

2011 DRAFTING REQUEST

Bill

Received: 03/16/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Mark Honadel (608) 266-0610

By/Representing: Jason Vick

May Contact:

Drafter: agary

Subject: Transportation - highways

Addl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email: Rep.Honadel@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Vegetation maintenance in state trunk highway right-of-way related to obstruction of view of outdoor advertising signs

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>
/?				_____			State
/P1	agary 03/23/2011	csicilia 04/05/2011	rschluet 04/05/2011	_____	lparisi 04/05/2011		State
/P2	agary 05/03/2011	csicilia 05/11/2011	jfrantze 05/11/2011	_____	lparisi 05/11/2011		State
/1	agary	csicilia	mduchek	_____	sbasford	ggodwin	

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	06/24/2011	06/29/2011	06/29/2011	_____	06/29/2011	07/14/2011	

FE Sent For:

at
intro
8-9-11

<END>

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Legs 6/29
11

FÉ Sent For:

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By/Representing: **Jason Vick**

May Contact:

Drafter: **agary**

Subject: **Transportation - highways**

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Extra Copies: **EVM**

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/P1	agary 03/23/2011	csicilia 04/05/2011	rschluet 04/05/2011		lparisi 04/05/2011		

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P2 - js 5/11
5/11
5/11
pk 5/11
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/?	agary	Pl js 4/5 11		_____	_____		State

FE Sent For:

<END>

Gary, Aaron

From: Vick, Jason
Sent: Wednesday, March 16, 2011 1:31 PM
To: Gary, Aaron
Subject: Drafting request -- highway vegetation
Attachments: vegetation drafting instructions 03-16-11.doc

Aaron,

Rep. Honadel would like to request a draft on highway right-of-way vegetation. Please see the attachment.



vegetation
drafting instruction.

Let me know if you have any questions.

Thanks,

Jason Vick

Office of Rep. Mark Honadel
21st Assembly District
608-266-0611

Proposed Changes to Vegetation Management Law

Purpose

To reduce the regulatory burden on both sign owners and the Department of Transportation, this bill would remove the most complicated provisions of the Statutes related to removal of vegetation along the highway right-of-way.

Summary of Proposed Provisions

- Sign owner would be granted a visibility window of 500 feet within the first 1000 feet in front of the sign.
- Vegetation that is blocking the visibility of the sign can be trimmed or removed.
- Any trees (with trunk diameters of 4-inches or more) removed would be replaced by the sign owner. The replacement trees must be comparable trees planted at the sign owner's expense in the highway right-of-way at a location determined by the DOT.

Proposed drafting instructions

The following changes should be made to 84.305:

1. Change definition of vegetation to add grass.
2. Remove references to "natural" and "planted" vegetation.
3. Remove references to the zoning of adjacent land.
4. Remove references to "specimen tree".
5. Change language from "The department *may* issue permits . . ." to "the department *shall* issue permits".
6. Change specifications such that each sign must have 500 feet of visibility within the first 1000 feet in front of the sign.
7. Remove language regarding notification of adjacent landowners and municipalities.
8. Require planting of replacement trees to compensate for the removal of all trees which are 4-inches in diameter or larger. For each application, the diameters of all removed trees 4 or more inches in diameter will be totaled. The sign company must plant sufficient trees (at least 2-inches in diameter) to equal the total removed. All removed trees that are dead, diseased, or an invasive species are exempt from this replacement requirement.
9. The DOT will determine where the replacement trees will be planted in the highway right-of-way, but they must be planted within 10 miles of the removed trees and they may not be planted in front of an existing outdoor advertising sign.
10. Remove references to the year the sign was built and the year that vegetation was planted.
11. Replace the language in #¹⁰ with language that will prohibit the DOT from issuing a vegetation permit for trimming or removing vegetation on the highway right-of-way which is blocking the view of an outdoor advertising sign for the first five years after the sign's permit was issued by the DOT.



soon



in 3/23

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gjs

D-Note

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x26

Over Cat

1 **AN ACT** relating to: maintenance and removal of vegetation obstructing the
2 view of outdoor advertising signs along highways under the jurisdiction of the
3 Department of Transportation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) is responsible for maintenance of the highway right-of-way on highways that, for maintenance purposes, are under its jurisdiction, which are generally state trunk highways but do not include connecting highways. DOT must provide for the care and protection of trees and other roadside vegetation. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. Current law generally prohibits a person from cutting, trimming, removing, or planting a tree or other vegetation within the right-of-way of a state trunk highway without DOT's consent.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, which includes state trunk highways and connecting highways, and current state law incorporates these requirements. Current law prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs (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 federal-aid primary highway. Exceptions to this prohibition include, with some restrictions, signs advertising activities conducted on the property on which the signs are located; signs located beyond 660 feet of the highway in urban areas; and signs located within 660 feet of the highway in certain business, industrial, or commercial areas.

✓
✓

Under current law, DOT administers a permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways. DOT may issue permits to sign owners for the trimming, removal, or relocation of vegetation in the highway right-of-way if, within various specified distances along the highway, the vegetation obstructs motorists' view of the face of a sign. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim, remove, or relocate obstructing vegetation to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for the applicable specified distance along the highway. A permit must specify the vegetation or the portion of the highway right-of-way to which the permit applies. Each permit must require a sign owner that removes planted vegetation to either relocate the planted vegetation or reimburse DOT for the value of the planted vegetation. DOT must present to the sign owner DOT's calculation of the value of the planted vegetation, and the sign owner may elect to relocate the planted vegetation or to reimburse DOT in the amount calculated by DOT.

This bill makes various changes to DOT's permit system for maintenance and removal of vegetation obstructing signs, including the following:

1. The bill replaces various sign viewing standards with a single standard that a sign owner is eligible for a permit to trim, remove, or relocate vegetation if, for a distance of 500 continuous feet within the 1,000 feet distance motorists travel immediately before reaching the sign, the vegetation obstructs the view of any portion of the face of the sign.

2. The bill specifies that DOT must issue permits to eligible applicants.

3. The bill eliminates the requirement that a permittee that removes planted vegetation must either relocate the planted vegetation or reimburse DOT for the value of the planted vegetation. The bill replaces this requirement with the requirement that a permittee that removes any tree with a diameter of four inches or more must plant replacement trees to compensate for the trees removed. DOT must determine where these replacement trees are to be planted, but they must be planted in the highway right-of-way within ten miles of the location where the trees were removed.

4. The bill eliminates a requirement under current law that, under certain conditions, a sign owner applying for a permit must, at the time of the application, provide written notice of the application to any adjacent property owner and to the applicable municipality.

5. The bill eliminates a provision of current law that a permit may not authorize the trimming, removal, or relocation of vegetation in existence prior to the erection of the sign obstructed by the vegetation. The bill replaces this provision with a provision that DOT may not issue a permit to trim, remove, or relocate vegetation obstructing the view of a sign that is less than five years old (calculated from when DOT first collected the sign's permit fee).

6. The bill expands the definition of "vegetation," for purposes of the bill, to include grass. The bill also eliminates the distinction between various other types of vegetation, including "natural vegetation," "planted vegetation," and "specimen trees."



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:

1 **SECTION 1.** 84.305 (1) (c) of the statutes is repealed.

x ✓

2 **SECTION 2.** 84.305 (1) (d) of the statutes is repealed.

x ✓

3 **SECTION 3.** 84.305 (1) (f) of the statutes is repealed.

x ✓

4 **SECTION 4.** 84.305 (1) (g) of the statutes is repealed.

x ✓

5 **SECTION 5.** 84.305 (1) (h) of the statutes is amended to read:

6 84.305 (1) (h) "Vegetation" means any tree, shrub, hedge, ~~or other~~ woody plant,
7 ~~and includes planted vegetation, natural vegetation, and specimen trees.~~
8 "Vegetation" ~~does not include~~ or grass.

History: 2005 a. 465.

9 **SECTION 6.** 84.305 (1) (j) of the statutes is repealed.

x ✓

10 **SECTION 7.** 84.305 (1) (k) of the statutes is repealed.

x ✓

11 **SECTION 8.** 84.305 (2) (a) (intro.) and 3. of the statutes are consolidated,
12 renumbered 84.305 (2) and amended to read:

✓

13 84.305 (2) Notwithstanding ss. 66.1037 and 86.03, and subject to sub. (2m),
14 upon application, the department ~~may~~ shall issue permits to sign owners for the
15 trimming, removal, or relocation of vegetation that is located in the right-of-way of
16 a highway under the jurisdiction of the department for maintenance purposes and
17 that obstructs a sign if ~~any of the following applies: 3.~~ Subject to par. (b), within a
18 distance of 500 continuous feet along any portion of the viewing zone, any portion of
19 the face of the sign is not viewable because of an obstruction to sight by natural
20 vegetation in the highway right-of-way.

History: 2005 a. 465.

1 **SECTION 9.** 84.305 (2) (a) 1. of the statutes is repealed.

2 **SECTION 10.** 84.305 (2) (a) 2. of the statutes is repealed.

3 **SECTION 11.** 84.305 (2) (a) 4. of the statutes is repealed.

4 **SECTION 12.** 84.305 (2) (b) of the statutes is repealed.

5 **SECTION 13.** 84.305 (3) (a) of the statutes is amended to read:

6 84.305 (3) (a) Subject to pars. (d) to (g) and sub. (4), a permit issued under this
7 section authorizes the permittee to trim ~~obstructing vegetation or~~, remove, or
8 relocate obstructing ~~individual plants~~ vegetation to the extent necessary to
9 eliminate the obstruction ~~and remedy any condition specified under sub. (2) (a) 1. to~~
10 4. A permit issued under this section shall specify the vegetation or the portion of
11 the highway right-of-way to which the permit applies.

History: 2005 a. 465.

12 **SECTION 14.** 84.305 (3) (b) of the statutes is amended to read:

13 84.305 (3) (b) An application for a permit under this section shall specifically
14 describe the work proposed by the applicant. The department shall grant or deny an
15 application for a permit under this section, and notify the applicant of the
16 department's decision, within 60 days of receipt of the application. Within 30 days
17 of receipt of the application, the department shall determine whether the application
18 is complete and, if not, the department shall return the application to the applicant
19 and inform the applicant of what information, specifically described, must be
20 provided by the applicant to complete the application. ~~The department may not deny~~
21 ~~an application for a permit under this section based solely upon receipt by the~~
22 ~~department of an objection or complaint from a property owner or municipality~~
23 ~~receiving notice under par. (c), but the department may consider the objection or~~
24 ~~complaint in determining whether to grant or deny the application for a permit. If~~

1 the department denies an application for a permit under this section, the department
2 shall notify the applicant of reasons for the denial.

3 History: 2005 a. 465.

SECTION 15. 84.305 (3) (c) of the statutes is repealed.

4 **SECTION 16.** 84.305 (3) (e) of the statutes is renumbered 84.305 (2m) and ✓
5 amended to read:

6 84.305 (2m) ~~A permit issued under this section may not authorize the~~
7 ~~permittee to trim, remove, or relocate vegetation in existence prior to the erection of~~
8 ~~the sign obstructed by the vegetation. Nothing in this paragraph prohibits the~~ The
9 ~~department from issuing~~ may not issue a permit under this section authorizing the
10 trimming, removal, or relocation of vegetation ~~that, at the time the sign was erected,~~
11 ~~did not obstruct~~ obstructing the view of the a sign if the department first collected
12 a permit fee under s. 84.30 (10m) for that sign within the immediately preceding 5
13 years. ✓

14 History: 2005 a. 465.

SECTION 17. 84.305 (3) (f) of the statutes is amended to read:

15 84.305 (3) (f) The department shall make every effort to issue permits under
16 this section that authorize the permittee to fully ~~remedy the condition giving rise to~~
17 ~~the need for the permit as described under~~ eliminate any obstruction described in
18 sub. (2) (a) 1. ~~to 4.~~, but the department, in its discretion and for the purpose of causing
19 the least disruption to the landscape design in the highway right-of-way, may issue
20 permits authorizing trimming, removal, or relocation of vegetation in a manner that
21 results in the distance of ~~243 feet specified in sub. (2) (a) 1., 350 feet specified in sub.~~
22 ~~(2) (a) 2., 500 feet specified in sub. (2) (a) 3., or 600 feet specified in sub. (2) (a) 4., being~~

1 noncontinuous if the permit allows the permittee to minimize sight obstruction of the
2 sign along the applicable portion of the viewing zone.

History: 2005 a. 465.

3 **SECTION 18.** 84.305 (5) (a) of the statutes is amended to read:

4 84.305 (5) (a) Each permit issued under this section shall require a permittee
5 that removes ~~planted vegetation to either relocate the planted vegetation or~~
6 ~~reimburse the department for the value of the planted vegetation. The department~~
7 ~~shall present to the permittee the department's calculation of the value of the planted~~
8 ~~vegetation, and the permittee may elect to relocate the planted vegetation or to~~
9 ~~reimburse the department for the value of the planted vegetation as determined by~~
10 ~~the department~~ any tree with a diameter of 4 inches or more to plant replacement
11 trees to compensate for all such trees removed, in compliance with the requirements
12 under pars. (d) and (e).

History: 2005 a. 465.

13 **SECTION 19.** 84.305 (5) (b) of the statutes is repealed.

14 **SECTION 20.** 84.305 (5) (c) of the statutes is repealed.

15 **SECTION 21.** 84.305 (5) (d) of the statutes is created to read:

16 84.305 (5) (d) 1. In planting replacement trees under par. (a), the permittee
17 shall determine the diameters of all trees with a diameter of 4 inches or more that
18 were removed and shall calculate the sum total of these diameters. In calculating
19 the sum total of these diameters, the permittee shall not include in the calculation
20 the diameter of any tree that was dead, diseased, or determined to be an invasive
21 species at the time of the tree's removal.

22 2. The permittee shall plant a sufficient number of replacement trees with a
23 diameter of at least 2 inches so that the sum total of the diameters of these

1 replacement trees at least equals the sum total of the diameters as calculated under
2 subd. 1.

3 **SECTION 22.** 84.305 (5) (e) of the statutes is created to read:

4 84.305 (5) (e) 1. Subject to subd. 2., the department shall determine where
5 replacement trees required under this subsection are to be planted.

6 2. Replacement trees required under this subsection shall be planted in the
7 highway right-of-way not farther than 10 miles from the location of the removed
8 trees being replaced. Replacement trees may not be planted in front of a sign.

9 **SECTION 23. Effective date.**

10 (1) This act takes effect on the 30th day after the day of publication.

11 (END)

J - Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1679/P1dn

ARG:/:....

gjs

- date -

ATTN: Jason Vick

Please review the attached draft carefully to ensure that it is consistent with your intent.

The statutes do not *require* DOT to issue permits for outdoor advertising signs, although DOT may issue such permits if it chooses. In renumbered s. 84.305 (2m), I have referred to the only statutory section that makes reference to permits for outdoor advertising signs, which is the permit fee provision in s. 84.30 (10m). ✓

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1679/P1dn
ARG:cjs:rs

April 5, 2011

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Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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

Gary, Aaron

From: Vick, Jason
Sent: Monday, May 02, 2011 5:15 PM
To: Gary, Aaron
Subject: RE: Drafting changes to LRB 1679/P1: Vegetation maintenance in state trunk highway right-of-way related to obstruction of view of outdoor advertising signs

Yes your suggestions are accurate and you can make the changes.

Thanks,

Jason Vick

Office of Rep. Mark Honadel
21st Assembly District
608-266-0611

From: Gary, Aaron
Sent: Friday, April 29, 2011 1:47 PM
To: Vick, Jason
Subject: RE: Drafting changes to LRB 1679/P1: Vegetation maintenance in state trunk highway right-of-way related to obstruction of view of outdoor advertising signs

Hi Jason,

I think I understand the intent of these changes except for 7., which I'm not clear about. The change in 7. would seem to require a lot more changes than just p. 6, line 14. Is it the intent that if a tree, shrub, or hedge has a diameter of 4 or more inches and is removed, it would be replaced with a like plant (i.e. a tree for a tree, or shrub or hedge to replace the removed shrub or hedge)? If so, I think the changes required to s. 84.305 (5) (a) and 84.305 (5) (d) might get confusingly wordy unless I utilize the definition of "vegetation" in the draft. If I have accurately stated the intent, would it be OK to revise s. 84.305 (5) (a) to something like the following, keeping in mind the definition of "vegetation" on p. 3, lines 6-8:

84.305 (5) (a) Each permit issued under this section shall require a permittee that removes any tree with a diameter of 4 inches or more as measured at 3 feet from the ground, or any other vegetation with a diameter of 4 inches or more, to plant comparable replacement vegetation to compensate for all such vegetation removed, in compliance with the requirements under pars. (d) and (e). [The term "vegetation" includes trees, but I assume you want the 3-foot elevated measurement requirement to apply only to trees, not shrubs.]

If this looks OK, corresponding changes would also be made in 84.305 (5) (d).

Let me know. Thanks. Aaron

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

From: Vick, Jason
Sent: Thursday, April 28, 2011 5:24 PM
To: Gary, Aaron
Subject: Drafting changes to LRB 1679/P1: Vegetation maintenance in state trunk highway right-of-way related to obstruction of view of outdoor advertising signs

Aaron,

Please make the following changes to LRB 1679/P1:

1. Clarify that the bill would apply to Interstate highways.
2. Clarify that all permits issued by the department will allow removal or trimming to provide a 500 foot continuous, unobstructed window to view the sign.
3. Add “as measured at 3 feet from the ground” in 84.305(5)(d)1.
4. Delete 84.305(3)(f).
5. Delete all references to “relocate” and “relocation” of vegetation.
6. On Page 4 beginning at line 24, delete “Within 30 days of receiptto complete the application.”
7. Add “shrub, or hedge” on Page 6, line 14.
8. Delete the following from current law? (84.305(6))

The department may require as a condition or restriction under any permit issued under this section that the work authorized under the permit meet standards established by the department.

Let me know if there are any questions.

Thanks,

Jason Vick

Office of Rep. Mark Honadel

21st Assembly District

608-266-0611



500w
in 5/3



RMK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

stays

SA

Gen Cat

1 AN ACT *to repeal* 84.305 (1) (c), 84.305 (1) (d), 84.305 (1) (f), 84.305 (1) (g), 84.305
2 (1) (j), 84.305 (1) (k), 84.305 (2) (a) 1., 84.305 (2) (a) 2., 84.305 (2) (a) 4., 84.305
3 (2) (b), 84.305 (3) (c), 84.305 (5) (b) and 84.305 (5) (c); *to renumber and amend*
4 84.305 (3) (e); *to consolidate, renumber and amend* 84.305 (2) (a) (intro.)
5 and 3.; *to amend* 84.305 (1) (h), 84.305 (3) (a), 84.305 (3) (b), 84.305 (3) (f) and
6 84.305 (5) (a); and *to create* 84.305 (5) (d) and 84.305 (5) (e) of the statutes;
7 **relating to:** maintenance and removal of vegetation obstructing the view of
8 outdoor advertising signs along highways under the jurisdiction of the
9 Department of Transportation.

(including interstate highways)

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Under current law, the Department of Transportation (DOT) is responsible for maintenance of the highway right-of-way on highways that, for maintenance purposes, are under its jurisdiction, which are generally state trunk highways but do not include connecting highways. DOT must provide for the care and protection of trees and other roadside vegetation. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. Current law generally prohibits a person from cutting, trimming,

removing, or planting a tree or other vegetation within the right-of-way of a state trunk highway without DOT's consent.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, which includes state trunk highways and connecting highways, and current state law incorporates these requirements. Current law prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs (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 federal-aid primary highway. Exceptions to this prohibition include, with some restrictions, signs advertising activities conducted on the property on which the signs are located; signs located beyond 660 feet of the highway in urban areas; and signs located within 660 feet of the highway in certain business, industrial, or commercial areas.

including interstate highways

Under current law, DOT administers a permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways. DOT may issue permits to sign owners for the trimming, removal, or relocation of vegetation in the highway right-of-way if, within various specified distances along the highway, the vegetation obstructs motorists' view of the face of a sign. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim, remove, or relocate obstructing vegetation to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for the applicable specified distance along the highway. A permit must specify the vegetation or the portion of the highway right-of-way to which the permit applies. Each permit must require a sign owner that removes planted vegetation to either relocate the planted vegetation or reimburse DOT for the value of the planted vegetation. DOT must present to the sign owner DOT's calculation of the value of the planted vegetation, and the sign owner may elect to relocate the planted vegetation or to reimburse DOT in the amount calculated by DOT.

*

This bill makes various changes to DOT's permit system for maintenance and removal of vegetation obstructing signs, including the following:

1. The bill replaces various sign viewing standards with a single standard: that a sign owner is eligible for a permit to trim, ^{or} remove, or relocate vegetation if, for a distance of 500 continuous feet within the 1,000 feet distance motorists travel immediately before reaching the sign, the vegetation obstructs the view of any portion of the face of the sign.

*

*
*

2. The bill specifies that DOT must issue permits to eligible applicants.

insert ANAL B

3. The bill eliminates the requirement that a permittee that removes planted vegetation must either relocate the planted vegetation or reimburse DOT for the value of the planted vegetation. The bill replaces this requirement with the requirement that a permittee that removes ~~any tree~~ with a diameter of four inches or more must plant replacement ~~trees~~ to compensate for the ~~trees~~ removed. DOT must determine where these replacement trees are to be planted, but they must be planted in the highway right-of-way within ten miles of the location where the trees were removed.

vegetation (use 3x)
vegetation is it

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vegetation was

4. The bill eliminates a requirement under current law that, under certain conditions, a sign owner applying for a permit must, at the time of the application, provide written notice of the application to any adjacent property owner and to the applicable municipality. *Insert ANAL - C*

5. The bill eliminates a provision of current law that a permit may not authorize the trimming, removal, or relocation of vegetation in existence prior to the erection of the sign obstructed by the vegetation. The bill replaces this provision with a provision that DOT may not issue a permit to trim, ~~remove, or relocate~~ vegetation obstructing the view of a sign that is less than five years old (calculated from when DOT first collected the sign's permit fee).

Insert ANAL - D ~~70~~ The bill expands the definition of "vegetation," for purposes of the bill, to include grass. The bill also eliminates the distinction between various other types of vegetation, including "natural vegetation," "planted vegetation," and "specimen trees."

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:

- 1 **SECTION 1.** 84.305 (1) (c) of the statutes is repealed.
- 2 **SECTION 2.** 84.305 (1) (d) of the statutes is repealed.
- 3 **SECTION 3.** 84.305 (1) (f) of the statutes is repealed.
- 4 **SECTION 4.** 84.305 (1) (g) of the statutes is repealed.
- 5 **SECTION 5.** 84.305 (1) (h) of the statutes is amended to read:
- 6 84.305 (1) (h) "Vegetation" means any tree, shrub, hedge, ~~or other~~ woody plant,
- 7 ~~and includes planted vegetation, natural vegetation, and specimen trees.~~
- 8 ~~"Vegetation" does not include or~~ grass.
- 9 **SECTION 6.** 84.305 (1) (j) of the statutes is repealed.
- 10 **SECTION 7.** 84.305 (1) (k) of the statutes is repealed.
- 11 **SECTION 8.** 84.305 (2) (a) (intro.) and 3. of the statutes are consolidated,
- 12 renumbered 84.305 (2) and amended to read:

1 84.305 (2) Notwithstanding ss. 66.1037 and 86.03, and subject to sub. (2m),
 2 upon application, the department ~~may~~ shall issue permits to sign owners for the
 3 trimming, ^{strike} removal, ^{or} ~~or relocation~~ ^{strike} of vegetation that is located in the right-of-way of
 4 a highway under the jurisdiction of the department for maintenance purposes and
 5 that obstructs a sign if ~~any of the following applies:~~ 3. ~~Subject to par. (b)~~, within a
 6 distance of 500 continuous feet along any portion of the viewing zone, any portion of
 7 the face of the sign is not viewable because of an obstruction to sight by natural
 8 vegetation in the highway right-of-way.

9 SECTION 9. 84.305 (2) (a) 1. of the statutes is repealed.

10 SECTION 10. 84.305 (2) (a) 2. of the statutes is repealed.

11 SECTION 11. 84.305 (2) (a) 4. of the statutes is repealed.

12 SECTION 12. 84.305 (2) (b) of the statutes is repealed.

13 SECTION 13. 84.305 (3) (a) of the statutes is amended to read:

14 ~~84.305 (3) (a) Subject to pars. (d) to (g) and sub. (4), a permit issued under this~~
 15 ~~section authorizes the permittee to trim obstructing vegetation or, remove, or~~
 16 ~~relocate obstructing individual plants vegetation to the extent necessary to~~
 17 ~~eliminate the obstruction and remedy any condition specified under sub. (2) (a) 1. to~~
 18 ~~4. A permit issued under this section shall specify the vegetation or the portion of~~
 19 ~~the highway right-of-way to which the permit applies.~~

20 SECTION 14. 84.305 (3) (b) of the statutes is amended to read:

21 84.305 (3) (b) An application for a permit under this section shall specifically
 22 describe the work proposed by the applicant. The department shall grant or deny an
 23 application for a permit under this section, and notify the applicant of the
 24 department's decision, within 60 days of receipt of the application. ~~Within 30 days~~

25 ~~of receipt of the application, the department shall determine whether the application~~

insert 4-14

strike

Strike (1)
(2)
(3)

~~is complete and, if not, the department shall return the application to the applicant and inform the applicant of what information, specifically described, must be provided by the applicant to complete the application.~~ The department may not deny an application for a permit under this section based solely upon receipt by the department of an objection or complaint from a property owner or municipality receiving notice under par. (c), but the department may consider the objection or complaint in determining whether to grant or deny the application for a permit. If the department denies an application for a permit under this section, the department shall notify the applicant of reasons for the denial.

insert 5-10

SECTION 15. 84.305 (3) (c) of the statutes is repealed.

SECTION 16. 84.305 (3) (e) of the statutes is renumbered 84.305 (2m) and amended to read:

84.305 (2m) A permit issued under this section may not authorize the permittee to trim, remove, or relocate vegetation in existence prior to the erection of the sign obstructed by the vegetation. Nothing in this paragraph prohibits the department from issuing may not issue a permit under this section authorizing the trimming, ~~removal, or relocation~~ ^{strike or strike} of vegetation that, at the time the sign was erected, did not obstruct obstructing the view of the a sign if the department first collected a permit fee under s. 84.30 (10m) for that sign within the immediately preceding 5 years.

insert 5-21

SECTION 17. 84.305 (3) (f) of the statutes is amended to read:

84.305 (3) (f) The department shall make every effort to issue permits under this section that authorize the permittee to fully remedy the condition giving rise to the need for the permit as described under eliminate any obstruction described in sub. (2) (a) 1. to 4., but the department, in its discretion and for the purpose of causing

1 the least disruption to the landscape design in the highway right-of-way, may issue
2 permits authorizing trimming, removal, or relocation of vegetation in a manner that
3 results in the distance of 243 feet specified in sub. (2) (a) 1., 350 feet specified in sub.
4 (2) (a) 2., 500 feet specified in sub. (2) (a) 3., or 600 feet specified in sub. (2) (a) 4., being
5 noncontinuous if the permit allows the permittee to minimize sight obstruction of the
6 sign along the applicable portion of the viewing zone.

7 **SECTION 18.** 84.305 (5) (a) of the statutes is amended to read:

Insert 6-8
8 84.305 (5) (a) Each permit issued under this section shall require a permittee
9 that removes planted vegetation to either relocate the planted vegetation or
10 reimburse the department for the value of the planted vegetation. The department
11 shall present to the permittee the department's calculation of the value of the planted
12 vegetation, and the permittee may elect to relocate the planted vegetation or to
13 reimburse the department for the value of the planted vegetation as determined by
14 the department any tree with a diameter of 4 inches or more to plant replacement
15 trees to compensate for all such trees removed, in compliance with the requirements
16 under pars. (d) and (e).

17 **SECTION 19.** 84.305 (5) (b) of the statutes is repealed.

18 **SECTION 20.** 84.305 (5) (c) of the statutes is repealed.

19 **SECTION 21.** 84.305 (5) (d) of the statutes is created to read:

MSA 6-20
20 84.305 (5) (d) 1. In planting replacement trees under par. (a), the permittee
21 shall determine the diameters of all trees with a diameter of 4 inches or more that
22 were removed and shall calculate the sum total of these diameters. In calculating
23 the sum total of these diameters, the permittee shall not include in the calculation
24 the diameter of any tree that was dead, diseased, or determined to be an invasive
25 species at the time of the tree's removal.

SAW

1 **INSERT ANAL-A:**

(no H) The bill also eliminates an exception that allowed DOT to issue a permit for a noncontinuous 500 feet viewing distance. ✓

2 **INSERT ANAL-B:**

(no H) Also under the bill, DOT permits authorize the trimming or removal, but not the relocation, of obstructing vegetation. ✓

3 **INSERT ANAL-C:**

(no H) The bill also eliminates a provision of current law requiring DOT, within 30 days of receiving an application, to determine whether the application is complete and to return it to the applicant if incomplete. ✓

4 **INSERT ANAL-D:**

(11)

6. The bill eliminates a provision of current law allowing DOT to require as a condition or restriction under a permit that the work authorized under the permit meet standards established by DOT. However, the bill retains current law that DOT has authority to supervise and determine how the work authorized under a permit is carried out. ✓

5

6 **INSERT 4-14:**

7 84.305 (3) (a) Subject to pars. (d) to (g) and sub. (4), a permit issued under this
8 section authorizes the permittee to trim ~~obstructing vegetation~~ or remove or relocate
9 obstructing ~~individual plants~~ vegetation to the extent necessary to eliminate the
10 obstruction and ~~remedy any condition specified under sub. (2) (a) 1. to 4~~ provide an
11 unobstructed view of a sign for 500 continuous feet within the viewing zone. A permit
12 issued under this section shall specify the vegetation or the portion of the highway
13 right-of-way to which the permit applies.

14

1 **INSERT 5-10:**

2 **SECTION 1.** 84.305 (3) (d) of the statutes is amended to read:

3 84.305 (3) (d) A permit issued under this section may not authorize trimming,
4 ~~or removal, or relocation~~ of vegetation located within a municipality and within 10
5 feet of the nearest edge of the highway pavement without prior approval for the
6 trimming, ~~or removal, or relocation~~ from the municipality.

7 History: 2005 a. 465.

8
9 **INSERT 5-21:**

10 **SECTION 2.** 84.305 (3) (f) of the statutes is repealed. X

11 **SECTION 3.** 84.305 (3) (g) of the statutes is amended to read:

12 84.305 (3) (g) A permit issued under this section may not authorize the
13 permittee to clear-cut any highway right-of-way. The permit authorizes the
14 permittee to trim, ~~or remove, or relocate~~ only the vegetation specified in the permit,
15 or only vegetation within the area of the right-of-way specified in the permit, in
16 accordance with the terms of the permit.

17 History: 2005 a. 465.

18
19 **INSERT 6-8:**

20 84.305 (5) (a) Each permit issued under this section shall require a permittee
21 that removes ~~planted vegetation to either relocate the planted vegetation or~~
22 ~~reimburse the department for the value of the planted vegetation. The department~~
23 ~~shall present to the permittee the department's calculation of the value of the planted~~
24 ~~vegetation, and the permittee may elect to relocate the planted vegetation or to~~

1 ~~reimburse the department for the value of the planted vegetation as determined by~~
2 ~~the department any tree with a diameter of 4 inches or more as measured at 3 feet~~
3 ~~from the ground, or any other vegetation with a diameter of 4 inches or more, to plant~~
4 ~~comparable replacement vegetation to compensate for all such vegetation removed,~~
5 ~~in compliance with the requirements under pars. (d) and (e).~~

6 **INSERT 6-20:**

7 84.305 (5) (d) 1. In planting replacement vegetation under par. (a), the
8 permittee shall determine the diameters of all trees with a diameter of 4 inches or
9 more, as measured at 3 feet from the ground, and of all other vegetation with a
10 diameter of 4 inches or more, that was removed and shall calculate the sum total of
11 these diameters for each category of vegetation, such as for trees, for shrubs, and for
12 hedges. In calculating the sum total of these diameters, the permittee shall not
13 include in the calculation the diameter of any vegetation that was dead, diseased, or
14 determined to be an invasive species at the time of its removal.

15 2. The permittee shall plant sufficient replacement vegetation with a diameter
16 of at least 2 inches so that the sum total of the diameters of the replacement
17 vegetation, for each category of vegetation, at least equals the sum total of the
18 diameters as calculated under subd. 1. for that category.

19
20
21 **INSERT 7-10:**

22 **SECTION 4.** 84.305 (6) of the statutes is amended to read:

23 84.305 (6) The department shall have authority to supervise and determine
24 how the work authorized under a permit issued under this section is carried out. ~~The~~
25 ~~department may require as a condition or restriction under any permit issued under~~

1 ~~this section that the work authorized under the permit meet standards established~~
2 ~~by the department.~~

3 ~~History: 2005 a. 465.~~

4 **SECTION 5.** 84.305 (7) of the statutes is amended to read:

5 84.305 (7) Nothing in this section prohibits a sign owner and the department
6 from voluntarily negotiating for, and the department from authorizing without the
7 issuance of a permit under this section, the trimming, or removal, ~~or relocation~~ of any
8 vegetation in a highway right-of-way in order to provide an unobstructed view of a
9 sign, except in situations where sub. (3) (d) would apply if a permit were issued under
10 this section. Nothing in this section restricts the department's authority with respect
11 to departmental maintenance operations in the rights-of-way of highways under
12 the department's jurisdiction.

13 History: 2005 a. 465.

14

Gary, Aaron

From: Vick, Jason
Sent: Friday, June 24, 2011 3:03 PM
To: Gary, Aaron
Subject: FW: Draft review: LRB 11-1679/P2 Topic: Vegetation maintenance in state trunk highway right-of-way related to obstruction of view of outdoor advertising signs
Attachments: LRB-1679_P2

Aaron,

All looks good with the preliminary draft /2. Can you convert into a draft that can be jacketed?

Also, you may release this draft to Sen. Lazich's office if they request a Senate companion.

Thanks,

Jason Vick

Office of Rep. Mark Honadel
21st Assembly District
608-266-0611

From: Parisi, Lori
Sent: Wednesday, May 11, 2011 2:44 PM
To: Rep.Honadel
Subject: Draft review: LRB 11-1679/P2 Topic: Vegetation maintenance in state trunk highway right-of-way related to obstruction of view of outdoor advertising signs

Following is the PDF version of draft LRB 11-1679/P2.



State of Wisconsin
2011 - 2012 LEGISLATURE

soon



1

LRB-1679/10
ARG:cjs:jf

in 6/24

stars
R MK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAW

No changes

Gen Cat

1 **AN ACT to repeal** 84.305 (1) (c), 84.305 (1) (d), 84.305 (1) (f), 84.305 (1) (g), 84.305
2 (1) (j), 84.305 (1) (k), 84.305 (2) (a) 1., 84.305 (2) (a) 2., 84.305 (2) (a) 4., 84.305
3 (2) (b), 84.305 (3) (c), 84.305 (3) (f), 84.305 (5) (b) and 84.305 (5) (c); **to renumber**
4 **and amend** 84.305 (3) (e); **to consolidate, renumber and amend** 84.305 (2)
5 (a) (intro.) and 3.; **to amend** 84.305 (1) (h), 84.305 (3) (a), 84.305 (3) (b), 84.305
6 (3) (d), 84.305 (3) (g), 84.305 (5) (a), 84.305 (6) and 84.305 (7); and **to create**
7 84.305 (5) (d) and 84.305 (5) (e) of the statutes; **relating to:** maintenance and
8 removal of vegetation obstructing the view of outdoor advertising signs along
9 highways under the jurisdiction of the Department of Transportation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) is responsible for maintenance of the highway right-of-way on highways that, for maintenance purposes, are under its jurisdiction, which are generally state trunk highways (including interstate highways) but do not include connecting highways. DOT must provide for the care and protection of trees and other roadside vegetation. DOT must also cut, trim, or remove, or allow others to cut, trim, or remove, trees and other vegetation in order to provide safety to highway users. Current law generally

prohibits a person from cutting, trimming, removing, or planting a tree or other vegetation within the right-of-way of a state trunk highway without DOT's consent.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, which includes state trunk highways and connecting highways, and current state law incorporates these requirements. Current law prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs (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 federal-aid primary highway. Exceptions to this prohibition include, with some restrictions, signs advertising activities conducted on the property on which the signs are located; signs located beyond 660 feet of the highway in urban areas; and signs located within 660 feet of the highway in certain business, industrial, or commercial areas.

Under current law, DOT administers a permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along state trunk highways, including interstate highways. DOT may issue permits to sign owners for the trimming, removal, or relocation of vegetation in the highway right-of-way if, within various specified distances along the highway, the vegetation obstructs motorists' view of the face of a sign. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim, remove, or relocate obstructing vegetation to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for the applicable specified distance along the highway. A permit must specify the vegetation or the portion of the highway right-of-way to which the permit applies. Each permit must require a sign owner that removes planted vegetation to either relocate the planted vegetation or reimburse DOT for the value of the planted vegetation. DOT must present to the sign owner DOT's calculation of the value of the planted vegetation, and the sign owner may elect to relocate the planted vegetation or to reimburse DOT in the amount calculated by DOT.

This bill makes various changes to DOT's permit system for maintenance and removal of vegetation obstructing signs, including the following:

1. The bill replaces various sign viewing standards with a single standard: that a sign owner is eligible for a permit to trim or remove vegetation if, for a distance of 500 continuous feet within the 1,000 feet distance motorists travel immediately before reaching the sign, the vegetation obstructs the view of any portion of the face of the sign. The bill also eliminates an exception that allowed DOT to issue a permit for a noncontinuous 500 feet viewing distance.

2. The bill specifies that DOT must issue permits to eligible applicants. Also under the bill, DOT permits authorize the trimming or removal, but not the relocation, of obstructing vegetation.

3. The bill eliminates the requirement that a permittee that removes planted vegetation must either relocate the planted vegetation or reimburse DOT for the value of the planted vegetation. The bill replaces this requirement with the requirement that a permittee that removes vegetation with a diameter of four inches or more must plant replacement vegetation to compensate for the vegetation

removed. DOT must determine where the replacement vegetation is to be planted, but it must be planted in the highway right-of-way within ten miles of the location where the vegetation was removed.

4. The bill eliminates a requirement under current law that, under certain conditions, a sign owner applying for a permit must, at the time of the application, provide written notice of the application to any adjacent property owner and to the applicable municipality. The bill also eliminates a provision of current law requiring DOT, within 30 days of receiving an application, to determine whether the application is complete and to return it to the applicant if incomplete.

5. The bill eliminates a provision of current law that a permit may not authorize the trimming, removal, or relocation of vegetation in existence prior to the erection of the sign obstructed by the vegetation. The bill replaces this provision with a provision that DOT may not issue a permit to trim, remove, or relocate vegetation obstructing the view of a sign that is less than five years old (calculated from when DOT first collected the sign's permit fee).

6. The bill eliminates a provision of current law allowing DOT to require as a condition or restriction under a permit that the work authorized under the permit meet standards established by DOT. However, the bill retains current law that DOT has authority to supervise and determine how the work authorized under a permit is carried out.

7. The bill expands the definition of "vegetation," for purposes of the bill, to include grass. The bill also eliminates the distinction between various other types of vegetation, including "natural vegetation," "planted vegetation," and "specimen trees."

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:

1 **SECTION 1.** 84.305 (1) (c) of the statutes is repealed.

2 **SECTION 2.** 84.305 (1) (d) of the statutes is repealed.

3 **SECTION 3.** 84.305 (1) (f) of the statutes is repealed.

4 **SECTION 4.** 84.305 (1) (g) of the statutes is repealed.

5 **SECTION 5.** 84.305 (1) (h) of the statutes is amended to read:

6 84.305 (1) (h) "Vegetation" means any tree, shrub, hedge, or other woody plant,

7 ~~and includes planted vegetation, natural vegetation, and specimen trees.~~

8 "Vegetation" does not include or grass.

1 **SECTION 6.** 84.305 (1) (j) of the statutes is repealed.

2 **SECTION 7.** 84.305 (1) (k) of the statutes is repealed.

3 **SECTION 8.** 84.305 (2) (a) (intro.) and 3. of the statutes are consolidated,
4 renumbered 84.305 (2) and amended to read:

5 84.305 (2) Notwithstanding ss. 66.1037 and 86.03, and subject to sub. (2m),
6 upon application, the department ~~may~~ shall issue permits to sign owners for the
7 trimming, or removal, ~~or relocation~~ of vegetation that is located in the right-of-way
8 of a highway under the jurisdiction of the department for maintenance purposes and
9 that obstructs a sign if ~~any of the following applies:~~ ~~3. Subject to par. (b)~~, within a
10 distance of 500 continuous feet along any portion of the viewing zone, any portion of
11 the face of the sign is not viewable because of an obstruction to sight by natural
12 vegetation in the highway right-of-way.

13 **SECTION 9.** 84.305 (2) (a) 1. of the statutes is repealed.

14 **SECTION 10.** 84.305 (2) (a) 2. of the statutes is repealed.

15 **SECTION 11.** 84.305 (2) (a) 4. of the statutes is repealed.

16 **SECTION 12.** 84.305 (2) (b) of the statutes is repealed.

17 **SECTION 13.** 84.305 (3) (a) of the statutes is amended to read:

18 84.305 (3) (a) Subject to pars. (d) to (g) and sub. (4), a permit issued under this
19 section authorizes the permittee to trim ~~obstructing vegetation~~ or remove ~~or relocate~~
20 ~~obstructing individual plants~~ vegetation to the extent necessary to eliminate the
21 obstruction and ~~remedy any condition specified under sub. (2) (a) 1. to~~ provide an
22 unobstructed view of a sign for 500 continuous feet within the viewing zone. A permit
23 issued under this section shall specify the vegetation or the portion of the highway
24 right-of-way to which the permit applies.

25 **SECTION 14.** 84.305 (3) (b) of the statutes is amended to read:

1 84.305 (3) (b) An application for a permit under this section shall specifically
2 describe the work proposed by the applicant. The department shall grant or deny an
3 application for a permit under this section, and notify the applicant of the
4 department's decision, within 60 days of receipt of the application. ~~Within 30 days~~
5 ~~of receipt of the application, the department shall determine whether the application~~
6 ~~is complete and, if not, the department shall return the application to the applicant~~
7 ~~and inform the applicant of what information, specifically described, must be~~
8 ~~provided by the applicant to complete the application. The department may not deny~~
9 ~~an application for a permit under this section based solely upon receipt by the~~
10 ~~department of an objection or complaint from a property owner or municipality~~
11 ~~receiving notice under par. (e), but the department may consider the objection or~~
12 ~~complaint in determining whether to grant or deny the application for a permit. If~~
13 ~~the department denies an application for a permit under this section, the department~~
14 ~~shall notify the applicant of reasons for the denial.~~

15 **SECTION 15.** 84.305 (3) (c) of the statutes is repealed.

16 **SECTION 16.** 84.305 (3) (d) of the statutes is amended to read:

17 84.305 (3) (d) A permit issued under this section may not authorize trimming,
18 or removal, or relocation of vegetation located within a municipality and within 10
19 feet of the nearest edge of the highway pavement without prior approval for the
20 trimming, or removal, or relocation from the municipality.

21 **SECTION 17.** 84.305 (3) (e) of the statutes is renumbered 84.305 (2m) and
22 amended to read:

23 84.305 (2m) ~~A permit issued under this section may not authorize the~~
24 ~~permittee to trim, remove, or relocate vegetation in existence prior to the erection of~~
25 ~~the sign obstructed by the vegetation. Nothing in this paragraph prohibits the The~~

1 department ~~from issuing~~ may not issue a permit under this section authorizing the
2 trimming, ~~or removal, or relocation~~ of vegetation that, ~~at the time the sign was~~
3 ~~erected, did not obstruct~~ obstructing the view of the a sign if the department first
4 collected a permit fee under s. 84.30 (10m) for that sign within the immediately
5 preceding 5 years.

6 **SECTION 18.** 84.305 (3) (f) of the statutes is repealed.

7 **SECTION 19.** 84.305 (3) (g) of the statutes is amended to read:

8 84.305 (3) (g) A permit issued under this section may not authorize the
9 permittee to clear-cut any highway right-of-way. The permit authorizes the
10 permittee to trim, ~~or remove, or relocate~~ only the vegetation specified in the permit,
11 or only vegetation within the area of the right-of-way specified in the permit, in
12 accordance with the terms of the permit.

13 **SECTION 20.** 84.305 (5) (a) of the statutes is amended to read:

14 84.305 (5) (a) Each permit issued under this section shall require a permittee
15 that removes ~~planted vegetation to either relocate the planted vegetation or~~
16 ~~reimburse the department for the value of the planted vegetation. The department~~
17 ~~shall present to the permittee the department's calculation of the value of the planted~~
18 ~~vegetation, and the permittee may elect to relocate the planted vegetation or to~~
19 ~~reimburse the department for the value of the planted vegetation as determined by~~
20 ~~the department~~ any tree with a diameter of 4 inches or more as measured at 3 feet
21 from the ground, or any other vegetation with a diameter of 4 inches or more, to plant
22 comparable replacement vegetation to compensate for all such vegetation removed,
23 in compliance with the requirements under pars. (d) and (e).

24 **SECTION 21.** 84.305 (5) (b) of the statutes is repealed.

25 **SECTION 22.** 84.305 (5) (c) of the statutes is repealed.

1 **SECTION 23.** 84.305 (5) (d) of the statutes is created to read:

2 84.305 (5) (d) 1. In planting replacement vegetation under par. (a), the
3 permittee shall determine the diameters of all trees with a diameter of 4 inches or
4 more, as measured at 3 feet from the ground, and of all other vegetation with a
5 diameter of 4 inches or more, that was removed and shall calculate the sum total of
6 these diameters for each category of vegetation, such as for trees, for shrubs, and for
7 hedges. In calculating the sum total of these diameters, the permittee shall not
8 include in the calculation the diameter of any vegetation that was dead, diseased, or
9 determined to be an invasive species at the time of its removal.

10 2. The permittee shall plant sufficient replacement vegetation with a diameter
11 of at least 2 inches so that the sum total of the diameters of the replacement
12 vegetation, for each category of vegetation, at least equals the sum total of the
13 diameters as calculated under subd. 1. for that category.

14 **SECTION 24.** 84.305 (5) (e) of the statutes is created to read:

15 84.305 (5) (e) 1. Subject to subd. 2., the department shall determine where
16 replacement vegetation required under this subsection is to be planted.

17 2. Replacement vegetation required under this subsection shall be planted in
18 the highway right-of-way not farther than 10 miles from the location of the removed
19 vegetation being replaced. Replacement vegetation may not be planted in front of
20 a sign.

21 **SECTION 25.** 84.305 (6) of the statutes is amended to read:

22 84.305 (6) The department shall have authority to supervise and determine
23 how the work authorized under a permit issued under this section is carried out. ~~The~~
24 ~~department may require as a condition or restriction under any permit issued under~~

1 ~~this section that the work authorized under the permit meet standards established~~
2 ~~by the department.~~

3 **SECTION 26.** 84.305 (7) of the statutes is amended to read:

4 84.305 (7) Nothing in this section prohibits a sign owner and the department
5 from voluntarily negotiating for, and the department from authorizing without the
6 issuance of a permit under this section, the trimming, or removal, ~~or relocation~~ of any
7 vegetation in a highway right-of-way in order to provide an unobstructed view of a
8 sign, except in situations where sub. (3) (d) would apply if a permit were issued under
9 this section. Nothing in this section restricts the department's authority with respect
10 to departmental maintenance operations in the rights-of-way of highways under
11 the department's jurisdiction.

12 **SECTION 27. Effective date.**

13 (1) This act takes effect on the 30th day after the day of publication.

14 (END)

Godwin, Gigi

From: Vick, Jason
Sent: Thursday, July 14, 2011 2:03 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-1679/1 Topic: Vegetation maintenance in state trunk highway right-of-way related to obstruction of view of outdoor advertising signs

Please Jacket LRB 11-1679/1 for the ASSEMBLY.