

CO-SPONSORSHIP MEMORANDUM

Date: July 12, 2017

To: Members of the Wisconsin State Legislature

From:

Rep. Sanfelippo, Rep. Hutton

Rep. Brandtjen, Rep. R. Brooks, Rep. Duchow, Rep. Gannon, Rep. Jacque, Rep. Jarchow, Rep. Knodl, Rep. Kremer, Rep. Kuglitsch, Rep. Murphy, Rep. Neylon, Rep. Schraa, Rep. Skowronski, Rep. Vorpapel, Rep. Weatherston, Rep. Wichgers

Sen. Kapenga, Sen. Craig

Sen. Lasee, Sen. Nass, Sen. Stroebel, Sen. Tiffany

Re: Co-sponsorship of LRB 3884, the DOT reform bill

Deadline: Friday, July, 21 2017 at Noon.

Regardless of what emerges from the revenue side of the discussion, we are all keenly aware of the dire need for operational reforms inside the Department of Transportation. The audit released earlier this year confirmed that this agency suffers from gross mismanagement on so many fronts.

LRB3563 combines various reform bills that have already been introduced into one omnibus reform package. This bill also proposes several new ideas to address many of the serious problems highlighted by the audit. These ideas will save millions of dollars, increase transparency over DOT operations and management and restore taxpayer's faith in this important agency.

The bill does all of the following:

- Provide DOT with multiple options for project delivery. New options include Design-Build, Construction Manager-General Contractor, fixed price variable scope and incorporates the use of "alternative technical concepts". These changes increase competition and transparency and will lead to projects being completed in shorter periods of time and for less money.
- Extend the use of these added project delivery methods to counties, towns, cities and technical colleges (at their request).
- Direct the creation of a Technical Review Committee to review contract proposals. .
- Create a scoring process that places emphasis on transparency and low project cost along with an incentive program to utilize Wisconsin-based contractors.

- Create reporting requirements for the department so the legislature can measure the effectiveness of these reforms.
- Limits the amount of engineering work the department can do with in-house staff to 20% to help hold down unnecessary positions.
- Require DOT to devise a new funding formula for regions that is based on need rather than baseline funding.(issue raised in audit)
- Direct DOA to develop a plan for issuing an RFP to conduct a thorough operational and financial audit of the entire DOT agency.

LRB 3563 includes the following reforms that have already been introduced:

1. Local approval of roundabouts (SB 80)
2. DOT Inspector General (SB 143)
3. Repeal of prevailing wage (SB 216)
4. Fed swap (SB 217)
5. Required referendum for local wheel tax (AB 361)
6. Full Audit of DOT

The deadline to co-sponsor this bill is **Friday, July, 21 2017 at Noon.**

If you would like to co-sponsor this legislation, please reply to this email or contact Rep. Sanfelippo at 6-0620 or Sen. Kapenga at 6-9174.

Analysis by the Legislative Reference Bureau

Alternative project delivery methods

This bill authorizes the Department of Transportation and cities, villages, towns, counties, and technical colleges (governmental units) to use alternate methods for delivering projects.

Under current law, the design and construction of projects are generally two distinct phases. Under this method, often referred to as “design-bid-build,” governmental units have broad authority to accomplish the design of a project. The construction of a project must be executed by contract based on bids, with a governmental unit awarding the contract to the lowest responsible bidder.

Under the bill, in addition to the design-bid-build method, governmental units are authorized to deliver projects with four alternative methods:

1. “Design-build,” in which architectural, surveying, engineering, construction, and related services for a project are provided by a single contractor.
2. “Design-build-finance,” in which the design and construction services for a project are provided by a single entity and financing is provided in whole or in part by the same entity.
3. “Construction manager-general contractor,” a two-phase method in which all services unrelated to construction are provided in the first phase by a contractor who, subject to approval by the governmental unit, also provides construction services in the second phase.
4. “Fixed-price variable-scope,” in which a contractor provides the maximum amount of work at a cost not to exceed the price fixed by the governmental unit.

The bill creates requirements for soliciting and evaluating proposals using these methods and awarding contracts to the most qualified bidders. The bill requires DOT to use these methods to deliver not less than 5 percent of construction costs of improvement projects by June 30, 2019, not less than 10 percent of construction costs of improvement projects by June 30, 2021, and not less than 20 percent of construction costs of improvement projects by June 30, 2023.

Prevailing wage

The bill eliminates the state prevailing wage law and the highway prevailing wage law. Generally, under the current prevailing wage laws, laborers, workers, mechanics, and truck drivers employed on the site of certain projects of public works

1) must be paid the prevailing wage rate, as determined by the U.S. Department of Labor under the federal Davis-Bacon Act; and 2) may not be required or permitted to work a greater number of hours per day and per week than the prevailing hours of labor, which is no more than 10 hours per day and 40 hours per week, unless they are paid 1.5 times their basic rate of pay (commonly referred to as overtime pay) for all hours worked in excess of the prevailing hours of labor. The prevailing wage laws include two separate laws: one that applies to certain projects of public works to which the state or any state agency is a party (state prevailing wage law) and one that applies to projects under a contract based on bids to which the state is a party for the construction or improvement of highways (highway prevailing wage law). Also under current law, no local government may enact or administer a prevailing wage law ordinance or any similar ordinance. The bill retains this prohibition.

Local authority

The bill provides that a county or municipal vehicle registration fee, commonly known as a wheel tax, may be imposed only if approved by a majority of electors voting in a referendum at a regularly scheduled election. Under current law, the governing body of a municipality or county may enact an ordinance imposing an annual flat municipal or county registration fee on all motor vehicles registered in this state which are customarily kept in the municipality or county. The fees collected are required to be used for transportation-related purposes only.

The bill provides that no roundabout may be constructed as part of a highway project unless the authority in charge of the highway project obtains approval for the roundabout from the governing body of the municipality where the proposed roundabout would be located.

Transportation funding

The bill requires DOT to transfer state moneys appropriated to DOT for state highway rehabilitation to an appropriation account for local transportation assistance programs. The bill also requires DOT to transfer an equivalent amount of federal moneys appropriated for local transportation assistance programs to an appropriation account for state highway rehabilitation. The bill also requires the Legislative Fiscal Bureau to adjust the appropriation schedule in chapter 20 of the statutes to reflect the amounts in the state highway rehabilitation and local transportation assistance program appropriation accounts immediately following the transfers.

Audit of the Department of Transportation

The bill requires the state auditor to appoint within the Legislative Audit Bureau an inspector general who is assigned to and housed at DOT headquarters and whose services are paid for by DOT. The bill provides that the inspector general may examine the accounts and other financial records of DOT and may review the performance and program accomplishments of DOT.

Under the bill, the inspector general must investigate fraud in DOT programs or activities and report any finding of fraud to the Department of Justice, as well as investigate waste, abuse, or inefficiency in DOT programs or activities. The inspector general must report any finding of waste, abuse, or inefficiency to the speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations. In addition, in investigating waste, abuse, or inefficiency, the inspector general must endeavor to identify savings for DOT that would pay at least the costs incurred by the inspector general in carrying out the investigations.

The bill also provides that the inspector general may review claims by any person whose substantial interest has been adversely affected by a DOT action or order. If the inspector general elects to review a claim, the inspector general must determine whether the DOT action or order was inconsistent with any law or administrative rule and report all such determinations to the speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations.

Reports

The bill requires DOT to report to the appropriate standing committees of the legislature on the progress of highway improvements using alternative project delivery methods.

The bill requires DOT to submit to the governor and the Joint Committee on Finance a plan for developing a funding formula for regions that is based on need rather than baseline funding.

The bill requires the Department of Administration to develop a plan for conducting an audit of DOT to be completed no later than August 31, 2018.

The bill requires the inspector general assigned to DOT to submit an annual report of inspector general activities to the Speaker of the assembly, the senate majority leader, the joint legislative audit committee, the assembly and senate committees on transportation, and the chairpersons of standing committees whose committee jurisdiction includes oversight and accountability of government operations.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The deadline to co-sponsor this bill is **Friday, July, 7 2017 at Noon.**

If you would like to co-sponsor this legislation, please reply to this email or contact Rep. Sanfelippo at 6-0620 or Sen. Kapenga at 6-9174.