of their value every 36 months. With that definition the concept of “non-conforming” becomes meaningless. Billboards that don’t meet standards become perpetual nevertheless.

More importantly, if SB 173 becomes law, the authority of local government will be undermined. They will eventually lose their ability to manage signs and other structures that are “non-conforming” under local ordinances and deemed to be out of place in the context of current community standards. Opponents of the ordinances will demand that the local government allow the same time frame for improvements to non-conforming structures that DOT does – 50% every 36 months.

If you oppose the concept of non-conforming use regulation by any level of government anytime anywhere, you should support SB 173--enthusiastically.

If, on the other hand, you believe that the concept of non-conforming use has a place in a democracy where citizens/landowners/public officials try to find a balance between private property rights and community values, you should think very hard about the implications of SB 173.

Thank you for taking the time to read this long extension of our discussion..

Sincerely,

Lowell Klessig

CC: Senator Holperin
Committee member



Holperin, Jim

File in bill jacket...

From: Meinholz, Susan
Sent: Tuesday, May 26, 2009 10:20 AM
To: Holperin, Jim; Novak, Elizabeth
Subject: FW: SB 173 - Follow up to questions raised at Senate Hearing
Attachments: DOT Data 2005 to 2008 02-28-08.doc

From: Janet Swandby [mailto:Swandby@swandby.com]
Sent: Friday, May 22, 2009 1:15 PM
To: Sen.Holperin; Sen.Plale; Sen.Sullivan; Sen.Hansen; Sen.Leibham; Sen.Kedzie; Sen.Grothman
Cc: Sen.Kreitlow; Rep.Staskunas; danpomeroy@clearchannel.com; Kathi Kilgore
Subject: SB 173 - Follow up to questions raised at Senate Hearing

TO: Senate Committee on Transportation, Tourism, Forestry and Natural Resources

Thank you for the opportunity to testify in support of SB 173 yesterday. The members of the Outdoor Advertising Association of Wisconsin (OAAW) appreciated your interest and were grateful for your questions.

Because we did not have data available at the hearing, we would like to respond to two of the questions from Committee members:

1. Reduction in the Number of Outdoor Advertising Signs

The opponents of SB 173 often state that the number of signs in Wisconsin has been increasing. We have data from the Wisconsin DOT comparing the number of outdoor advertising signs, or billboards, in 2005 and 2008. DOT collects an annual permit fee for each sign, so these data are readily accessible. If the "official, religious, and service club signs" are removed from the DOT totals, the number of commercial signs declined by 1064 from 2005 to 2008 for an 11.8% decrease over just three years. We hope to be able to collect more historic data to share with the Committee which will further corroborate the testimony of OAAW members.

2. Affect of SB 173 on Digital or Changeable Message Signs

Wisconsin 2005 Act 204 permitted outdoor advertising structures to have signs with digitally changing messages. These signs must change from one static message to another within 1 second and the message must remain on the sign for a minimum of 6 seconds.

The Federal Highway Administration does not allow nonconforming signs to be converted to digital. However, existing digital signs could become nonconforming due to action taken by DOT or a municipality. If so, these digital signs would be treated as any other nonconforming sign under SB 173. Repairs and maintenance could be made up to 50% of replacement cost over 36 months.

If you have questions about these issues, or anything else raised at the hearing, please feel free to contact me.

Again, many thanks for the opportunity to express support for SB 173.

5/26/2009

Janet

Janet R. Swandby
Swandby/Kilgore Associates, Inc.
608.286.9599
swandby@swandby.com

DOT Data on Outdoor Advertising Signs in Wisconsin*

Comparison of 2005 and 2008

February 28, 2008

	2005	2008	Percent Change
Off-Property	4762	3955	- 16.9%
Nonconforming	4026	3822	- 5.1%
Grandfathered	232	179	- 22.8%
Official, religious, service club, etc.**	2228	2410	+ 8.2%
TOTAL	11,248	10,366	- 7.8%***

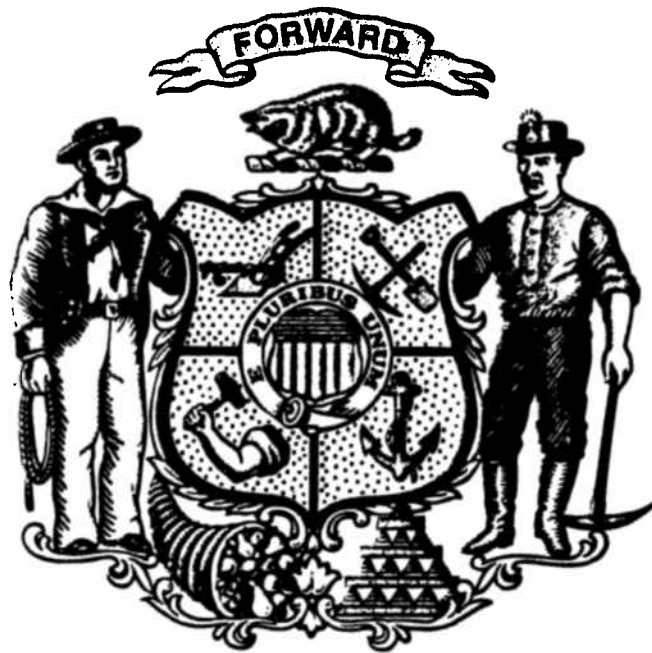
- 2,228
9,020

7,956

* Data provided by Deb Brucaya, Permit Coordinator, Wisconsin Department of Transportation

** Note: These signs are not commercial outdoor advertising signs, but include municipal signs such as "Welcome to Fort Atkinson", religious signs such as lists of the churches in a community, and service club signs that you see upon entering a community such as for the "Lions", "Kiwanis" and other groups.

*** If you remove the Official, religious and service club signs, the remaining outdoor advertising signs are what most people refer to as "billboards". The drop in inventory of these commercial signs from 2005 to 2008 was 1064 signs or an 11.8% decrease in just three years.



Date?

Mr. Vernie Smith
540 E. South St.
Viroqua, Wisconsin 54665

SB 173 / AB 242 2009 Wisconsin Legislature –
to allow the perpetuation of nonconforming billboards.

Testimony in opposition.

I am opposed to SB 173 (AB 242) which would allow the perpetual rebuilding of nonconforming billboards. This has been brought up in previous legislative sessions.

I'm aware that several cosponsors sit on this committee. My hope is to communicate without rhetoric on my part. I am aware of our widely differing views as to how much off premise advertising should be allowed in our landscape, or for that matter what role the government should take in regulating it.

This bill, along with other bills introduced or passed at the request of the billboard lobby need to be considered in context. Whether it be public tree cutting for billboard visibility, limitations on community ability to influence aesthetics, or allowing electronic billboards (all passed in the 2005 session) – they are designed, cumulatively, to extend the reach of outdoor advertising into our lives and landscapes.

The Highway Beautification Act was passed by Congress in 1965 out of a growing national consensus that billboards were a national blight. It is the baseline for billboard control along our nation's highways. All states have to comply with it or risk loss of federal highway funding. Wisconsin's law, which was passed in 1972, mirrors the federal law – carrying out the minimal requirements.

The 1965 law was a compromise.

From the standpoint of scenic advocates it failed in the following areas: For all practical purposes it put no size limit on billboards. It placed no significant spacing requirements on billboards and it put few lighting limitations and no height limits on billboards. It also made it difficult and costly to remove existing billboards. And, finally, it not only didn't prohibit billboards, but allowed them in many locations.

But despite those failures the 1965 law did limit where new billboards could be built. *The compromise, then, was to allow billboards in locations where there was commercial activity on the landscape – and prohibit them in the rural areas, the countryside.* Despite many weaknesses, from a beautification standpoint, this is where the law has succeeded to a certain extent. And this is what your bill seeks to undermine.

Most nonconforming billboards are that way because of where they are located. That is, a new billboard cannot be legally constructed in that location today.

In the Beautification Act's early years, billboards were bought out and removed. Much sign clutter was eliminated from our highways, providing a legacy that we still benefit from. But the job was never completed.

Nonconforming billboards are allowed to receive some maintenance. They are not intended to be preserved indefinitely, which is what this bill seeks to do.

I strongly oppose this bill. It violates the Highway Beautification Act. It is not in the public interest.

Vernie Smith, President
Citizens for a Scenic Wisconsin.



WISCONSIN ALLIANCE OF CITIES

122 W. Washington Ave. Suite 300
Madison, Wisconsin 53703
(608) 257-5881

DATE: August 25, 2009

TO: Honorable Members of the Committee on Transportation, Tourism, Forestry
and Natural Resources

FROM: Edward J. Huck, Executive Director

RE: SB 173

Dear committee member,

When it was introduced, the Wisconsin Alliance of Cities thought this bill was a reasonable request by the billboard industry. Since your hearing I have come to believe it is much more.

As the excellent Fiscal Estimate by Scott Bush of the Department of Transportation points out, the bill would create a bureaucratic nightmare that would require seven full-time employees to sort through, and represent a fiscal bonanza for billboard owners.

Others have told your committee that the bill would create lifetime job security for the people who maintain nonconforming billboards, contrary to the intent of the federal Highway Beautification Act.

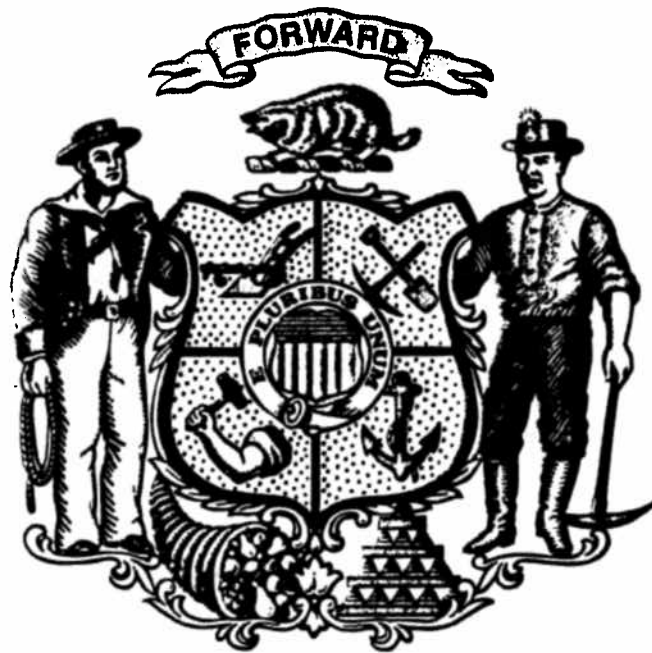
The intent of the law was to allow for the eventual removal once the investment in the billboard was recouped. Unfortunately, this value has been increased both by regulation of new billboards and the public's highway infrastructure investment.

In addition, signs that have reduced the value of land for development would—or at least could—remain in perpetuity. This we believe would not be in the interest of many developers and owners of land or the municipalities that they are in.

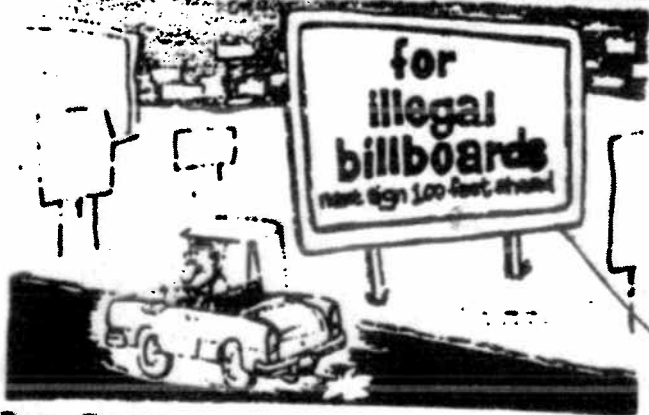
Finally, we believe the bill would encourage the weakening of local signage ordinances that contribute to attractive downtown environments for people to shop and do business.

Since we did not make a record at your hearing, I am delivering this memo in hopes that you, as I, have changed your minds about this potential legislation.

Thank you for your consideration.



SB 173
folder

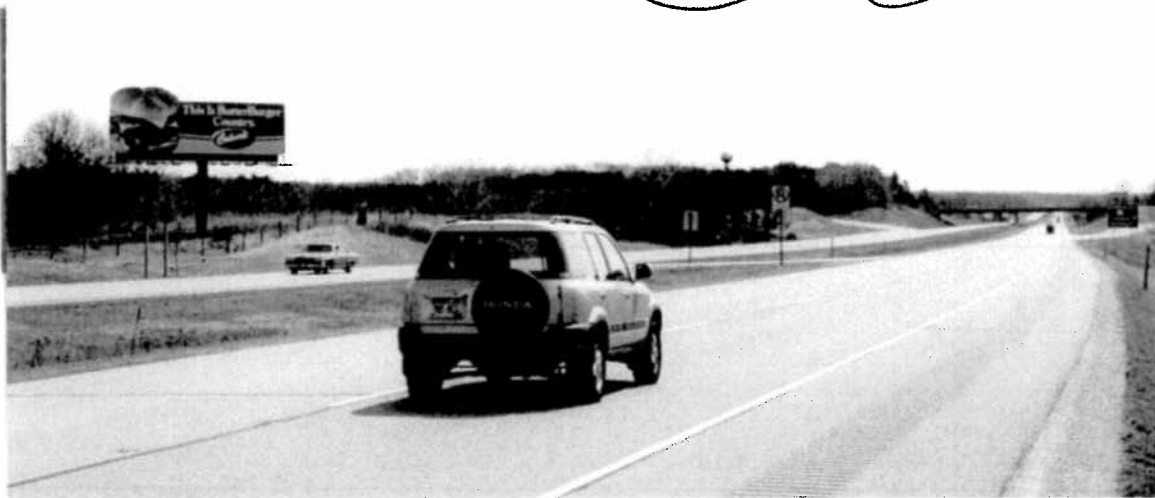


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SB 173
folder

Date ?



SIGN #1

What changed:

US 51 became Interstate 39.

Sign must be part of city or village
prior to Sept. 21, 1959.





SIGN #2

What changed:

WI 29 went from a 4-lane divide
Highway to a Freeway. This changed
sign spacing from 300' to 500'.





SIGN #3

What changed:

Intersection upgrade which widen and extended tapers from intersection.







2009 BILL 173

- 1 AN ACT *to amend* 84.30 (5) (bm); and *to create* 84.30 (5) (e) of the statutes;
2 **relating to:** the removal of nonconforming outdoor advertising signs.

Analysis by the Legislative Reference Bureau

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid 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 otherwise visible (and intended to be visible) from, the main-traveled way of an interstate or federal-aid primary highway. The Department of Transportation may remove signs that do not conform to applicable requirements but, for each sign removed, must pay just compensation to the owner of the sign and to the owner of the land on which the sign is located. Current law permits customary maintenance of certain nonconforming signs but, if the nonconforming sign is enlarged, replaced, or relocated, the sign may be removed without compensation.

This bill provides that any nonconforming sign may be removed without compensation if the costs of repairing and maintaining the sign within any 36 consecutive months exceed 50 percent of the replacement costs of the sign and that such repairs and maintenance do not constitute customary maintenance.

For further information see the *state* 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:

- May do repair and maintenance up to 50% of replacement costs every 36 months.



Notes
 on Page
 2 & 3

5

Fiscal Estimate - 2009 Session

Original Updated Corrected Supplemental

LRB Number 09-2029/1	Introduction Number SB-173
Description The removal of nonconforming outdoor advertising signs	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs	
Local:	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.395(3)(eq)	
Affected Ch. 20 Appropriations	
Agency/Prepared By DOT/ Scott Bush (608) 266-8666	Authorized Signature Julie Johnson (608) 267-3703
Date 5/12/2009	

"Customary maintenance" is allowed...

"Blow downs ... car hits ... catastrophic damage ... couldn't replace.
Tourism industry.

Fiscal Estimate Narratives

DOT 5/12/2009

LRB Number	09-2029/1	Introduction Number	SB-173	Estimate Type	Original
Description The removal of nonconforming outdoor advertising signs					

Assumptions Used in Arriving at Fiscal Estimate

Swandby says
"OVER 50%"

There are approximately 4,300 non-conforming signs along Wisconsin's highways. These signs are 37% of the inventory of off-premise outdoor advertising signs regulated by the department.

For purposes of analysis, assume the intent of the authors is to allow any repairs or maintenance, subject only to the limitation on cost of those activities during a 36 consecutive month period in relation to the replacement cost of the sign.

If this bill were enacted, a process will be needed for establishing the value of a non-conforming sign and determining when on-going repairs and maintenance on a sign exceeds 50% of its replacement value.

Essential components of this process include:

- o obtaining and verifying a replacement value* for each sign from the sign owner;
- o developing and implementing, on a monthly basis, a method of capturing and tracking the damage, repair, and customary maintenance costs for each non-conforming sign, which will involve creating a document, both hard copy and electronic, for use by sign owners to inform the department about damage to, destruction of, and maintenance to their sign;
- o distributing the document to all sign owners and educating each sign owner on its use;
- o entering the sign's value and other related information into the database, including downloading detailed photographs; and
- o building a new feature into the existing sign database to preserve these sign values and the on-going 36 consecutive month accumulated costs of repairs and maintenance for each sign.

A conservative estimate of the time needed to accomplish all of the above tasks for each non-conforming sign is three hours, or 12,900 hours total to accomplish this work. This represents approximately 7 FTE positions, using 1,800 hours available for one FTE position.

Assuming these tasks could only be performed under contract at a value of \$85,000 per FTE position, this would cost the department \$595,000. As an alternative, permanent FTE positions could be either added or, if possible, redirected from lower priority activities to perform this work.

If this bill became law, the department must recoup these costs by seeking an increase in the annual sign and permit fee for non-conforming and grandfathered signs through the administrative rule process. The impact would be an increased annual fee for this type of sign. Current fees of \$50 per year would be projected to be \$190 per year.

* This bill does not define replacement value. Therefore, for the purposes of this bill, we assume that the method adopted by administrative law judges when deciding sign cases is acceptable. Basically, the cost to replace each sign component at current, new prices and the labor to install the components creates the sign's current replacement value.

Long-Range Fiscal Implications

The intent of both Wisconsin and Federal law is to control outdoor advertising and to eventually limit this advertising to only certain (commercial or industrial) areas and with certain other restrictions on size, spacing and other criteria. To allow outdoor advertising signs to remain indefinitely in agricultural and forested areas, or other non-commercial areas, is inconsistent with the now long-standing public policy intent of those laws.

The provision of law that allowed existing uses to remain for the remainder of their normal service life was an accommodation that recognized the pre-existing investment and allowed for a transition over time that benefited the sign owners while avoiding the need for an upfront, immediate buyout of the sign owners interest to remove existing signs that no longer conformed to the standards set by the law. Such a policy

change would have required a substantial public investment, and as with other planning and zoning decisions, typically is resolved by allowing for a transition period during which only minimum maintenance is allowed.

Given that these signs are generally located along busy highway corridors that continue to see higher usage, and in locations where the law no longer allows construction of new signs, the value of the signs has grown significantly. When these signs must be acquired, the value of the signs is not determined based on the depreciated value of the structure in place at the time the law was changed, nor even at the current replacement costs of the materials and labor to construct the sign. Rather, the value continues to increase based on the ability to generate greater revenues from the sign because they are protected from new competition by the law. These escalating values end up being borne at taxpayer cost when there is a need to eventually acquire a sign for a highway project. Were the original intent of the law followed, signs would remain only for their normal service life with limited routine maintenance and would eventually be eliminated without cost to taxpayers. If there had been an expectation the signs would be allowed to be maintained indefinitely, it would have been wiser to purchase all the signs at the time the law was enacted, when the values were lower and to achieve the public benefits sooner.

but the law says "customary"...
NOT "limited routine"

Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 09-2029/1		Introduction Number SB-173	
Description The removal of nonconforming outdoor advertising signs			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes (FTE Position Changes)	\$	\$	
State Operations - Other Costs	595,000		
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$595,000		\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S	595,000		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
	Increased Rev	Decreased Rev	
GPR Taxes	\$	\$	
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$	\$	
NET ANNUALIZED FISCAL IMPACT			
	<u>State</u>	<u>Local</u>	
NET CHANGE IN COSTS	\$595,000	\$	
NET CHANGE IN REVENUE	\$	\$	
Agency/Prepared By		Authorized Signature	Date
DOT/ Scott Bush (608) 266-8666		Julie Johnson (608) 267-3703	5/12/2009