DAN FEYEN
STATE SENATOR

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To: The Senate Committee on Transportation and Local Government
From: Sen. Dan Feyen
Re: Senate Bill 594

Mr. Chairman, members of the committee, thank you for holding this hearing today.

Almost all highway projects have an effect on outdoor advertising signs on private land adjacent to the highway. Currently, Wisconsin taxpayers are paying more for highway improvement projects, and getting less for their tax dollar, because of the practices of the DOT and certain municipalities that prohibit outdoor advertising signs from being relocated or adjusted to remain visible due to construction.

This bill aims to change the process surrounding realigning or relocating a sign that is affected by a transportation project.

Current law gives municipalities the option of allowing the realignment of an affected sign on the same "site" or paying the condemnation costs associated with the State acquiring the sign. In many instances, relocation options for a sign are available that would meet all State and Federal requirements, but local ordinances prevent the relocation of the sign because of municipal bans on the construction of new outdoor advertising signs. In these instances, the cost to the State can escalate up to 14 times the relocation cost because the State must go through the process of condemning the sign and then pay fair market value.

Relocation allows the outdoor advertising companies to continue to provide marketing services to Wisconsin advertisers and will ensure jobs for the employees of these companies. This bill also creates the ability to transfer a sign within a municipality with agreement from the sign owner and the municipality. Relocation would save Wisconsin taxpayers millions of dollars by avoiding the high cost of condemning outdoor advertising signs.

SB 594 offers the following simple solutions to sign owners, the DOT, and municipalities:

1. Allows for the "repositioning" of a sign on the same parcel 25 feet in either direction
2. Allows for signs to be raised, lowered or rotated providing substantially the same view from the roadway if the sign's visibility is reduced because of a state project
3. Allows for signs that cannot be "repositioned" to be transferred to a parcel on the same highway. If transferring the sign to a parcel on the same highway is not possible, the sign could be transferred to another parcel that the sign owner and municipality agree upon.

Thank you for taking the time to hold a public hearing on this bill.

JOY GOEBEN

STATE REPRESENTATIVE • 5th ASSEMBLY DISTRICT

Thank you, Chairman Tomczyk and members of the Senate Committee on Transportation and Local Government for hearing SB 467.

The Real estate practices of the Wisconsin Department of Transportation and local municipalities Highway road construction have had two significant yet unintended consequences.

First, current highway improvement project practices cost the state taxpayers millions of dollars.

Wisconsin taxpayers have been paying for the DOT to purchase, at fair market value, outdoor advertising signs or bill boards, just to condemn the signs and tear them down.

This practice may cost up to 14-times more than to simply relocate the sign. Second, the State DOT is undermining private businesses. This bill rights these wrongs.

Almost all State highway projects affect outdoor advertising signs on private land adjacent to the highway.

Current law gives municipalities the option of allowing the realignment of an affected sign on the same "site" or paying the condemnation costs associated with the State acquiring the sign.

In many instances, relocation options are available for signs that would meet all State and Federal requirements but some local ordinances prevent relocation by banning construction of new outdoor advertising signs.

This bill eliminates the definition of realignment and replaces it with "reposition." It allows for the reposition of a sign on the same parcel but not more than 25 feet in either direction along the road and not more than 660 feet away from the roadway.

It allows a sign to be transferred within a municipality, raised, lowered, and/or rotated if a sign's visibility is reduced because of a DOT project.

For signs that cannot be repositioned, **SB 467** allows for a transfer to a parcel along the same highway or to another parcel within a municipality that the sign owner and municipality agree upon.

Whatever your feelings about outdoor advertising, DOT projects continue to destroy the inventory of bill boards faster than the business can replace them and the cost is carried on the backs of Wisconsin taxpayers.

We should rectify this long perpetuated wrong against private Wisconsin businesses and the hard working men and women of Wisconsin.

Thank you for your time today,

Joy Goeben

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Office of the Secretary
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Testimony of Wisconsin Department of Transportation
Assistant Deputy Secretary Joel Nilsestuen
Before the Senate Committee on Transportation and Local Government
December 5, 2023

Re: Senate Bill 467, relating to outdoor advertising signs that do not conform to local ordinances and that are affected by certain transportation-related projects.

Thank you, Chairman Tomczyk, and members of the committee for your consideration of the department's input on Senate Bill 467, relating to outdoor advertising signs that do not conform to local ordinances and that are affected by certain transportation-related projects.

This bill addresses nonconforming signs. A nonconforming is a sign that was lawfully erected but does not comply with laws passed at a later date, or later fails to comply with laws due to changed conditions. There are 3,242 nonconforming signs in this state that do not meet state requirements. This bill addresses only locally nonconforming signs, including those that do not have or need state permits. The department does not know how many signs in this state are nonconforming due to local requirements. The department simply lacks data to know how many signs are covered by this bill.

WisDOT's primary concern with Senate Bill 467 is the potential conflict with the federal Highway Beautification Act (HBA), which threatens federal highway funding. The Highway Beautification Act requires States to effectively control outdoor advertising along federal-aid highway systems, including the Interstate highways, federal-aid primary highways, and the National Highway System.

The Highway Beautification Act prohibits moving nonconforming signs to a new location that would make it a nonconforming sign. This bill would allow a sign to be moved to an illegal area, by carrying its nonconforming status to the new location. Under this bill, signs could be moved in compliance with state law to a location that violates federal law. For example, a sign adjacent to an interstate highway. The sign meets state requirements but does not meet local ordinance requirements for whatever reason, perhaps zoning, size, height, or spacing to another sign. This would be a locally nonconforming sign subject to this bill. Under the bill, this sign could be transferred to any area adjacent to the same interstate highway, or anywhere within the municipality, including to a place that violates state law, which would violate federal law by placing it at a location as a nonconforming use.

Passage of this bill may cause the Federal Highway Administration (FHWA) to question whether Wisconsin is maintaining effective control of outdoor advertising on Interstate and Federal-aid primary highways as required by 23 CFR 750.701 and 23 U.S.C. 131. In fact, FHWA has already questioned this bill. In 2018, FHWA took the unusual step of

expressing concern, in writing, about 2017 Assembly Bill 594 and Senate Bill 496—bills identical to this bill. FHWA refrained from saying the bill would violate federal law, but it did say, "while a State may deem any sign to be permissible under State law, that does not necessarily make the sign allowable for purposes of the HBA if it is located adjacent to a controlled route."

Failure to maintain effective control of outdoor advertising may result in Wisconsin being subject to a ten percent reduction of Federal-aid highway funds that would otherwise be apportioned to the State under 23 U.S.C. 104. Based on the FFY 24 apportionment estimates provided by FHWA, this reduction would amount to roughly $57 million per year until the state takes steps to regain and maintain effective control.

The Department has at least six other concerns with this bill, in addition to the threat of lost federal funding.

First, the bill is unclear whether a sign owner whose sign is removed as part of a transportation project would be eligible for just compensation for the loss of the sign or be allowed to adjust or move the sign to another location, or both. Currently, a sign removed as a result of a highway project is paid just compensation but cannot also be moved. Under this bill, a sign that is 'removed' can be moved but may still require payment. The department sees no reason why a sign owner should be paid for a removed sign and also be allowed to move the sign to another location, but the bill is unclear.

Second, the bill will likely cause a lot of litigation. Whether a removed sign is eligible for both just compensation and movement to a new location is one example. The bill contains confusing terms that are another area for litigation. For example, current law prohibits "alteration" and "movement" of signs that do not conform to state requirements. This bill allows "repositioning", "transferring" and "adjusting" of nonconforming signs. Where statutes use different terms, different meanings are presumed. It's easy to imagine reasonable disagreement about whether "repositioning" or "adjusting" is a prohibited "alteration" or "movement". Similarly, the bill provides options if a sign 'cannot' be repositioned or transferred; does 'cannot' here mean physical or legal impossibility, or just that the sign owner couldn't reach favorable terms with a new landlord? The bill also provides no standard to say if a sign's 'visibility is reduced'. These are the types of disagreements decided by courts.

Third, litigation could also arise because the bill is unclear about which parties make decisions or are required to agree. The bill allows a sign to retain its nonconforming status if it 'is repositioned', or 'is transferred' or 'is raised, lowered or rotated', but does not say by whom, or with what approval. The passive language used by this bill appears to allow a sign owner to unilaterally move its own sign to an illegal area and keep its nonconforming status. A sign owner could act on its own to create a new nonconforming use, carrying its nonconforming status to ignore local laws wherever it chooses. Importantly, keeping a sign's nonconforming status is only important if it is moved to another illegal area; if it were moved to a legal area, it would no longer be a nonconforming sign.

Fourth, the bill expands the types of projects that are required to protect nonconforming signs. Current law applies only to highway projects. This bill applies to any 'transportation project' that affects a sign, including airport, harbor, and railway projects. It also applies to any local project if the department has allocated state or federal funds, including LRIP. So, for example, if the department proposes to move a nonconforming sign for an airport project, the municipality can accept the move or pay for the condemnation. The department will experience workload increases dealing with more types of projects, even though the costs of moving or buying the signs will ultimately be borne by the local government. The department has no information on the number of locally nonconforming signs near local roads or other transportation projects that are not highways and so cannot assess the impacts of this.

Fifth, the bill skirts a 2018 Wisconsin Supreme Court decision, by creating a right where none now exists. This happened in Madison a few years ago, when the City built a pedestrian overpass near a sign, partially obscuring one side of the sign but otherwise not touching the sign or the property beneath it. Local law prohibited raising the sign to restore its visibility. The sign owner sued the City for $740,000 for 'taking' the visibility of the sign. The sign owner lost because the project did not take any of its property. The Court held that "a right to visibility of private property from a public road is not a cognizable right giving rise to a protected property interest." The Court said matter-of-factly, "[P]rivate property owners abutting public roads are aware that public roads are subject to change. There is an ever-present risk that public roads may be improved in any number of ways. Streets are routinely expanded or relocated and can be elevated or modified by the construction of electrical poles, signage, or pedestrian shelters. Often roads can be closed for an extended period of time due to construction. A myriad of examples exists. Property owners are on notice that such changes may alter or obstruct the view of their private property from the public road. It is not reasonable for a property owner to rely on the fact that it is located near a public road in a certain condition at a particular moment in time." The Court also noted that the sign owner, "fails to cite any jurisdiction recognizing a right to visibility of private property from a public road in the absence of a physical taking." This bill would be the first to give such a right to signs, by paying for signs that are not physically affected by a project and by allowing a sign owner to ignore local law to move, raise, lower or rotate the sign to restore visibility. It would also give sign owners special treatment compared to other property owners.

Finally, the bill increases costs to the department by writing a blank check to a sign owner to pay whatever "costs are incurred by the sign owner in adjusting, repositioning or transferring the sign". The bill does not require these costs to be actual, necessary, or even reasonable. It is unclear whether these costs are what the sign owner itself actually paid, such as the hourly rate to its own employees, or are the fair market rates of what it would have charged another to perform that work or are costs actually paid to another for that work. Again, it is easy to imagine reasonable disagreement over the proper rate of reimbursement, ending in litigation.

Thank you for your time and consideration today. We are happy to try to answer any questions committee members may have.

U.S. Department of Transportation
Federal Highway Administration

Wisconsin Division

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January 3, 2018

In Reply Refer To:
HDA-WI

Dave Ross, Secretary
Wisconsin Department of Transportation
4802 Sheboygan Avenue, Room 120B
P.O. Box 7910
Madison, WI 53707-7910

Dear Mr. Ross:

The Division received notice from our Headquarters concerning two legislative proposals pending in the Wisconsin legislature. The two proposals concern suggested changes to Wisconsin's version of the federal Highway Beautification Act. *Please see*, 2017 Assembly Bill (AB) 595 and its companion bill, 2017 Senate Bill (SB) 495 related to the removal of nonconforming outdoor advertising signs along highways, and 2017 AB 594 and its companion bill, 2017 SB 496 related to outdoor advertising signs that do not conform to local ordinances and that are affected by certain transportation-related projects.

To avoid issues of Federalism and anti-lobbying concerns, the Federal Highway Administration (FHWA) generally refrains from providing written findings on pending State legislation. Nevertheless, we can offer guidance with respect to the Highway Beautification Act of 1965 (HBA).

The HBA, and the regulations promulgated pursuant thereto require States to "effectively control" outdoor advertising along certain Federal-aid (FA) highway systems. Those FA systems that are subject to effective outdoor advertising control include the Interstate highways; the system of Federal-aid primary highways (designated pursuant to 23 U.S.C. 103(b)); and, the National Highway System.

Under 23 CFR 750.707 the States may allow signs which were lawfully erected but which do not comply with the provisions of State law or State regulations passed at a later date or which later fail to comply with State law or State regulations due to changed conditions. This category of outdoor advertising signs is defined as "nonconforming signs."

Among other requirements, section 750.707 provides that nonconforming signs must remain substantially the same as they were on the effective date of the State law or regulations; but that,

- reasonable repair and maintenance of the sign, including a change of advertising message, is not a change which would terminate nonconforming rights; *and*,

- each State shall develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights.

Of particular interest, section 750.707 further provides that,

- nonconforming signs may be sold, leased, or otherwise transferred without affecting their legal status, but [that their] location may not be changed; *and*,
- nonconforming signs removed as a result of a right-of-way takings or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use.

The intent of the HBA, in allowing nonconforming signs to remain in place, is with the view that eventually nonconforming signs would be eliminated due to deterioration or natural causes. Nevertheless, while a State may deem any sign to be permissible under State law, that does not necessarily make the sign allowable for purposes of the HBA if it is located adjacent to a controlled route.

Finally, for further information which may be useful on this and other topics, we urge WisDOT to please visit the FHWA's Office of Real Estate's website: https://www.fhwa.dot.gov/real_estate/

Sincerely,

TIMOTHY C MARSHALL
2018.01.03 16:13:20 -06'00'

Timothy C. Marshall, P.E.
Acting Division Administrator

LEAGUE OF WISCONSIN MUNICIPALITIES

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Testimony Requesting Amendment Changes
Senate Bill 467
Senate Committee on Transportation and Local Government

Good morning, Chairman Tomczyk and Honored Members of the Committee. We are grateful that the bill authors are open to amending Senate Bill 467 to ensure the protection of communities, taxpayer dollars, municipal approval, and property owners.

Senate Bill 467 is a substantial change from current law, and the bill hugely favors billboard sign owners over property owners, taxpayers, and local governments.

Under this bill, if a DOT highway project significantly affects a billboard, the billboard owner has the authority to move the sign anywhere in the village or city, without municipal/community approval. There are some serious concerns about this proposed change to state law.

The bill as currently written significantly impacts property owner rights and property values. A housing complex in which the property owners purchased units based on the view can now be subject to a billboard in front of it, and there is nothing that the residential owners can do. It will decrease property values. Local governments' hands will be tied, and there is nothing municipalities will be unable to help protect our residents' property rights and values.

The bill will have a significant negative impact on densely populated communities and municipalities, as there are not many options for billboards. Smaller municipalities with county highways likewise may also run out of space for alternate billboard locations.

Municipalities should have approval over the new sign location. As municipalities cannot regulate billboard content, some municipalities and their community members do not want billboard signs that could potentially have cannabis or gentleman's club advertising near schools, churches, and community centers.

Safety needs to be considered as well. Billboard signs with certain types of advertising in highly populated and residential areas can be distracting. Any distraction on the roads causes accidents. Our communities want safe roads, and municipal approval in billboard placing should be sought.

Further, some municipalities do not want digital billboards in their village/city limits. To ensure that a traditional billboard sign is not replaced with a prohibited digital sign, the bill should be amended to ensure that all characteristics of the sign remain the same.

Finally, there are concerns that this bill could impact $57 million in federal-aid highway funding coming to Wisconsin, per the fiscal note.

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Again, we are grateful that the bill authors are open to much-needed changes in this bill in order to protect communities, property owners, and taxpayer dollars.

Thank you.

City Attorney's Office
attorney@westalliswi.gov
Office: 414.302.8450
Fax: 414.302.8444

Kail Decker
City Attorney
Nicholas S. Cerwin
Deputy City Attorney
Rebecca Monti
Principal Assistant City Attorney

December 5, 2023

Senator Cory Tomczyk and Members of the Senate Committee on Transportation and Local Government

RE: Senate Bill 467

Dear Sen. Tomczyk and Members of the Senate Committee on Transportation and Local Government:

If a state highway project causes a billboard owner to move or remove a sign, current state law says that owner must either rebuild it on the same site or be paid just compensation if it cannot be rebuilt. The provisions of 2023 Senate Bill 467 create more ways to rebuild those signs.

While I understand the desire to provide more flexibility to billboard owner who rely upon the signs as the primary source of income, this bill goes too far. Many property owners adjacent to any highway project end up with less property, which negatively impacts them. However, those property owners are justly compensated for that reduction in land. Billboard companies should be kept on equal grounds as any other property owner, which is how this issue is handled under current law.

Plus, federal law seeks to reduce the existence of billboards along highways, but SB 467 would create law that contradicts the intent of that federal law.

Advancing this bill would send an undesirable message to other property owners: Despite federal law providing less protection for billboard owners, the state is going to provide more benefits to billboard owners who lose their property to eminent domain than any other property owner. The small business who loses their parking lot to a highway project is left to deal with the consequences, but a large corporate billboard company could move to any other location in the same municipality and continue business as usual.

Just compensation is the way to pay property owner for their loss to state highway projects and it has been that way for a long time. This bill only benefits billboard companies to the detriment of the public and local municipalities. Please vote in the best interest of the public and decline to advance this proposal.

Alternatively, if the Committee considers moving forward with this legislation, there are a few provisions that may cause unintended consequences. I would ask that the Committee consider the following:

- Amend Lines 19-22 on Page 3 to say "2. If the sign cannot be repositioned, the sign is transferred to a parcel to which the sign owner and the municipality agree the sign may be transferred."
    - By including the municipality in the decision, the interests of the public are represented and either both parties will agree to a new location or the sign owner will be compensated for the sign.
- Amend Lines 8-9 on Page 4 to say "If the sign cannot be repositioned and the sign face cannot be adjusted under subd. 2., the sign is transferred to a parcel to which the sign owner and the municipality agree the sign may be transferred."
    - Presumably, the procedure should be the same whether a sign is removed or repositioned: if the sign must be transferred to a new location, it should be with the agreement of the municipality in both cases. This amendment simply makes the standards consistent.
- Amend Lines 16-17 on Page 4 to say "The height of the sign after repositioning or transfer may be different than the height of the sign before repositioning or transfer but only to provide substantially the same view of the sign from the roadway from which motorists are intended to view the sign as existed before the state project."
    - This amendment borrows language from other parts of the bill to ensure that any replacement sign is similar to the one that it replaced, leaving the billboard company in a similar position.

Thank you for your consideration.

Sincerely,

Kail Decker
City Attorney

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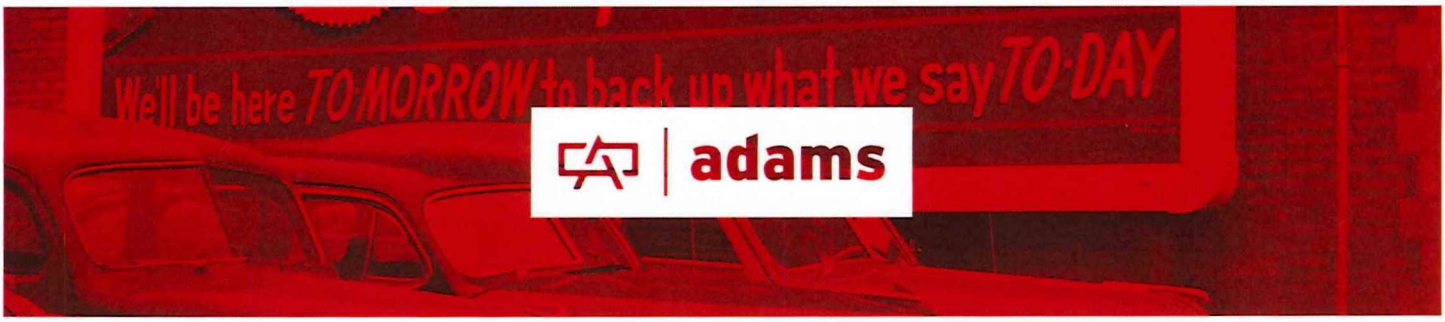

Senate Committee on Transportation and Local Government – Testimony of Thomas Hickey, Government Affairs Representative, Adams Outdoor Advertising.

Thank you to the members of the Senate Committee on Transportation and Local Government for holding this hearing today on Senate Bill 467, which relates to outdoor advertising signs that do not conform to local ordinances and that are affected by certain transportation-related projects.

My name is Tom Hickey and I am the Government Affairs Representative for Adams Outdoor Advertising. Adams Outdoor operates 247 total structures in Dane County as well as in Racine and Kenosha.

Historically, when off-premises signs needed to be condemned for highway expansion purposes, and the local municipality did not allow relocation of those signs, the outdoor advertising company was compensated for its loss, but lost its ability to continue to operate the sign and use it to serve locals businesses in the area.

That changed when the State began to allow "realignment" of certain conforming off-premises signs that were affected by highway projects on the same site only, if the local municipality allowed realignment of the sign. If the local municipality did not want the sign realigned, then the local municipality would pay the cost difference between relocation and condemnation. This is a significant cost saving measure for the State in that certain conforming off-premises signs do not have to be condemned as part of the transportation project

This legislation will expand on that and result in further cost savings for the State.

For example, in Madison as part of the Verona Road Interchange project, Adams had a 14'X48' off-premises sign, the industry standard size for a freeway sign. The structure could not be realigned because the remaining parcel was not large enough to relocate. As a result, the State of WI condemned the sign at a cost of $975,000. Had this bill been in effect, the State could have realized these cost savings, minus the cost of the structure itself, had it been relocated, saving the state around $900,000

At another site related to the Verona Road Interchange project, Adams had four 12'x25' off-premises signs adjacent to the beltline. Because the parcel was not large enough to realign the structure under current law, the signs needed to be condemned. The total award was $191,000. Had this bill been in place and if the City of Madison allowed relocation, the state could have realized a savings of $141,000

These are just two examples from Adams Outdoor in Dane County, but as you will hear today this happens frequently to off-premise sign operators statewide.

While a check for the loss of our billboard helps, we ultimately do not want to have to see local municipalities pay these costs. We will always prefer to keep our revenue producing asset and continue providing valuable advertising coverage for the local businesses we serve. This legislation will ensure local municipalities have some skin in the game and a reason to come to the table and negotiate a new location for the sign, in turn, saving taxpayers money by avoiding the cost of condemning the signs.

I urge you to support this legislation, as it's good for Wisconsin's businesses and it's good for Wisconsin's fiscal policy.

OAAW
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DATE: December 5, 2023

TO: Members of the Senate Committee on Transportation & Local Government
Senator Cory Tomczyk, Chairman

FROM: Kathi Kilgore, Executive Director and Lobbyist

RE: **SB 467, Relating to the Repositioning or Transferring of Outdoor Advertising Signs**

Almost all State highway projects affect outdoor advertising signs on private land adjacent to the highway. Examples include:

- The footprint of the project requires the removal and condemnation of the sign structure. Condemnation of sign structures costs the state taxpayers large sums of money. Outdoor advertising companies would rather be able to relocate the signs than receive payment for the condemnation of the signs.
- Changes in road grade and/or the addition of sound barrier walls diminish or eliminate the visibility of existing outdoor advertising signs. These types of changes constitute an uncompensated taking. Outdoor advertising companies would like to be able to adjust the height and position of sign structures or relocate the sign to continue the value these signs provide advertisers.
- Were it not for some local regulations, a sign could be adjusted or relocated, and the State would save the condemnation expense.

Passage of legislation in 2011 gave municipalities with prohibitive ordinances the option of allowing the realignment of an affected sign on the same "site" or paying the condemnation costs associated with the State acquiring the sign minus the costs of relocating the sign. Since passage the 2011 law, some signs have been able to be "realigned"; however, "realign" is defined too narrowly to help in more situations.

SB 467, and its Assembly companion, AB 486 would do the following:

- Eliminate the definition of "realignment" and replace it with a new definition to "reposition" a sign on the same parcel within a certain distance of the initial sign site.
- Create a new definition allowing the "transfer" of a sign within the same municipality.
- Allow for a sign to be raised, lowered, or rotated providing substantially the same view from the roadway if the sign's visibility is reduced because of a state project.

- Allow for a sign that cannot be "repositioned" to be transferred to a parcel on the same highway. If transferring the sign to a parcel on the same highway is not possible, the sign could be transferred to another parcel that the sign owner and municipality agree upon. The parcel of land that the sign could be transferred to would be a site that meets the requirements of Federal and State law so the sign would remain conforming by Federal and State law but would likely remain nonconforming according to municipal ordinance.

This legislation will save Wisconsin taxpayers millions of dollars by avoiding the high cost of condemning outdoor advertising signs and allow outdoor advertising companies to continue to provide marketing services to Wisconsin advertisers. The members of the OAAW urge you to recommend passage of SB 467 and AB 486.

Thank you for your time today and your consideration.

City of Milwaukee

Department of Administration
Intergovernmental Relations Division

Cavalier Johnson
Mayor

Preston Cole
Director of Administration

James A. Bohl, Jr.
Director of Intergovernmental Relations

City of Milwaukee Testimony on SB 467

Chairman Tomczyk and members of the Senate Committee on Transportation and Local Government,

My name is Jim Bohl and I am director of the Intergovernmental Relations Division of the City of Milwaukee. I thank you for the opportunity to provide a rationale for the City of Milwaukee's opposition to the current drafting of SB 467.

SB 467 would preempt local municipalities from being able to fully enforce local zoning requirements on billboards that are affected by state highway projects. Importantly with that, billboard owners would now be allowed to "transfer" billboards to other parcels nearby the same highway within the municipality, even if local ordinances would prohibit them in these new locations.

A variety of research over the years has demonstrated that roadside advertising and billboards result in increased crash rates. The City of Milwaukee has adopted "Vision Zero" goals to eliminate all road deaths and supports policy and programmatic steps to achieve that aim. For this, a thoughtful process around billboard zoning and placement is optimal and loosened billboard regulations that could lead to an undermining of the City's Vision Zero policy goals are problematic.

Additionally, many local City leaders and residents also note the negative visual and aesthetic impacts that billboards have on city neighborhoods and advocate for strict enforcement of current signage regulations. Simply granting expanded rights to select impacted billboard owners to potentially move transplanted billboards to other locations could lead to segmented areas in communities being inundated with a proliferation of billboards. Such transplantation could also lead

to the potential diminishment of value and enjoyment of adjacent properties where the billboards might otherwise be zoned a prohibited use.

In effect, SB 467 would provide additional rights to owners of billboards while limiting local municipalities' abilities to enforce zoning ordinances in certain situations. The City believes its existing local ordinances are sufficient to provide an appropriate mechanism to review requests for repositioning of billboards without this additional state preemption.

Thank you.

SB 467 Testimony
By Rich Eggleston
board member Scenic Wisconsin
December 5, 2023

Imagine you're sitting in a theater and a bunch of NFL linebackers stream in and grab seats in the row right in front you. These are big guys and you can't see around them. You ask them to move, and they decline.

The movie is spoiled for you.

If Senate Bill 467 were applied to movie theaters and NFL linebackers, the state would have to pay the cost of adjusting, repositioning or transferring the seats in the theater to accommodate not only you, but the linebackers too.

SB 467 doesn't say what it's really concerned with: preserving billboard blight. Modern billboards aren't the quaint roadside signs of yesteryear that advertised the the diner or the gas station in the next town.

At their most obnoxious, they are multimedia enticements aimed at diverting a motorist's attention from the highway for a moment to contemplate purchases of products ranging from cars to hamburgers to sex. The people who bring us obnoxious billboard messages are the modern equivalent of carnival shills, but with the electronic equivalent of the loud clothes if not the loud come-on.

The billboard folks have long been more concerned with what was in front of a billboard rather than what was behind it. Mustn't let trees grow too large in front of the billboard because it may make it harder for a motorist to see the message in the tenth of second that they pass by. But what is behind that billboards that billboard folks don't want us to see? Is it a waterfall? A precariously standing rock? What is natural that is being concealed?

Wisconsin is full of natural beauty. But that beauty is inexorably disappearing. It is something to be cherished, not plundered.

As Ogden Nash wrote, with apologies to Joyce Kilmer, "I think that I shall never see / A billboard lovely as a tree..." They are words to ponder.

Opposition to
Wis. Leg. 2023-24 SB 467

November 30, 2023

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

SB 467 has been introduced on behalf of the billboard industry to allow billboards affected by state projects that don't conform to local ordinances to be moved, heightened and rebuilt.

1. **The state of Wisconsin does not do much to regulate billboards in local municipalities:**

State law includes no height or setback limitations.

State law allows billboards to be up to 1200 sq. ft., roughly twice the size of the largest urban billboards. Wis. Stats. 84.30(4)(a)1.

State law allows billboards to be spaced 100' apart. Wis. Stats. 84.30(4)(c)3.

State law allows billboards to be lighted, even digital. Wis. Stats. 84.30(4)(bm)

State law allows the perpetual rebuilding of non-conforming billboards. Wis. Stats. 84.30(5)(br)

2. **Local units of government enact billboard ordinances to protect their communities.**

Communities enact billboard ordinances to reduce their size, their height, limit their location and to control or mitigate light pollution. They might feel that billboards do not complement the way they want their community to look. They might prohibit billboards altogether or merely address some of the lapses in state law, noted above. Sometimes they have too many billboards and don't want more.

These are some of the reasons billboards might be non-conforming under local ordinances.

3. **Communities that pro-actively restrict or ban billboards help the state.**

It is costly to buy out billboards that are in the way of highway projects. Billboards that were never allowed to exist in the first place have pre-emptively saved highway transportation funds.

4. **Local units of government should not be penalized for restricting or banning billboards.**

In the first Scott Walker budget bill in 2011 (2011 Wis. Act 32, Sec. 2233m; Wis. Stats. 84.30(5r)) a provision was added that allowed billboards in the way of a highway project to be relocated on the same site. This override of local ordinances undermined community efforts at highway beautification.

5. SB 467 in the 2023-2024 legislative session, expands on this mistake.

SB 467 further undermines local control by allowing billboard companies to move billboards, increase their height, and build completely new ones despite local ordinances prohibiting these practices.

6. The state pays for this.

To make it worse, this cost of overriding local ordinances is borne by the public (the state) under proposed SB 467.

In summary:

The state buys out buildings and land that are in the way of highway improvements. The state should buy out the billboards, whether nonconforming under state or local law – the state should not be paying to relocate, replace or heighten them.

The premise of the bill is misguided and serves only billboard owners. It further undermines local communities' ability to govern themselves and determine how they should look.

Respectfully submitted,

Mr. Vernie Smith
Viroqua, Wisconsin

(I am a Board member of Citizens for a Scenic Wisconsin)

Remarks on SB 467 and AB 486

Steve Arnold, former Mayor of Fitchburg, December 5, 2023

I was a Fitchburg alder and mayor. I represent Scenic Wisconsin.

During my tenure, Common Council policy was that billboards are a blight and a safety hazard. They demand attention from residents and travelers and visually pollute the environment, returning nothing to the public. This is in stark contrast to the advertising we tolerate in broadcast, cable, printed, and social media, where advertising pays for the media or service that we can voluntarily consume or not.

Our Council passed an ordinance to prohibit new billboards and defended a lawsuit to prevent conversion of one from "paper" (now vinyl) to electronic. I polled my constituents then and found overwhelming support for our policies of no new billboards and no conversion to electronic billboards. Over this past weekend, I reviewed this bill with current Mayor Julia Arata-Fratta and she assured me that these policies continue today and she supports them.

Until 2022 Fitchburg had five (5) billboard faces. With the attachment of a portion of the former Town of Madison, we now have fifteen (15). Eleven are along state highways. These billboards have non-conforming status and so under our ordinances their owners may not move, enhance, or even significantly repair them.

Fitchburg policy makers and residents want Fitchburg to be billboard-free. We rely on building and highway projects, severe weather, crashes, and normal wear and tear to eventually make these signs unusable and force their removal. Senate Bill 467 undermines this local policy by taking away a valuable billboard removal tool. Billboard pollution preservation benefits advertising companies at public expense.

I am especially troubled by the provisions that require the Department of Transportation or a local or county government to pay for the relocation or replacement of non-conforming signs. This open-ended obligation is an example of "privatizing the profit and socializing the loss."

Please do not pass a law that undermines local policies to enhance safety and beauty at taxpayer expense. Vote "no" on SB 467!

Thank you, Sen. Tomczyk, for allowing me to testify. I would be happy to answer any questions.