
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Senate Bill 283

Senate Amendment 1

2021 SENATE BILL 283

Senate Bill 283 requires all persons that have a right to use a private road or driveway located on an access easement (“beneficial users”) to contribute to the reasonable and necessary costs of maintenance and repair of the private road or driveway. The bill provides two options to determine the share of costs between beneficial users: (1) a written agreement entered into by the beneficial users; or (2) a statutory formula, to be used in the absence of a written agreement. The statutory formula requires each beneficial user to contribute an equitable share based on the amount and intensity of each user’s actual use in proportion to the amount and intensity of all beneficial users’ actual use. The bill lists four factors that beneficial users may consider when determining whether costs are reasonable and necessary.

The cost-sharing requirement, regardless of which option is used, does not apply in the case of damage to the private road or driveway. In that case, the bill requires that a beneficial user be solely responsible for the costs of repairing damage beyond reasonable wear and tear caused by the user or the user’s guest or invitee.

The cost-sharing requirement and the damage responsibility provisions do not apply to certain entities. These provisions do not apply to access easements where the easement holder or the owner of real estate that is burdened by the access easement is the state, a political subdivision, a railroad corporation, or a qualified utility.

SENATE AMENDMENT 1

Senate Amendment 1 clarifies that the damage responsibility provision applies only when the statutory formula is being used to determine the share of costs between beneficial users, rather than also when a written agreement is being used.

The amendment also specifies the types of documents that may serve as a cost-sharing agreement under the bill, including the instrument that created the access easement, a deed restriction, covenant, or declaration that sets forth the respective maintenance and repair obligations of the beneficial users.

BILL HISTORY

Senate Amendment 1 was offered by Senator Ballweg on October 19, 2021. On October 20, 2021, the Senate adopted the amendment and passed the bill, as amended, on voice votes.

PW:ksm