



# JOE SANFELIPPO

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June 19<sup>th</sup>, 2019

## State Rep. Joe Sanfelippo's Testimony on Road to Sustainability Package

Chair Petrowski and committee members, thank you for holding a hearing today on Senate Bills 272, 274, 276, 277, 282, 283, and 284 regarding transportation reforms here in Wisconsin. As legislators, we have heard loud and clear from our constituents that this state's transportation infrastructure needs our attention, and I am grateful for your willingness to move forward on finding solutions to address this ongoing problem. The bills before you today are part of a broader set of legislation known as the Road to Sustainability Package (RSP), which lays out a roadmap for making meaningful long-term changes to how we fund and deliver horizontal infrastructure here in Wisconsin.

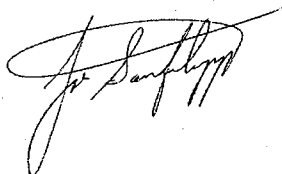
The issue plaguing our roads here in Wisconsin isn't simply a lack of resources, although the additional funds recently allocated to transportation by the Joint Finance Committee in the upcoming budget will no doubt be helpful. A broader problem is making sure that the finite funds we do have are allocated wisely and spent efficiently. To that end, we must look to how the Wisconsin Department of Transportation administers infrastructure projects in our state. The Legislative Audit Bureau recently completed a comprehensive audit and review of WisDOT and identified numerous opportunities for improvement, making several recommendations that would help the Department operate more efficiently. The RSP seeks to implement many of those recommendations to help ensure that WisDOT is the best possible steward of taxpayer money. For instance, if WisDOT receives only a single bid for a project, and that bid exceeds the Department's estimate by more than 10%, Senate Bill 284 requires the Department reject the bid and re-advertise the contract in a manner likely to generate more bids. This encourages WisDOT to perform better diligence on contract estimates and stimulate competitive bidding. Similarly, Senate Bill 283 incentivizes WisDOT employees to look for ways to deliver projects at lower costs by creating a discretionary merit award for WisDOT employees who identify cost savings, efficiencies, and innovations within the Department. By providing a financial incentive to employees who best know the inner workings of the agency, we will encourage Department staff to ask questions and challenge existing processes when more efficient strategies are possible. Re-aligning agency employee incentives towards efficiency will allow the Department to course correct on its own — without the Legislature imposing mandates on the agency.

Part and parcel of spending our infrastructure funds more wisely is finding ways to leverage opportunities to save money when they become available. Material costs represent a large portion of road construction project spending. Senate Bills 272, 276, and 277 offer ways to source materials at lower cost. Creating a Subgrade Efficiency Program will allow contractors to review WisDOT's list of approved, structurally-equivalent alternatives for subgrade construction and propose whichever construction approach is lowest cost for that contractor to bid and construct. Allowing contractors to figure out which equivalent materials to use in order to deliver the project for the lowest cost is a sensible way to make our tax dollars

go further. Similarly, by streamlining regulations for aggregate and concrete production sites to match existing rules for other, similar sites on construction projects, we will help reduce the costs and procurement challenges for road materials. Additionally, encouraging the use of materials sourced from within the right-of-way of the proposed improvement creates opportunities for sourcing materials more economically, reducing the unnecessary costs, pollution, and waste associated with bringing in materials that already may exist on-site.

Design-build is an alternative delivery method for how construction projects are shepherded through the bidding process, offering significant cost savings and quicker turnarounds for projects where this method is used. The RSP included legislation overhauling the design-build process, and that language was added to the current budget. Senate Bill 274 is an important supplement to that provision by requiring WisDOT to increase the number of design-build projects that it has in its pipeline in order to ensure that it has projects ready to go at every stage when resources become available for use. This will help reduce potential delays and allow the Department to seize opportunities that present themselves. Finally, Senate Bill 282 requires any new wheel taxes proposed by municipalities be put up for a referendum before enactment, ensuring that taxpayers are satisfied with the accountability and spending priorities of their local governments.

The bills before you this morning represent a clear path forward towards improving Wisconsin's transportation infrastructure and putting it on a sustainable path for the future. By making the process more efficient and eliminating unnecessary obstacles, we can help ensure that projects are completed quicker and for less money, allowing us to stretch our transportation funding as far as possible. We need fresh ideas to address Wisconsin's transportation infrastructure needs, and these bills will help encourage better processes. I encourage you to pass Senate Bills 272, 274, 276, 277, 282, 283, and 284. Thank you for your attention to this important matter.

A handwritten signature in black ink, appearing to read "Joe Sanfilippo". The signature is fluid and cursive, with a large initial "J" and "S".



# TOM TIFFANY

STATE SENATOR • 12TH SENATE DISTRICT

## **Testimony on Senate Bills 272, 274, 276 and 277 Senate Committee on Transportation, Veterans and Military Affairs June 19, 2019**

Thank you, Chairman Petrowski, and members for holding a public hearing on Senate Bills 272, 274, 276, and 277. I would like to thank Representative Joe Sanfelippo for his leadership on this large package of bills and also thank Senator Dave Craig for his work on Senate Bills 282, 283 and 284 which he will be speaking to very shortly.

When the Legislative Audit Bureau released their report on the state highway program in January of 2017, they were critical of how the Department of Transportation had been doing business over the years. They had a number of recommendations on how DOT could use funds more effectively and improve their management of the highway program. I know this audit was a wakeup call for myself and some of my colleagues to begin to think about additional ways the department could be more efficient, more transparent, and also more accountable.

Over the years, as many stakeholders and lawmakers lobbied and argued for increased funding for the department, especially with a hike in the gas tax, others of us were skeptical. I think it's important that with increased funding for the department, that we have a discussion about implementing reforms that tie right back to the department being more efficient, transparent, and accountable. This package of legislation contains a number of reforms that provide the department a roadmap to do just that.

In drafting Senate Bills 272, 274, 276 and 277, I had the opportunity to work with stakeholders who have years of hands-on experience working with the Department of Transportation on a number of projects. I will describe the bills very briefly, but want to add that there will be those who testify today who will go into greater depth about the practical implications and cost effectiveness of these proposals.

### **Senate Bill 272:**

- Creates a subgrade efficiency provision in state law, which will allow contractors to review the DOT's list of approved, structurally equivalent alternatives for subgrade construction and propose whichever subgrade construction approach is lowest cost for the contractor to bid and construct

**Senate Bill 274:**

- The Joint Committee on Finance, in the transportation package, included a pilot provision for design build
- Senate Bill 274 works in tandem with the design build budget provision
- This bill directs that DOT must maintain an inventory of not fewer than 50 designs in which at least 30 percent of design work has been completed for highway projects that are potential design build projects
- This expands the number of “plans on the shelf” so the project pipeline can be managed more efficiently

**Senate Bill 276 and Senate Bill 277:**

- These bills work in conjunction with one another
- SB 276 requires DOT, where applicable, to utilize materials needed for a particular project from sources on the DOT right-of-way, rather than paying a higher cost to source and transport the materials from distant locations
- Senate Bill 276 changes state law to treat temporary aggregate sources and concrete batch facilities for DOT projects the same way as materials used for embankments and earthwork—these materials are already exempt from local zoning under state law
- SB 276 applies this same exemption to temporary aggregate sources and temporary concrete batch facilities so they can be temporarily located within the department’s right-of-way

Again, thank you, Chairman Petrowski, and members for hearing these bills, and we will be happy to take questions once our testimony concludes.



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**Testimony of Wisconsin Department of Transportation**  
**Assistant Deputy Secretary**  
**Joel Nilsestuen**

**Wisconsin State Senate Committee on Transportation, Veterans and Military Affairs**  
**June 19, 2019**

Chairman Petrowski and members of the committee, thank you for the opportunity to testify before you today on this package of bills. The Department of Transportation is comprised of approximately 3400 skilled transportation professionals who are dedicated to the department's mission of providing leadership in the development of a safe and efficient transportation system. Under Secretary-designee Thompson's leadership, WisDOT continues to make safety and efficiency a priority.

WisDOT plays no greater role than ensuring our transportation system is safe. While the department has comprehensive responsibilities ranging from airports to work zones, public safety is the common denominator in virtually everything we do.

When Secretary-designee Thompson testified before you in late February, he spoke of being a good steward of public funds to ensure a safe, integrated transportation network and of his commitment to embracing efficiency. WisDOT is following through on that commitment.

- Since January, WisDOT has worked extensively with the Co-Chairs of the Audit Committee to address the remaining compliance issues brought forward in the 2017 Audit Report 17-2. We appreciate the constructive working relationship with the Co-Chairs and I fully expect that all issues identified in the audit will be resolved to the Co-Chairs' satisfaction in the near term.
- WisDOT has posted the Inspector General position. This position will have staffing and resources devoted to it as the Inspector General will play an integral role in the department's management team. They will serve the department's lead to review programs and identify efficiencies, recommend changes and solutions to address inefficiencies or non-compliance with current practices, and identify and incorporate best management practices from other states and the private sector.
- We are continuing our commitment to MAPSS, our performance improvement program. This program focusses on the five core goals of Mobility, Accountability, Preservation, Safety, and Service and the associated performances measures which are reported on a quarterly basis. MAPSS provides the public and policy makers with a timely snapshot of a wide range of key performance measures. For instance, you can easily access an online dashboard to view a performance measure for serious traffic injuries, program effectiveness, pavement condition, or DMV wait times. This is a public-facing, data-driven initiative that truly makes WisDOT transparent and accountable.
- WisDOT utilizes cost reduction incentive (CRI) clauses in contracts to encourage innovative ideas, when appropriate, for improved work methods, products, or equipment. While the Department is careful not to sacrifice the lowest lifecycle cost for a short-term cost savings, data from the Federal Highway Administration indicates that WisDOT has consistently been a leader in accepting and utilizing CRIs.

- Since January, WisDOT has partnered with the Wisconsin County Highway Association to form a pilot program to minimize delivery costs on 16 low-risk bridges. This approach streamlines project review processes to save time and lower project costs.
- WisDOT continues to employ an asset management theme that directs the department to apply the right treatment to a highway at the right time to maximize its lifecycle. This is a data-driven approach that assists the department in maximizing efficiency in a fiscally-constrained environment.

WisDOT embraces these real-world efficiency measures because it is our mission to be responsible stewards of public funding. Policymakers and WisDOT certainly share the goals of maintaining a safe transportation system and efficient program administration. As Secretary-designee Thompson has done in response to the audit findings, we stand ready to work with policy makes to develop legislation that furthers the goals of safety and efficiency.

In the Department's role to safeguard the public and as stewards of public funding, we offer several concerns with the bills before you today.

**Senate Bill 272, relating to bids proposing the use of alternate subbase materials.**

This bill requires the Department of Transportation to maintain a list of highway subbase materials and associated thicknesses of the materials that will provide equivalent structural properties for the purpose of highway construction. The bill also requires DOT to allow bidders to base their bids on the use of equivalent subbase materials contained on the list.

The Department has safety concerns with the language in SB 272. Having a universal table is precarious. While different subgrade improvements may be equivalent structurally, there are other design factors impacted when substituting subgrade improvement materials, such as: earthwork quantities, drainage and ditch impacts, cross section and right of way, and environmental considerations. Consequently, an engineer's review and WisDOT approval on a case by case basis is needed to avoid negative safety and/or lifecycle impacts to the project.

**Senate Bill 274, relating to highway project design inventory for design-build projects.**

Under current law, the Department of Transportation must maintain an inventory of completed designs for highway projects under the major highway projects program and the reconditioning, reconstruction, and resurfacing projects program. The estimated costs of the inventory of projects for each program must be not less than 30 percent of the annual amount of funding provided to each program. Under this bill, DOT must also maintain an inventory of not fewer than 50 designs in which at least 30 percent of the design work has been completed for highway projects that are potential design-build projects.

Design-build is a tool that WisDOT could utilize for a subset of projects where time or staging considerations are paramount. However, SB 274 creates an unnecessarily high design-build shelf requirement and it is likely there are not 50 projects where design-build is appropriate and brings value to a project. Design-build encumbers costs upfront and absent raising program bases, projects in Majors, SE Megas, and SHR may be delayed as funding for 50 design build projects is committed.

Governor Walker's last budget, 2017 Act 59, required WisDOT to contract with an independent engineering firm that had never conducted business in the state to analyze, evaluate, and report on the department's standards, processes, and allocation of funds. The final report recommended that the legislature consider removing the requirement for a shelf of shovel ready jobs. The study cited the need for the department to have flexibility in preparing projects. As needs and standards change so may the designs that have been already prepared. This would result in money having been wasted on out-of-date designs.

Furthermore, to mitigate the potential for throw-away costs, the department needs the flexibility to determine the appropriate level of design work to complete for each project on a case-by-case basis.

### **Senate Bill 283, relating to discretionary merit awards by the Department of Transportation**

This bill requires the Department of Transportation to develop a discretionary merit award program for the purpose of providing lump sum monetary awards to classified employees under the discretionary merit award program implemented by the Department of Administration under current law. The bill requires DOT to consider making awards to employees who have implemented business processes that created significant cost savings, efficiency, or innovation.

WisDOT's DMC approach rewards employees who have done excellent work. Currently, work that contributes to cost savings, efficiencies and innovations are strongly considered as part of decision making process, but it is not the sole consideration. Flexibility exists to consider staff that do an exemplary job of providing customer service, technical support, or administrative support. These very important contributions aren't readily categorized as savings, efficiencies, or innovation.

In lieu of legislative mandate, the department can work with policymakers to update the department's internal policy to reflect "cost savings, efficiencies and innovation" in a manner that reduces administrative costs and has equitable application across the department's divisions.

### **Senate Bill 284, relating to bidding procedures for highway improvements**

Under current law, highway improvement projects undertaken by the Department of Transportation, with limited exceptions, must be executed by contracts based on bid. Under this bill, with an exception, if only one bid from a competent bidder is received for a contract and the bid is in excess of 110 percent of the estimated reasonable value of the work, DOT must reject the bid and re-advertise the contract for bids in a manner likely to increase the number of bidders.

WisDOT currently rejects bids it believes are unreasonable. After evaluating factors such market conditions, commodity pricing, and contracting capacity, the department rejects bids and re-lets projects if it determines that better pricing can be obtained. Frequently the Department adjusts a project's scope, timeline, penalties, or other factors to make a project more attractive to bidders. However, there are projects that are bid over the engineer's estimate where the department determines it is unlikely to realize savings through re-bidding. Additionally, the delay caused by rejecting a bid has impacts that must be considered. Such considerations include costs associated with delay, potential increase in material and labor costs in an inflationary environment, and effect on businesses and property owners impacted by highway improvement projects. WisDOT currently considers all of these ancillary factors to protect the travelling public and taxpayer, but these necessary considerations are precluded by SB 284.

Everyone here shares a goal of providing Wisconsin with a safe and efficient transportation system. Thank you for your time and consideration of our concerns with these bills. Mr. Nestler and I am happy to address any of your questions.



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To: Senate Committee on Transportation, Veterans, and Military Affairs

From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities

Date: June 19, 2019

**Re: SB 276, Exempting Certain Aggregate and Concrete Production Sites from Local Zoning Ordinances**

The League of Wisconsin Municipalities opposes SB 276, adding aggregate sites and concrete production sites to current law exemptions from local zoning ordinances that apply to borrow sites and material disposal sites. The existing exemptions from local zoning that apply to borrow sites and material disposal sites were created without a public hearing by budget motions. This is the first opportunity local governments have had to express opposition to this type of preemption of local land use powers.

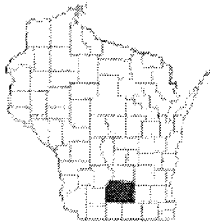
We oppose expanding the existing preemption and further interfering with local land use controls because it obstructs the ability of municipalities to respond to resident concerns about such intense uses being located near single family residential districts and other non-compatible uses. This bill, if enacted, completely undermines local planning and zoning policy decisions.

We urge you to vote against recommending passage of SB 276. Thanks for considering our comments.

*YOUR VOICE. YOUR WISCONSIN.*



# Dane County Cities & Villages Association



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TO: Senate Committee on Transportation, Veterans and Military Affairs  
FROM: Dane County Cities and Villages Association Executive Committee  
DATE: Wednesday, June 19, 2019  
RE: **Opposition to Senate Bill 276 & Senate Bill 282**

**Senate Bill 276: Exemption from local zoning ordinances for certain transportation project aggregate and concrete production sites.**

Dear Senator Petrowski, Chair, and members of the Senate Committee on Transportation, Veterans and Military Affairs.

As the Executive Committee and on behalf of the Dane County Cities and Villages Association, we would like to express our concerns with Senate Bill 276, which will add aggregate sites and construction batch sites to the types of sites used for transportation projects that are exempt from local zoning ordinances.

The DCCVA has concerns with the bill, which would seriously limit the local citizen input and local regulation of these quarries. Quarries and residential homeowners in more urban settings (cities, villages) may in certain circumstances peacefully co-exist, but there needs to be a balance that includes the voices of the local residents and other local businesses. However, there are also times when locating these types of operations near residential, retail or commercial settings is unreasonable. Local governments and local residents should be allowed to have a voice when it comes to reviewing operations within their boundaries that might lead to additional blasting, property damage, noise and truck traffic.

We are also concerned about the impact the bill might have on Agricultural Enterprise Areas and the reclamation of such lands after they have been mined. Once a site has been mined, its future uses might be seriously diminished, causing uncertainty from both an economic and environmental standpoint.

**Senate Bill 282: Requiring a referendum to impose a municipal and county wheel tax.**

DCCVA is opposed to Senate Bill 283 and the additional requirement for a local referendum before local elected officials implement or continue to implement a local vehicle registration fee (wheel tax).

Like you, our city and village members have been elected by our constituency to make decisions affecting how a wide-array of services are provided and funded, including street and road construction and maintenance. As state elected officials currently deliberating on increased fees to finance the state transportation budget, you are well aware that street and road construction and maintenance is costly. The local vehicle registration fee represents one of the few means available for local governments to provide for this significant expense.

Like you the decision with regard to vehicle registration fees is not taken lightly. According to the League of Wisconsin Municipalities, to date only 36 of the 1,900 local governments eligible have enacted such a fee. This statistic alone begs the question as to why the proposed policy change associated with Senate Bill 283 is necessary?

As elected officials the voters through the ballot process hold us all accountable for our decisions. We ask the Committee to respect local elected governance and not impose additional criteria nor preempt local legislative authority.



June 19, 2019

The Honorable Jerry Petrowski  
Chairman, Senate Committee on Transportation, Veterans and Military Affairs  
Wisconsin State Capitol  
Madison, Wisconsin 53703

Chairman Petrowski and Committee members,

NTU is the oldest non-partisan taxpayer advocacy group in the United States. We have consistently advanced policies to lower taxes, streamline government, promote private markets, and more. We are dedicated to taxpayers and the belief that citizens make the best decisions about their money.

With that in mind, I encourage you to support Senate Bill 282. This commonsense legislation promotes transparency and improves accountability by ensuring local taxpayers are included in decisions related to burdensome tax increases that affect their families.

In its 2018 report, the nonpartisan Wisconsin Policy Forum cited a sharp increase in the number of communities in Wisconsin adopting the wheel tax – from 4 to 27 between 2011 and 2017 – along with a three-fold increase in wheel tax revenues at the same time. Additional communities have since moved in this direction, and many others are considering this new tax.

Giving taxpayers a voice through referenda ensures accountability. The requirement that a referendum be held at a regularly scheduled election also ensures transparency and will increase voter involvement in issues that directly affect them.

While this bill is an important step toward protecting Wisconsin taxpayers, it also highlights a larger issue facing Wisconsin – the need for a plan to sustain Wisconsin's transportation budget. I am also here to urge this body to consider another important piece of legislation – Senate Bill 271. It is not on the agenda today, but I hope you will give it serious consideration because it is a sensible approach to finding a long-term funding source for growing transportation needs.

I applaud Sen. Tom Tiffany and Rep. Joe Sanfelippo for introducing this additional proposal that will dedicate some tax revenue generated from the sale of automobiles and vehicle-related sales to the transportation fund. This would create a sustainable source of funding for Wisconsin's roads. The proposal begins modestly at 10 percent and grows to 50 percent by fiscal year 2033-34. According to the Legislative Fiscal Bureau, over 15 years, the revenue applied to the transportation fund would grow from about \$103.5 million in the first year to \$517.5 million by fiscal year 2033.

SB 271 does not raise taxes or fees, it simply reallocates funds. If enacted, it would decrease reliance on gas tax revenue – a diminishing revenue source due to the growing number of fuel-efficient vehicles. This would also decrease the need for bonding – a policy Republicans and Democrats agree is not in the best long-term interest of the state.

These proposals will force a healthy dialogue among state legislators about the needs and priorities of the state of Wisconsin. Wisconsinites are overwhelmingly in favor of improving state roads, and these bills both set our state on the right path toward that goal.

Sincerely,

Leah Vukmir, Vice President of State Affairs  
National Taxpayers Union

Wisconsin Senate Committee on Transportation, Veterans, and Military Affairs

Hearing on Senate Bills 272, 274, 276, 282, and 283

Testimony by Glen R. Schwalbach, P.E.

June 19, 2019

My name is Glen Schwalbach. I reside at 1090 Moonriver Drive, De Pere, WI. I am a Registered Professional Engineer, (P.E.) in Wisconsin.

Following is a summary of my comments on each bill.

SB 272: It's not clear why this bill is needed; it would be confusing to implement. Sub-base requirements are decided by engineers or designers and depend upon the existing soil types. The DOT Facilities Development Manual shows ten sub-base equivalents but, in some cases, only a couple may be appropriate. In many cases, no sub-base is required. The bill could say "when sub-base is required, the department should designate as many equivalent options as appropriate for each project".

SB 274: This bill includes a definition of a design-build project which includes reference to "by low bid or by best value". Design-build projects include professional services such as architectural, surveying and engineering. Such services should be procured with a qualifications-based selection (QBS) process. For Federal projects, the Brooks Act requires QBS. Using QBS results in projects being the best quality at the least life-cycle costs. By the way, without using QBS, a design-build project will require more DOT monitoring, inspection, etc. Note that many states require warranties and maintenance agreements when using design-build.

SB 276: This bill just adds two more types of facilities to current law for exemptions to local ordinances. But, in all cases, the law should be clear that consideration should be given to local governments to minimize the impact on their residents and on their local roads.

SB 282: Referendums are just the fairest way to implement new taxes. Whether a wheel tax or a county sales tax, the taxpayers should decide. It is up to the government officials to provide the compelling arguments if they think the tax is needed. In my county, there is a lawsuit opposing a new county sales tax. If that tax had been voted for by referendum, there would be no lawsuit.

SB 283: Discretionary merit awards are a bad idea. Good managers don't use them. They cause many unintended consequences. They put the focus on just cost instead on safety, less congestion, long-life, etc. They may optimize a sub-process at the expense of sub-optimizing the whole system. They require a lot of administrative costs. They will be unfair. They don't encourage teamwork and create hard feelings among employees. My former employer, Wisconsin Public Service Corp. had such a program. We dropped it in the 1980's when we got smarter -- thanks to Dr. Deming, the guru of process improvement and business management. The process analysis techniques, implemented by former Secretary Gottlieb in 2011, are the proper methods for improving process efficiencies and reducing costs through teamwork. Those teams documented over \$1.5 billion in savings from 2011 through 2016.

# WMC

WISCONSIN MANUFACTURERS & COMMERCE

To: Senate Committee on Transportation, Veterans, & Military Affairs  
From: Corydon Fish, Wisconsin Manufacturers & Commerce  
Date: June 19, 2019  
Re: Testimony in Support of Senate Bills 272, 274, 276, 277, 282, 283, and 284

Thank you Chair Petrowski and members of the Senate Committee on Transportation, Veterans & Military Affairs for hearing my testimony in support of the bills listed above. This package of common-sense reforms will help alleviate increasing road construction costs and protect taxpayers by implementing cost savings measures.

Wisconsin Manufacturers & Commerce (WMC) is the state chamber of commerce and largest general business association in Wisconsin. We were founded over 100 years ago, and are proud to represent approximately 3,800 member companies of all sizes, and from every sector of our economy. Our mission is to make Wisconsin the most competitive state in the nation in which to do business. One factor in maintaining and enhancing Wisconsin's business climate is ensuring Wisconsin's transportation infrastructure is in sound condition. This package of legislation will go a long way toward ensuring that the taxpayer dollars Wisconsin invests in our infrastructure system are stretched as far as possible.

According to the U.S. Geological Survey, the United States is seeing a national aggregate shortage due to a combination of limited supply, environmental, and regulatory issues. This has led to a price increase for aggregate used in road construction projects. Wisconsin is not immune from these price increases. Wisconsin Senate Bills 272, 276, and 277 will help alleviate this problem by requiring WisDOT to allow bidders to use alternative subbase materials that provide the equivalent structural properties to crushed stone aggregate, encouraging the use of aggregate sourced from within the state-owned right-of-way of projects, and prohibiting local governments from over regulating aggregate and concrete batch sites. Together, these bills will codify best practices that will stretch Wisconsin taxpayers' dollars further.

Senate Bill 274, in conjunction with item number 35 in Motion 130 will finally bring Design-Build to Wisconsin. Design-Build would allow a single entity to bid on engineering and constructing a project, which can lead to cost savings through contractors applying on-the-ground knowledge and one point of responsibility for project delays and cost overruns. SB 274 compliments the Design-Build pilot project proposed in the state budget by requiring WisDOT to keep an inventory of highway projects that could be potential design build projects, which will help implement the pilot program.

Senate Bill 284 requires the rebidding of contracts that only receive a single bid, which is also over 110-percent of estimated project costs, protecting taxpayers from paying for non-competitive bids.

Senate Bill 283 rewards state employees who go above and beyond to find efficiencies and save taxpayer dollars.

Finally, Senate Bill 282 protects taxpayers from having their taxes raised without their consent. The bill would require municipalities and counties to hold referenda – to ask their voters for permission – to levy local registration fees on them. Municipalities and counties already have authority to levy property taxes and receive state aids to pay for the construction of local roads. The additional authority to levy additional fees on top of levying property taxes for the purpose of constructing and maintaining local roads should be approved by the taxpayers.

Thank you again Chairman Petrowski and members of the Committee for the opportunity to testify. Collectively, these reforms will stretch taxpayer dollars further and make the sourcing of materials and construction of road projects more efficient.

June 19, 2019

RE: SB 272 – testimony in favor

Dear Senate Representatives,

I'm contacting you today in support of 2019 Senate Bill 272. It is my opinion as a Professional Engineer in the State of Wisconsin with expertise in the areas of Construction Materials and Geotechnical Engineering that this bill be adopted to require the DOT to maintain a list of highway subbase materials and associated thicknesses of the materials that will provide equivalent structural properties for the purpose of highway construction, and require the DOT to allow bidders to base their bids on the use of equivalent subbase materials contained on the list.

Thank you for your support of Wisconsin transportation!

<image001.jpg>

Andy Walters, P.E.

Manager / Engineer – Geotechnical & Construction

[awalters@amenqtest.com](mailto:awalters@amenqtest.com)

O: 715.359.3534 | C: 715.573.1443

4203 Schofield Avenue, Suite 1

Schofield, WI 54476



## 104 Scope of Work

### 104.8 Rights in the Use of Materials Found on the Project

- (1) The contractor may use on the project stone, gravel, sand, or other material found within the vertical and horizontal excavation limits the plans show. Ensure that the engineer determines the material's suitability before using it. The department will pay for both the excavation of these materials at the corresponding contract bid price and the bid item for which the excavated material is used. The department will not charge the contractor for the materials found within the above described excavation limits and so used. Replace, at no expense to the department, with other acceptable material all of the excavation material so removed and used for embankments, backfills, approaches, or otherwise.
- (2) Do not excavate or remove material from within the right-of-way that is not within the vertical and horizontal excavation limits the plans show without the engineer's written authorization. The contractor is encouraged to source material or plant locations within the project right-of-way that is not within the vertical and horizontal limits of the plan at no additional cost to the contractor; however, the contractor bears the risk of ~~Do not base bids on the anticipated approval of a request to excavate or remove material that is not within the above described excavation limits.~~
- (3) Take ownership of all materials required to be removed and not necessary for the work.



## 2-31.1 General

Standard spec 104.8 permits the contractor, to use suitable materials encountered in excavation of the roadway in lieu of materials normally furnished by the contractor, from outside sources. These materials are to be taken from inside the vertical and horizontal limits of excavation.

When there are circumstances that benefit cost and schedule, use of aggregates and other granular materials beyond the roadway excavation limits can be considered. This use will require special evaluation and a contract modification. See CMM 2-31.3 below.

Sale of materials for use on other contracts or for purposes other than those required under the contract are not allowed.

## 2-31.2 Material Found within Excavation Limits

The contractor is allowed to use stone, gravel, sand, or other material that meets the specification requirements and is found within the vertical and horizontal excavation limits shown on the plans. A contract modification is not required.

## 2-31.3 Material Found Outside Excavation Limits

The contractor is to base bids on materials shown in the earthwork summary showing areas intended for borrow during construction. Bids should not be based on the anticipated approval to excavate or remove material that is not within the excavation limits shown in the plans.

If the contractor believes there may be suitable materials within the right-of-way but outside the excavation limits, the contractor may request that the engineer allow them to test that material. The engineer needs to consider the environmental, access, and other aspects before allowing the contractor to access the right-of-way to test for potential use of materials.

The contractor may submit a proposal to use materials from outside the excavation limits. The project engineer with the help of region and central office staff will ensure that there are no concerns with using material from this area. Such items to consider are:

- What are the proposed boundaries for mining additional materials?
- How will the property be restored or protected after materials are removed?
- Were federal funds used to purchase the right of way?
- Does using these materials provide a cost savings to the Department?
- Is there adequate and safe access?
- Is Interstate access approval required?
- How will future maintenance of the site be affected?
- Did the project's environmental process and documentation include the affected area? Are there any environmental concerns?<sup>[1]</sup> Additional environmental review and documentation may be required.
- What is the devaluation of the land upon its use as a borrow pit or waste area? Will its use as a borrow pit or waste area affect the current or future use of the land?<sup>[1]</sup>

<sup>[1]</sup> The region's Technical Services Section should assist with the environmental and real estate analysis. Bureau of Technical Services Environmental Section and Property Management Section should be consulted for the proposed change as well.

The Bureau of Project Development, Proposal Management Section and Construction Oversight Section can assist with cost-related issues.

Once those concerns are addressed, the project engineer will document a Contract Modification Justification (CMJ) and contract modification.

At a minimum, the contract modification should include:

- Adjustment in the unit price of the item of work, which typically includes:
  - Credit for the material itself
  - Savings due to a shorter haul distance
  - Additional administrative costs to the Department
  - Devaluation of the property due to mining activities
- Measurement of the material
- Restoration of the area
- Materials required for restoration of the excavation area must be furnished by the contractor at the contractor's expense