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RULES COMMITTEE MOVES TO SUSPEND PART OF TRANS 233

Remaining Rule Clarifies DOT's Authority Over Land Use Along State Highways

Madison...Members of the Legislative Joint Committee for Review of Administrative Rules (JCRAR) moved on Wednesday to suspend portions of an administrative rule that regulates development activities along state trunk highways in Wisconsin. Citing the need to protect private property rights, promote economic development and reign in the scope of authority over these activities by the Department of Transportation (WisDOT), JCRAR voted to strike portions of Trans 233. Trans 233 is a comprehensive administrative rule that gives WisDOT the authority to regulate development lands that abut state trunk highways or connecting highways in Wisconsin. The rule suspension addressed concerns raised by numerous citizens who own land along state trunk highways in Wisconsin.

"The current implementation of Trans 233 greatly exceeds the scope of statutory authority that the legislature granted to WisDOT," said JCRAR Co-Chairman, State Senator Joe Leibham (R-Sheboygan). "Trans 233 has become a major barrier to economic development and job growth and runs over private property rights."

Senator Leibham said that the actions of JCRAR would suspend portions of the rule that went into effect in 1999. Specifically, the committee's action will limit the purpose and scope of WisDOT's plat review authority to "subdivisions" of five or more 1.5 acre lots that are adjacent to state highways. In addition, the suspended rule will allow for the reasonable and economic beneficial use of private property with state highway setback areas while prohibiting those improvements that create a legitimate threat to the health and safety of traveling motorists. "Prior to today's committee action, the state was controlling the use of private land without providing any compensation," Senator Leibham said. "This power was never granted to WisDOT by the legislature and it had to be stopped."

In an effort to ensure the continued safety of our roadways, Senator Leibham said WisDOT will retain the ability to manage access points onto state highways and have the ability to require vision corners at intersections and driveways. "Today's actions will restore private property development rights while maintaining our ability to ensure safety on our highways," Senator Leibham said.

Senator Leibham said that he and JCRAR Co-Chairman, State Representative Glenn Grothman (R-West Bend) had several meetings and communications with the WisDOT administration, including a letter spelling out concerns with Trans 233, and allowing them to address JCRAR on two separate committee meetings. "What was originally intended to be a vehicle for the State to review and manage projects that would adversely affect highway safety had grown into a review and objection process against economic development and growth," Senator Leibham said. "Our actions were necessary to reign in the expanded authority and power of the state so that private property rights can be protected."

The motion passed by JCRAR suspends identified language from the current Trans 233 immediately. The suspension will remain in effect until new legislation is passed by the full legislature. Leibham said he is open to continuing dialogue with WisDOT to address the suspension and concerns with Trans 233. "Our goal is to reform Trans 233 so that it is consistent with the authority approved by the legislature and seeks to promote highway safety without restricting job growth, economic development, or infringing on the rights of private property owners," Senator Leibham said.

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