



FDM 4-5-1 State Trunk Highways

February 16, 2021

1.1 Background

The State Trunk Highway System was established by the Wisconsin Legislature in 1917 to provide a network of primary inter-county and inter-city highways within the state. The original layout of 5,000 miles has now grown to 11,765 miles. The authority to administer the state highway system has been legislatively delegated to the Department under Chapters 84 and 86 of the Wisconsin State Statutes.

The Department has authority to make changes in the State Trunk Highway System by a number of means.

This section will look at how system reassignments to the state highway system can occur by any of the following means:

- Construction of a state highway on new location
- Jurisdictional reassignment of an existing state highway to local government jurisdiction
- Jurisdictional reassignment of an existing local highway to state jurisdiction

1.2 Definitions

For consistency purposes, the following definitions will be used for this chapter of the FDM.

Highway: Any public way for vehicular travel that has been established by statute, dedication, or prescription, and includes rights-of-way and any appurtenances (e.g. signing, bridges, drainage structures) necessary for public travel. Defined in Wis. Stat. § 990.01(12) as including “all public ways and thoroughfares and all bridges upon the same.”

Roadway: That portion of the highway between the regularly established curb lines or shoulder points which is improved, designated, or ordinarily used for vehicular travel.

Rights of Way: The land or interest therein acquired for or devoted to a highway.

Jurisdiction: The authority and obligation to administer, control, construct, maintain, and operate a highway pursuant to applicable WI state statutes.

Jurisdictional Authority: The unit of government having jurisdiction of a public highway.

Maintaining Authority: This is generally understood to be the same as the jurisdictional authority for a highway. A jurisdictional authority may enter into agreements with other units of government or private contractors to perform maintenance activities on its highways. These are typically contracts for limited scope of work which do not cede any jurisdictional authority and should appropriately be referred to as maintenance agreements. Whenever the term maintaining authority is used, one must determine if intended to mean jurisdictional authority, or if being inappropriately used to describe a maintenance agreement.

Unit of Government, or Level of Government: The public road system is identified by the unit of government having assigned jurisdictional authority. Table 5.1 shows the relationship between units of government, the highway system they have jurisdictional authority over, and the primary Wisconsin state statutes which grant that authority.

Table 5.1 State System, Highway Authority and State Statute Relationships

SYSTEM	HIGHWAY AUTHORITY	STATUTE
State	Wisconsin DOT	Chapter 84 & 86
County	County Board	Chapter 83
Town	Town Board	Chapter 82
Municipal	City or Village	Chapter 66
Tribal Roads	Tribal Nation	Chapter 86

Jurisdictional Reassignment: Act of changing the jurisdictional authority of a highway from one unit of government to another.

State Highway Change, §84.02(3) (a): A change in the state highway system resulting from constructing a state highway on new location.

Connecting Highway Change, §86.32(1): Applying designation, removing designation (i.e. rescission), or changing the limits where connecting highway designation currently exists.

Jurisdictional Transfer (JT) §84.02(7)(8), §86.257: A jurisdictional reassignment that requires a two-party agreement to complete.

Vacating: Actions that remove the public rights-of-way and public roadway status of a highway from the underlying right-of-way parcels for that highway.

Discontinuance: Discontinuance is the removal of the jurisdictional designation of a highway. When an authority discontinues a highway, it removes that highway from the authority's system. However, the reader is cautioned that discontinuance is used in varying contexts within the state statutes. Discontinuance may not terminate the public use of the highway if other levels of government have an underlying interest in the right-of-way or if it continues to serve abutting properties. The reader should consult with Office of General Counsel if there are questions on use of the term discontinuance within a specific statute.

Tribal Roads: Any public roadway within the boundaries of a reservation for one of the federally recognized US Native American Tribes and Bureau of Indian of Affairs, and which are under the jurisdictional authority of the Tribe or the Bureau of Indian Affairs. Not all public roadways within a reservation are tribal roads.

Effective Change Date of State Highway Reassignment: The date which the Department approves the state highway reassignment.

Physical Change Date of a State Highway Reassignment: The date when the jurisdictional reassignment is to physically occur on the highway system itself. The physical change date does not have to be the effective change date.

1.3 Jurisdictional Reassignment of State Trunk Highways

Jurisdictional reassignments within the state highway system can occur by one of the following actions.

- Jurisdictional Transfer
- State Trunk Highway Change
- Connecting Highway Change

Jurisdictional reassignments and State Trunk Highway changes will be discussed in more detail in the remaining sections. Connecting highway change is discussed in [FDM 4-5-5](#).

1.4 Jurisdictional Transfers (JT)

By definition a jurisdictional transfer is a jurisdictional reassignment that requires a two-party agreement for it to occur. Jurisdictional transfer is often inappropriately interchanged with the term jurisdictional reassignment. Jurisdictional reassignment is any action that results in a change to the jurisdictional authority of a highway, while jurisdictional transfer is simply one type of action by which jurisdictional reassignment can occur.

Statutory references to jurisdictional transfer of state highways are included in:

- Wis. Stat. 84.02(8)
- Wis. Stat. 84.02(7)

- Wis. Stat. 84.16
- Wis. Stat. 86.257

The following subsection will discuss each of these statutory references to jurisdictional transfer in more detail.

1.4.1 Wis. Stat. 84.02(8) Jurisdictional Transfers: State-Local Agreements for Addition to or Deletion from State Highway System

Wis. Stat. 84.02(8) is the prescribed method for any jurisdictional transfer of a state highway to county trunk highway or vice versa. It provides the broad authority to negotiate the jurisdictional transfer of a state highway to local authority, or a local highway to state authority, at any time the Department feels it is appropriate to do so as follows:

(8) Jurisdictional transfers: state-local agreements.

(a) The department may make additions or deletions to the state trunk highway system by entering into a jurisdictional transfer agreement with any local unit of government. Addition to or deletion of any part of the state trunk highway system under this subsection may be made without regard to any mileage limitation or procedural requirement imposed under this section or chapter 518, laws of 1947.

(b) The jurisdictional transfer agreement must be approved by the department and the governing body of any municipality or county board involved before the transfer of any highway becomes effective.

(c) A jurisdictional transfer agreement may contain any terms and conditions that the department and the local unit of government may deem necessary regarding maintenance or rehabilitation of any highway transferred.

There are other Wisconsin state statutes which under certain circumstances grant the Department unilateral authority to make jurisdictional reassignments of state highways to local roads, local roads to state highway, or local roads to other local roads. Examples include the following:

- Wis. Stat. 84.295(5)(6)(7)(8) ...Freeway/Expressway Designation...Local to local system unilateral reassignments or vacating action. See FDM 4-5-20 and [FDM 7-40](#) for details.
- Wis. Stat. 84.02(3) ...State Highway Change...State to local or local to state unilateral reassignments. Discussed later in [FDM 4-5-1.5](#).

As a rule, the two-party jurisdictional transfer agreement authority pursuant to Wis. Stat. 84.02(8) should not be used where the statutes allow the Department unilateral authority to make a jurisdictional reassignment. These unilateral authorities are discussed in further detail later in [FDM 4-5-5](#) and [FDM 4-5-10](#).

1.4.2 Wis. Stat. 84.02 (7) Request for Jurisdictional Transfer Between the County Highway and State Highway System by County Petition

Wis. Stat. 84.02(7) allows a county to petition the Department to transfer portions of the County Trunk Highway System to the State Trunk Highway System, or vice versa, provided required average daily traffic (ADT) volumes are met, where it states:

*(7) **Additions from county trunk highways.** Whenever the traffic on any county trunk highway averages in any year 250 or more vehicles daily, the county board may by resolution request that such county trunk highway be added to the state trunk highway system. A copy of such resolution shall be filed with the department. If after investigation the department finds that the traffic on said county trunk highway meets the requirements of this subsection, it may by order add said highway to the state trunk highway system, but the total additions under this subsection shall not exceed 500 miles. Whenever the traffic on any portion of a state trunk highway averages in any year 150 or less vehicles daily, the county board of the county wherein such state trunk highway is situated may by resolution request that such be transferred to the county trunk highway system. A copy of such resolution shall be filed with the department. If after investigation the department finds that the traffic on said state trunk highway is as stated in said resolution, it may order said highway taken from the state trunk highway system and made a county trunk highway.*

If a county were to submit a Wis. Stat. 84.02(7) petition to jurisdictionally transfer a county or state highway, the Department is only obligated to consider that request and is not required by the statute to pursue that jurisdictional transfer.

Wis. Stat. 84.02(7) has not been used for many decades and is no longer a prescribed method by which the Department seeks to make jurisdictional alterations between the state and county highway system. Wis. Stat. 84.02(8) provides the Department the authority to jurisdictionally transfer any state highway to local jurisdiction or vice versa, and is the prescribed method for any jurisdictional transfer of a state highway to county trunk highway or vice versa. Wis. Stat. 84.02(8) is discussed in detail in [FDM 4-5-1.4.1](#).

1.4.3 Wis. Stat. 84.16 Jurisdictional Transfer of Wis. Stat. 84.10 Bridges

Wis. Stat. 84.16 applies uniquely to the jurisdictional transfer of state-owned bridges on the local highway system as defined under Wis. Stat. 84.10. These bridges are commonly referred to as '84.10 Bridges' and are categorized as such by the Department. Wis. Stat. 84.16 allows an existing '84.10 bridge' to be jurisdictionally reassigned from state to local jurisdiction but only by mutual consent through a jurisdictional transfer agreement as follows:

84.16 Jurisdictional transfers of bridges.

- (1) *The department may transfer its jurisdiction over bridges constructed, reconstructed or purchased under s. 84.11 before August 9, 1989, or under s. 84.12 to any local unit of government by entering into a jurisdictional transfer agreement with the local unit of government. Deletion of any part of the state trunk highway system under this section may be made without regard to any mileage limitation or procedural requirement imposed under s. 84.02 or chapter 518, laws of 1947.*
- (2) *The jurisdictional transfer agreement must be approved by the department and the governing body of any municipality or county board involved before the transfer of any bridge becomes effective.*
- (3) *A jurisdictional transfer agreement may contain any terms and conditions that the department and the local unit of government may deem necessary regarding maintenance or rehabilitation of any bridge transferred.*

Wis. Stat. 84.10 designation is bridge specific, not location specific. Once an existing '84.10 bridge' is removed or replaced by a new bridge, the Wis. Stat. 84.10 designation is likewise removed and any replacement bridge at that location becomes a local bridge, on the local highway system, under the jurisdictional authority of the underlying local unit of government. No jurisdictional transfer is required for this to occur. The jurisdictional transfer is only required for changing the jurisdictional authority on an existing Wis. Stat. 84.10 bridge. For WisDOT employees, this is further explained in WisDOT's Program Management Manual 3-25-10.

1.4.4 Wis. Stat. 86.257 Jurisdictional Transfer Involving Tribal Roads

Wis. Stat. 86.257 provides the Department authority to negotiate jurisdictional transfers of state highways to Native American tribes or agents of Native American tribes as follows:

86.257 Transfer of highways. *The department or a political subdivision, as defined in s. 86.31 (1) (d), may transfer jurisdiction and ownership of, or other property interest in, a highway that is under the jurisdiction of the department or political subdivision to a federally recognized American Indian tribe or band in this state or an agency of the United States government that is acting on behalf of a federally recognized American Indian tribe or band in this state by entering into a jurisdictional transfer agreement with the tribe or band or agency. The jurisdictional transfer agreement shall contain all of the following:*

- (1) *A dispute resolution procedure.*
- (2) *A provision that requires that the transferred highway remain open to the use of the public as a matter of right for the purposes of vehicular traffic unless the tribe or band or agency conducts proceedings, makes findings, and meets other conditions for discontinuation that would be applicable to the governing body of a 1st class city under s. 62.73, if the highway is located in a 1st class city; the governing body of a village or city, except a 1st class city, under s. 66.1003, if the highway is located in a village or city, except a 1st class city; or the governing body of a town under s. 82.10, if the highway is located in a town.*

Such jurisdictional transfers would result in state highways becoming tribal highways. Wis. Stat. 86.257 also discusses retention or termination of public use of a state highway when said highway is jurisdictionally transferred under this statutory authority.

Transferring any lands to and from tribal authority is a complicated process with extensive state and federal case law history. A jurisdictional transfer of highways is no exception to these legal complexities. For these reasons, consultation with Department Tribal Liaisons and Office of General Counsel should always occur prior to initiating any discussions with a Tribe or Bureau of Indian Affairs on jurisdictional reassignments of public highways under Wis. Stat. 86.257 or any other statute.

1.4.5 Jurisdictional Transfer Process

Typically, any jurisdictional transfer begins in the WisDOT Region Office in the Planning Unit. Coordination with longer-term systems planning efforts in the Bureau of Planning and Economic Development and roadway system data changes with the Bureau of State Highway programs is not required, though may be in the best interest of coordination.

Guidance on documentation and communication of JTs is included in Sections 1.8 and 1.9.

1.5 State Highway Change, WI Statue 84.02(3)

1.5.1 Definition of Terms and Statute Interpretations

The definition of a State Highway Change and the rules required to enact a State Highway Change are described in Wis. Stat.84.02(3)(a) as follows:

84.02(3)(a) "... Changes may be made in the state trunk system by the department, if it deems that the public good is best served by making the changes. The department, in making the changes, may lay out new highways by the procedure under this subsection. Due notice shall be given to the localities concerned of the intention to make changes or discontinuances, and if the change proposes to lay a highway via a new location and the distance along such deviation from the existing location exceeds 2 1/2 miles, then a hearing in or near the region affected by the proposed change shall be held prior to making the change effective. The notice shall also be given to the secretary of natural resources either by registered mail or personally. Whenever the department decides to thus change more than 2 1/2 miles of the system the change shall not be effective until the decision of the department has been referred to and approved by the county board of each county in which any part of the proposed change is situated. A copy of the decision shall be filed in the office of the clerk of each county in which a change is made or proposed. Where the distance along the deviation from the existing location exceeds 5 miles the change shall constitute an addition to the state trunk highway system. The preexisting route shall continue to be a state trunk highway unless the county board of each county in which any part of the relocation lies and the department mutually agree to its discontinuance as a state trunk highway. Whenever such county board or boards and the department cannot so agree the department shall report the problem to the next ensuing session of the legislature for determination.

A summary of Wis. Stat. 84.02(3)(a) key authorities and determinations is as follows:

- It determines how a new highway constructed by the Department on new location can be designated a state highway.
- It determines how an existing state highway being replaced by a new highway on new location can be discontinued as a state highway or jurisdictionally reassigned to a local unit of government.
- It determines the rules for designating or discontinuing a state trunk highway depending on the length of state highway being built on new location.

Key definition of terms in Wis. Stat. 84.02(3)(a) are as follows.

'New location' - That portion of the new state highway being constructed on new right-of-way that is not contiguous with the existing right-of-way of the current state highway. See [Figure 5.1](#).

'Distance along Such Deviations from Existing Location' - The centerline distance of the new highway between any two successive points where the new right-of-way transitions from being contiguous to non-contiguous with the existing highway's right-of-way. If there are multiple such deviations within a project, each deviation is measured independently to determine if it meets the mileage rules stated in Wis. Stat. 84.02(3). It is not the cumulative total of all independent non-contiguous segment of new right-of-way within a project that makes this determination. See [Figure 5.2](#).

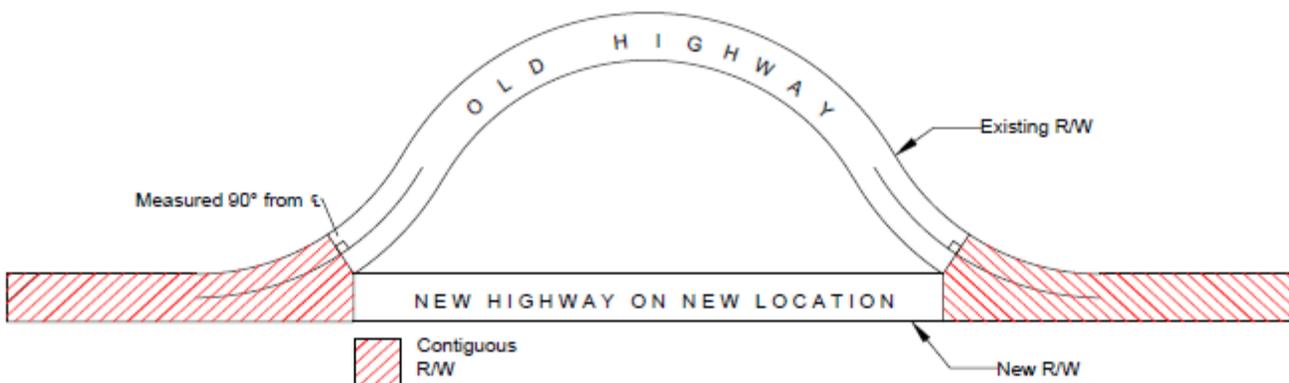


Figure 5.1 New Highway Constructed on New Right-of-Way

For clarity, the statutory phrase 'distance along such deviations from existing location' will be referred to as the

'length of highway being constructed on new location' for the remainder of this chapter.

The next sections will describe how the length of new highway being built on new location statutorily defines the rules which govern:

1. Designating the new highway constructed on new location as a state highway.
2. Discontinuing or jurisdictionally reassigning the existing state highway being replaced by the new highway being constructed on new location.

1.5.2 STH Designation of New Highway Under a State Highway Change

1.5.2.1 Length of Highway on new Location is 2-1/2 miles or Less

In many cases, highway changes of less than 2-1/2 miles may be so short that they are considered minor alterations. Minor alterations are changes in highway location that meet any of the following conditions, and which then do not require official state highway change action:

- Alteration occurs entirely within existing highway right-of-way
- Any additional right-of-way required remains contiguous to existing right-of-way
- Additional right-of-way may be non-contiguous for minimal lengths or contained within a singular property

Minor alterations that include new right-of-way only need a relocation order and a Department Transportation Project Plat to make those changes.

If the changes go beyond those defined for minor alterations, Wis.Stat. 84.02(3) requires specific STH Change actions to occur. However, when the length of highway being constructed on new location is 2-1/2 miles or less, Wis. Stat. 84.02(3) only requires that:

"Due notice be given to the localities concerned of the intention to make changes or discontinuances..."

"Due notice" is accomplished by use of a Notice of Intent to Change (NOITC) that is published as a Class III legal notice in area newspapers pursuant to Wis. Stat. 985.07(b)(3). Once the NOITC requirements have been met, the Department has the unilateral authority to so order that STH Change.

1.5.2.2 Length of Highway on new Location is Greater than 2-1/2 miles but Less Than 5 Miles

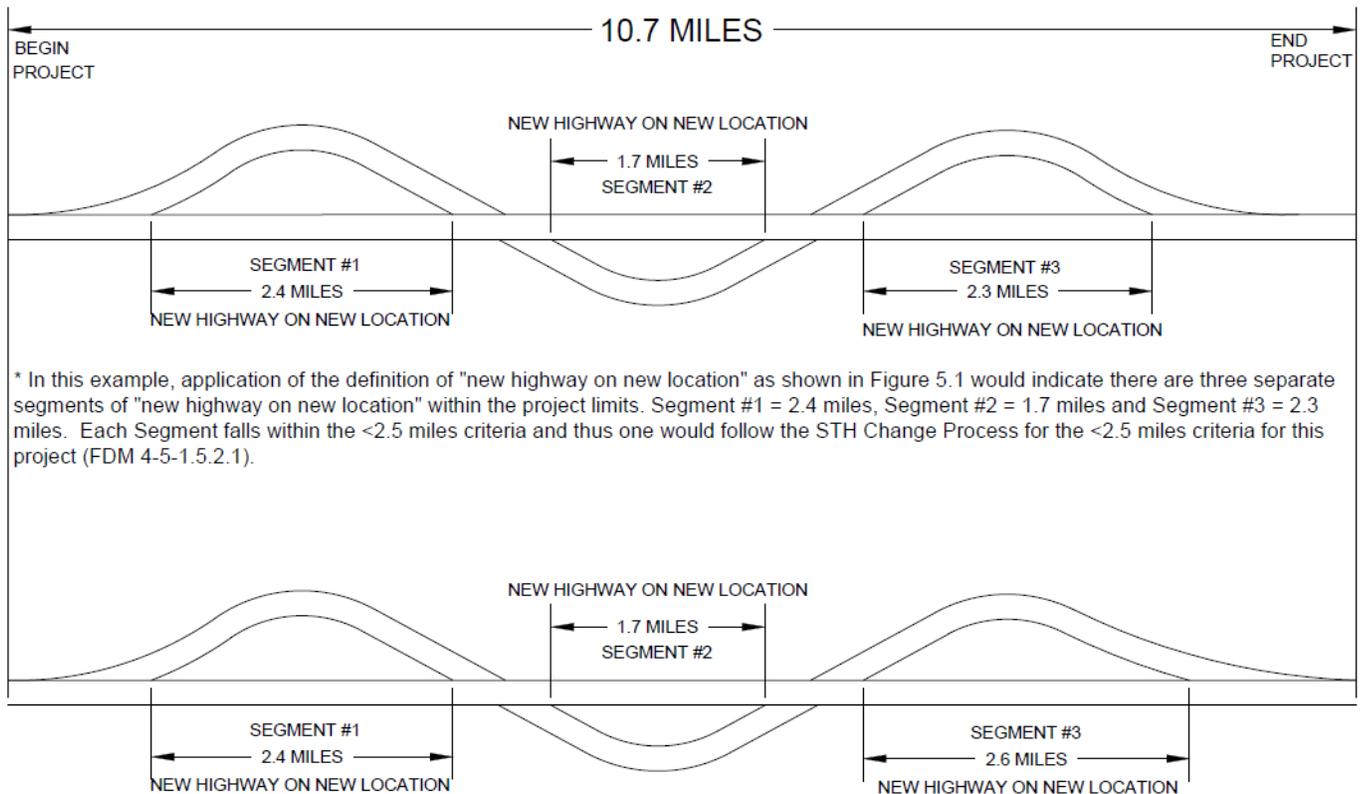
When the length of state highway on new location is greater than 2-1/2 miles but less than 5 miles, Wis. Stat. 84.02(3)(a) adds the following rules that were not required when the length was 2-1/2 miles or less.

- *"...if [length] exceeds 2-1/2 miles, then a hearing in or near the region affected by the proposed change shall be held prior to making the change effective."*
- *"...the notice shall also be given to the secretary of natural resources either by registered mail or personally..."*
- *"...the change shall not be effective until the decision of the department has been referred to and approved by the county board of each county in which any part of the proposed change is situated. A copy of the decision shall be filed in the office of the clerk of each county in which a change is made or proposed."*

The public hearing for the state highway change and notification of WIDNR Secretary of that public hearing are self-explanatory. That public hearing process also fulfills the requirement for giving 'due notice' to local units of government of the proposed STH change. FDM Chapter 6 provides guidance for holding a public hearing for a state highway change.

The requirement for county board referral and approval is significant, and has the potential be an obstacle to project approval. The Department should get memorandums of agreement in place prior to moving such a project into the delivery process to avoid negative risks to project scope, budgets, and delivery schedules; as well as undesirable political controversy.

There are situations where this requirement for county board approval for a state highway change can be superseded by other preceding statutory actions. The Department's Office of General Counsel has determined that if the need for a state highway change action was initiated by a separate WI State Legislative directive, such action would supersede and eliminate the Wis. Stat. 84.02(3) requirement for county board approval of that state highway change. Such situations would occur when a state highway change is required because of a Major Project approved by the WI State Legislature pursuant to Wis. Stat. 84.103, or any improvement project individually mandated (i.e. "mandated") by specific WI State legislative action.



* In this example, application of the definition of "new highway on new location" as shown in Figure 5.1 would indicate there are three separate segments of "new highway on new location" within the project limits. Segment #1 = 2.4 miles, Segment #2 = 1.7 miles and Segment #3 = 2.3 miles. Each Segment falls within the <2.5 miles criteria and thus one would follow the STH Change Process for the <2.5 miles criteria for this project (FDM 4-5-1.5.2.1).

** In this example, application of the definition of "new highway on new location" as shown in Figure 5.1 would also indicate there are three separate segments of "new highway on new location" within the project limits. However, in this case, Segment #3 = 2.6 miles and would now fall within the $2.5 \leq L \leq 5$ miles criteria. One would now need to follow the STH Change Process specific to the $2.5 \leq L \leq 5$ miles criteria for Segment #3 in order to construct the project as shown (FDM 4-5-1.5.2.2).

Figure 5.2 Examples for Length of Highway on New Location

1.5.2.3 Length of Highway on new Location Greater than 5 Miles

When the length of new highway on new location is greater than 5 miles, Wis. Stat. 84.02(3) no longer requires county board approval for designating that new highway as a state highway, where it states:

"...Where the distance along the deviation from the existing location exceeds 5 miles the change shall constitute an addition to the state trunk highway system."

A public hearing is required for this state highway change. That public hearing process also fulfills the requirement of giving 'due notice' to local units of government of the proposed STH Change. FDM Chapter 6 provides guidance for holding a public hearing for a state highway change.

Once the public hearing requirements have been met, the Department has the unilateral authority to so order this STH change addition of a new highway on new location greater than 5 miles.

1.5.3 Removing State Highway Designation Under a State Highway Change

When a state highway change adds a new state highway on new location, it most often also requires a Department decision on the disposition of the existing state highway the new highway is replacing. The disposition decision for that existing highway could be to:

1. Keep the existing highway as a state trunk highway under a different state highway number.
2. Jurisdictionally reassign the existing highway to local highway jurisdiction.
3. Discontinue or vacate the highway

1.5.3.1 Keep the Existing Highway as a State Highway Under a Different State Highway Number

Keeping the old state highway as a state trunk highway under a different state highway number is not a state highway change action specifically referenced in Wis. Stat. 84.02(3). Rather, it is one possible outcome from a state highway change action and would follow the process defined in the Traffic Engineering Operations and Safety Manual (TEOpS, formerly the Traffic Guidelines Manual) [TEOpS 1-11-1](#) that is used anytime the Department wishes to change the state highway route number on an existing state highway.

State highway route number changes occurring because of a state highway change shall be included in the official state highway change documents. [FDM 4-5-1.6.7](#) (Highway Routing Naming Conventions) provides instructions on how and where the [TEOpS 1-11-1](#) documentation for a state highway route numbering change shall be attached to the official STH Change documentation described in [FDM 4-5-1.8](#).

1.5.3.2 Jurisdictionally Reassign the Existing Highway to Local Highway Jurisdiction

The process to jurisdictionally reassign the existing state highway to local highway jurisdiction is dependent upon the length of new highway on new location as described in [FDM 4-5-1.5.2](#). The following information is provided for each of the three scenarios.

1.5.3.2.1 If Length of Highway on New Location is 2-1/2 Miles or Less

Wis. Stat. 84.02(3) does not specify any rules for the jurisdictional reassignment of an existing state highway when the length of new highway constructed on new location is 2-1/2 miles or less. Therefore, the Department has the authority to unilaterally reassign the jurisdiction of the existing state highway to the local unit of government it deems most appropriate.

However, case law and WisDOT Office of General Counsel (OGC) opinions have also determined that when state highway designation is removed from a highway, the appropriate jurisdictional recipient of that highway may be legally dependent on the chain of title of the right-of-way for that highway. Situations where this needs to be considered are as follows:

- The underlying right-of-way is in fee title but not titled in the name of the Department.
- The underlying right-of-way is titled to the Department, but is in easement rather than fee title; and the roadway was previously a local highway before becoming a state highway.

The chain of title of the right-of-way which would not affect Department authority to unilaterally reassign jurisdiction of a state highway would be if:

- The underlying right-of-way was originally purchased fee title by Department and the highway has always been a state highway.
- The right-of-way was originally purchased by a local unit government, but there are subsequent recorded deeds that transferred title of the right-of-way to the Department.

Region Real Estate and OGC should be involved in reviewing all deeds of record for the highway being considered for jurisdictional reassignment under a state highway change (or any other reason) to ensure there is no conflict between what those records may require and to whom the Department wishes to jurisdictionally reassign the highway.

The official State Highway Change documents (described in [FDM 4-5-1.9](#)) shall identify if the jurisdictional reassignment occurred by unilateral authority of the Department, or by a determined reversion based on chain of title of underlying right-of-way. In either situation, no jurisdictional transfer agreement pursuant to 84.03(8) should be used. The approval of the State Highway Change by the Department executes the jurisdictional reassignment of the state highway to local jurisdiction, whether by unilateral Department authority or by reversion based on chain of title of underlying right-of-way.

However, it must be noted that should the Department desire to retain any specific rights or authorities on the highway being jurisdictionally reassigned, it must use a jurisdictional transfer agreement to do so. Using the State Highway Change executing document to execute a jurisdictional reassignment is only valid if the subject highway being reassigned is done so without any reservations or retentions on the part of the Department.

1.5.3.2.2 Highway on New Location Greater Than 2-1/2 Miles and Less Than 5 Miles

The length of new highway under these criterion places two additional requirements upon the Department if it wishes to discontinue the state highway designation on the existing state highway as part of a Wis. Stat. 84.02(3) state highway change. They are as follows:

1. A jurisdictional transfer pursuant to 84.03(8) is required for the Department to jurisdictionally reassign the existing state highway route to local government jurisdictional authority.
2. The County is made part of the approval process for state highway discontinuance per the following from WI Statute 84.02(3):

“The preexisting route shall continue to be a state trunk highway unless the county board of each county in which any part of the relocation lies and the department mutually agree to its discontinuance as a state trunk highway.”

However, if the Department and county(s) cannot mutually agree on the state highway change being proposed, Wis. Stat. 84.02(3) allows the Department to take its state highway change

recommendation to the Wisconsin state legislature for determination, where it states:

“Whenever such county board or boards and the department cannot so agree the department shall report the problem to the next ensuing session of the legislature for determination.”

If this step should ever be taken, the Department should include documentation supporting its rationale for why the State Highway Change should occur and what improvements or financial considerations it is offering the local unit for any jurisdictional reassignment being proposed. All documentation must be reviewed and cleared at the Administrator, Office of General Counsel, and Secretary’s Office before it is submitted to the Legislature.

1.5.3.2.3 Highway on New Location Greater Than 5 Miles

The requirements under this criterion are the same as those noted in the previous section (FDM 4-5-1.5.3.2.2).

1.5.3.3 Discontinue or Vacate Existing Highway

Wisconsin State statutes create some confusion by interchangeably using the terms ‘discontinue’ and ‘vacate’ when discussing highways, right-of-way, and other public ways such as alleys.

The statutory use of the term ‘vacate’ is highly consistent and is understood to refer to government action which ends the public use of a property for highway purposes.

However, statutory use of the term ‘discontinue’ or discontinuance’ is more varied. Attorney General Opinions, common law, and Wis. Stat. 84.02(3) use discontinuance to mean the removal of a state highway from existence or removal of state trunk highway designation from a highway.

When the Department decides to ‘discontinue’ a state highway, the resulting jurisdictional status of that highway depends on the title record of that underlying right of way. If underlying right-of-way is held in fee or highway easement in the Department’s name, discontinuance by the Department ends the public status of that highway unless it is jurisdictionally reassigned by the Department to a local unit of government. If no jurisdictional reassignment occurs, disposition of the underlying right-of-way would then follow these rules:

- If the right-of-way was held in fee in the Department’s name, the right-of-way designation is extinguished and it becomes surplus land under State Statute 84.09(5).
- If the right-of-way was held in easement in the Department’s name, the right-of-way may simply revert to private ownership pursuant to State Statute 66.1005(1) depending on how the easement language is written. OGC should be consulted for final determination of easement language.
- If the right-of-way is held in fee or highway easement in the name of any local unit of government, the jurisdictional authority for the highway reverts to that local unit of government.

If there are no recorded deeds for the underlying right-of-way and the highway has always been a state highway, it is assumed the Department holds title by virtue of its use as a highway. Discontinuance by the Department would end the state highway designation and, in most cases, cause the right-of-way to revert to private ownership. However, if this highway had been under local jurisdictional authority at some point in the past, it may statutorily revert to that previous local authority. OGC should be consulted for final interpretations in these situations.

1.6 Other Jurisdictional Reassignment Considerations

The previous sections focused primarily on how Wisconsin state statutes provide legal authority to the Department for making highway jurisdictional reassignments. The following factors should be evaluated to determine if they impact the reassignment:

- Ownership and disposition of underlying right-of-way
- Access Control
- Utilities and Other Non-Access Permits
- Maintaining Authority and Maintenance Agreements
- Facilities to be retained by the Department
- Capitalization of Maintenance Start Up Costs When Jurisdictional Reassignment Results in Net Gain of System Miles
- Highway routing naming conventions
- Traffic Operations
- Synchronizing General Transportation Aid (GTA) Payments
- Historical Preservation
- Highway Improvement Cost-to-Cure

These factors apply to a state highway being discontinued or jurisdictionally reassigned, and to any local highway being altered, vacated, or jurisdictionally reassigned to the state highway system.

Wis. Stat. 84.02(8) (c) provides the basis to determine parameters of a jurisdictional transfer:

“A jurisdictional transfer agreement may contain any terms and conditions that the department and the local unit of government may deem necessary regarding maintenance or rehabilitation of any highway transferred.”

WisDOT staff should use the State Jurisdictional Transfer Job Aid to identify and document specific considerations regarding a proposed or potential Jurisdictional Transfer on State Highway.

<https://wigov.sharepoint.com/sites/dot-dtsd/mydtsd/planning/SitePages/HSM.aspx> (internal link)

1.6.1 Ownership and Disposition of Right-of-Way

[FDM 4-5-1.5.3.3](#) (Discontinuing or Vacating a Highway) described how the historical title record of the state highway right-of-way may legally determine who the Department should jurisdictionally reassign a highway to, or whether the Department can legally reassign its interests in the underlying right-of-way.

It needs to be clearly understood that a jurisdictional reassignment action, whether by jurisdictional transfer or by state highway change, does not in, and of itself, automatically reassign ownership of any underlying right-of-way. Jurisdictional reassignment only changes the jurisdictional authority for that highway. Jurisdictional authority is the right and obligation to administer, control, construct, maintain, and operate a highway pursuant to applicable Wisconsin state statutes, but does not inherently include the authority to dispose of any underlying right-of-way. The right to dispose of underlying right-of-way is retained by the owner of that right-of-way who is identified through the historical title record for that right-of-way.

In 2006, the Wisconsin legislature added a provision under 84.09(5) that prescribes a statutory process the Department must follow to dispose of "...property [that] is no longer necessary for the state's use for transportation purposes." This provision creates a significant firewall that essentially precludes the Department from quit claiming its rights to the underlying right-of-way of any state highway being jurisdictionally reassigned. Those rights must be retained by the Department until such time the Department determines they are no longer needed for state transportation purpose, declares it excess right-of-way or surplus lands or rights, manages the marketing of those lands or rights, and assumes any proceeds from that sale.

The following scenarios are helpful in understanding how title record and Wis. Stat. 84.09(5) affect disposal of underlying right-of-way in conjunction with a jurisdictional reassignment or state highway discontinuance.

- If underlying right-of-way lands or rights of the state highway are held by recorded easement or fee title in the name of a local unit of government, conveyance of rights by the Department is not applicable since the right-of-way ownership already lies with the local unit.
- If the right-of-way lands or rights are owned fee title by the state, then pursuant to Wis. Stat. 84.09(5) the Department cannot convey any of the underlying right-of-way ownership to the jurisdictional reassignment recipient. The right-of-way must remain under state ownership until such time it is declared excess or surplus by the Department, at which point it can be sold.
- If the right-of-way land or rights are owned by easement in the name of the state, then one needs to consult with OGC to determine the nature of that easement language. It may be determined they have state value and fall under Wis. Stat. 84.09(5) or they may simply extinguish with no value and return to underlying private ownership.

It is also a good practice to review the existing right-of-way of the state highway being jurisdictionally reassigned to determine if there are any parcels that could be declared excess and sold prior to the jurisdictional reassignment. It is a much cleaner process to do this prior to a jurisdictional reassignment rather than after.

The Regional Technical Services Real Estate Section needs to be involved in all these discussions regarding excess right-of-way.

1.6.2 Access Control

The Department has an obligation to identify which access controls are present on any highway being jurisdictionally reassigned to or from state highway status, and ensure the local recipient understands if and how these controls are affected by the reassignment. Some types of access controls transfer with the reassignment, some require separate actions to transfer, while some may simply extinguish.

The Department also needs to consider whether it should retain jurisdictional authority over any access controls on the state highway being jurisdictionally reassigned. This can be important when the state highway being reassigned intersects with or will continue to have operational proximity to, the remaining state highway system. [FDM 11-5-5](#) and [FDM Chapter 7](#) provide information on desired access control on local roadways that intersect with, or are in close proximity to a state highway.

Different actions may be required on the part of the Department to retain jurisdictional authority over access control on a reassigned highway depending on which type of access control is seeking to be retained.

The following information describes in more detail how various state highway access controls are affected by jurisdictional reassignments, and what actions may be required for the Department to retain jurisdictional authority of those controls on a state highway being jurisdictional reassigned.

- **Wis. Stat. 86.07 Permitted Access** - Department state highway access permits issued pursuant to Wis. Stat. 86.07 remain in full legal effect when a state highway is reassigned to local jurisdiction. The authority to maintain and manage these permits goes with the jurisdictional reassignment to the recipient local unit of government.

If the Department wishes to retain jurisdictional control of these access permits, it needs to specifically include that in a jurisdictional transfer agreement with the recipient local unit.

- **Wis. Stat. 84.09, Purchased Access Rights** - Access rights or controls purchased under Wis. Stat. 84.09 become part of the title record of the underlying property and thus run with the property title regardless of who is the jurisdictional authority of the highway. Therefore, the purchased access controls described in a recorded deed remain in effect after any jurisdictional reassignment. The only exception would be if the deed language specifically stated the purchased access control was only valid so long as the highway remained under the jurisdictional authority of the party who acquired those access rights.

Access rights acquired by the Department on a state highway are also governed by Wis. Stat. 84.09(5). The local unit recipient of a jurisdictionally reassigned state highway cannot unilaterally release any access rights on that highway that were originally purchased by the Department. Wis. Stat. 84.09(5) states it is the Department who must declare those rights are no longer needed for state transportation purposes, manage the marketing or negotiation of those rights back to the landowner, and assume any proceeds from the sale of those rights.

- **Wis. Stat. 84.25 Controlled Access Highway** - Wis. Stat. 84.25 is an authority granted solely to the Department for use on active state highways, therefore access authorizations issued by the Department pursuant to Wis. Stat. 84.25 extinguish with a jurisdictional reassignment unless separate actions are taken by the local unit of government to retain those authorizations.

[FDM 7-15-10](#) provides information on the process local governments can follow to retain the full effect of the Wis. Stat. 84.25 authorizations on the highway being reassigned to local jurisdiction.

If the Department desires to retain the effect of Wis. Stat. 84.25 authorizations falling within the highway being reassigned to local jurisdiction, it would have the following options:

- Remove the Wis. Stat. 84.25 designation and purchase the access control under Wis. Stat. 84.09.
- Have the recipient local unit perpetuate the Wis. Stat. 84.25 controls under local authority, and through a jurisdictional transfer agreement gives the Department jurisdictional authority over those controls. Consultation with OGC is required to determine if authority perpetuated by local unit is delegable to the Department.

Consult with the Region Access Management Coordinator or State Highway Access Engineer when drafting the appropriate access language for these types of actions.

1.6.3 Utilities and Other Non-Access Permits

All existing utility permits issued by the Department on a state highway remain in full effect after that highway is jurisdictionally reassigned. The permit authority for managing those permits moves with the jurisdictional authority for the highway.

1.6.4 Maintaining Authority and Maintenance Agreements

Previously it was discussed how definitions for 'maintaining authority', 'jurisdictional authority', and 'maintenance agreements' get confused and inappropriately interchanged. Maintaining authority should be considered the same as jurisdictional authority. A jurisdictional or maintaining authority can enter into a maintenance agreement with another unit of government to perform any manner of maintenance work on its system. These maintenance agreements are simply contracts to do work on the system and do not move jurisdictional or maintaining authority from one unit of government to another.

Maintenance agreements should be considered when a jurisdictional reassignment creates another connection to, or close operational proximity between the state and local highway system. There may be maintenance and operational benefits for the Department to be responsible for certain aspects of maintenance such as snow plowing on a segment of local highway, or vice versa.

The Region Operations Section should be involved in the determination and negotiation of any such maintenance agreement.

When a new state highway is built on new location, most often the existing highway will continue to serve as the state highway until the new highway is completed. This would be a state highway change where the existing state highway could be jurisdictionally reassigned to local jurisdiction with the cost to cure for that reassignment being a Department let improvement project. If there is a late season completion of the new highway, it could preclude the cost to cure let project from occurring until the following construction season. This creates an extended delay between the physical date of the jurisdictional reassignment (i.e. when the new state highway is opened for traffic) and when the existing route receives cost to cure improvements; and opens the question of who is responsible for covering the cost and effort to maintain the existing highway until it can be reconstructed.

This jurisdictional reassignment documentation must clearly delineate:

- Whether the recipient local unit or the Department is responsible for the daily maintenance of the reassigned state highway during that time between the reassignment physical date and cost to cure construction.
- Whether said responsibilities are being covered through physical effort or financial compensation.

1.6.5 Facilities to be Retained by the Department

There may be reasons for WisDOT to retain jurisdictional or maintaining authority over certain facilities on the highway or within right-of-way of the highway being reassigned. Retaining facilities is done infrequently and usually involves the types identified in [FDM 4-5-1.6.8](#) (Traffic Operations).

Retention of facilities is generally reserved for those intending to be retained by the Department in perpetuity or until such time the Department decides to remove them. This section is not intended to cover the short-term retention of an item until it is eventually replaced. Such items should be covered as a negotiated cost-to-cure element.

1.6.6 Capitalization of Maintenance Start Up Costs when Jurisdictional Reassignment Results in Net Gain of System Miles

If a jurisdictional reassignment from state highway to local jurisdiction results in a net gain of system miles to that local unit, there may be 'cost-to-cure' consideration to help cover acquisition of additional equipment and manpower to maintain those additional system miles.

'Net gain' means the local unit ends up with more lane miles under its jurisdictional authority after the jurisdictional reassignment than it had before. This occurs when a state highway is relocated under a state highway change, and the old state highway is reassigned to local jurisdiction; or a new local roadway is constructed as part of a state highway project. In both cases, the local unit is taking on new miles while reassigning none of its own away.

This 'Maintenance Capitalization Start Up' cost-to-cure is only intended to help defray the one-time, initial capitalization costs of adding equipment, personnel, or materials to maintain these additional system miles. Long term future maintenance costs are not eligible for consideration under this item.

The cost basis for determining this item is the Department's average annual cost per mile data for its annual Routine Maintenance Agreements (RMA) with the counties to performance state highway maintenance. Annual average RMA costs are maintained by DTSD Bureau of Highway Maintenance. The cost data is categorized by different classes of roadway, allowing one to correlate the type of roadway being jurisdictionally reassigned with the appropriate RMA cost per mile.

The Regional Operation Sections should be contacted to provide the current and appropriate data.

The cost-to-cure for this element is then computed as:

$$\text{Maintenance Start-Up Capitalization} = \text{Average RMA Cost/Mile} \times \text{Net Increase of Miles} \times 5 \text{ years}$$

This cost-to-cure is limited to a 5-year future horizon after which it is assumed the annual costs are normalized within the local budget for its local highway system, and Department General Transportation Aids payments.

1.6.7 Highway Routing Naming Conventions

Reassignment documentation shall include identification of the naming conventions placed on any roadway being jurisdictionally reassigned or any other highway whose naming convention will be altered because of the jurisdictional reassignments. Routing considerations include but are not limited to the following:

- Designating the state highway being reassigned to local jurisdiction as a state highway business route pursuant to [TEOps 2-4-19.1](#), Wis. Stat. 84.02(4), and 84.02(6).
- Concurrent routing of a local highway with a state highway.

- Identifying the date when the highway routing conventions will be active on those routes. Typically, that would be the physical date of the jurisdictional reassignment, but not always.

Pursuant to [FDM 4-5-1.5.3.1](#), the Department can choose to keep the existing state highway as a state highway under a new state highway number. Re-numbering a state highway is not a state highway change action pursuant to Wis. Stat. 84.02(3). It is merely one possible outcome from a state highway change action. Therefore, this item is treated as an "Other Consideration" rather than a statutorily described or required action pursuant to Wis. Stat. 84.02(3).

Region and Central Office Operation should be consulted on these items.

1.6.8 Traffic Operations

The Department must consider whether operational assets (e.g. signs, signals, or intelligent transportation systems (ITS)) located on the state highway being jurisdictionally reassigned should be retained under the jurisdictional authority of the Department. Examples where this should be considered include, but are not limited to:

- Signals at the first intersection off a state highway.
- Type 1 (i.e. 'Big Green') signs or sign bridges providing direction to the state highway system, or destinations deemed to have state importance.
- ITS systems that control traffic on to or off of a nearby state highway.

While the Department does have authority to place signs, ITS, and other operational assets on the local system, it is prudent to document in the jurisdictional reassignment which operational assets from the reassigned state highway are being retained under the jurisdictional authority of the Department. This helps minimize the potential for future debates on the matter after the reassignment has occurred.

Another item of consideration is changing the route designation signage (i.e. STH signs to local road names or numbers, or vice versa) on the reassigned route. The signing changes need to be quantified and then either included in the highway improvement cost to cure ([FDM 4-5-1.7](#)) or the party identified who will physically acquire and change signing.

1.6.9 Synchronizing General Transportation Aid (GTA) Payments

The date a local unit receives its first General Transportation Aids (GTA) payment after a jurisdictional assignment depends on the effective and physical date of that action. The documentation process to initiate GTA payments does not occur until the effective or physical date occurs. If they occur just after a GTA payment cycle commences, it could be up to two years before the local unit receives its first GTA payment for the reassigned miles.

The Region should consult with DTIM BSHP Local Roads Section and DTIM BTLR Local Roads and Finance Section to determine when the first GTA payment will occur based on the physical date of a jurisdictional reassignment. The number of months after the physical date where no GTA funds will be received can then be determined, and a prorated amount of a GTA payment to cover those months calculated.

A GTA cost-to-cure amount is then computed as follows:

$$\text{Prorated GTA Payment till Regular GTA Cycle Starts} = (\text{Months before start of 1st GTA Payment Cycle} / 12 \text{ months per year}) \times (\text{GTA rate per mile}) \times (\text{Length in Miles of Reassigned Highway})$$

The GTA rate per mile can be determined from Department GTA data on similar local roadways within the local unit, the Region, or statewide. These can be obtained from DTIM BTLR Local Roads and Finance Section.

It is important to note that the opposite concept also applies. GTA or connecting highway aids to the local unit should be appropriately stopped when a local highway is reassigned to state jurisdiction. The Region should contact DTIM BTLR Local Roads and Finance Section to ensure those payments are appropriately terminated as of the physical date of the jurisdictional transfer.

1.6.10 Historical Preservation

Wis. Stat. 44.41 Protection and Use of State Agency Property includes (3) which states the following,

“(3) PROTECTION OF LISTED PROPERTY. If a state agency transfers or sells any listed property, it shall reserve a conservation easement under s. 700.40, to be transferred and held by the state historical society, which secures the right of the historical society to preserve and maintain that property. The state historical society shall establish a form for that conservation easement and provide copies of that form to every state agency.”

The definition of 'listed properties' is defined in the Wis. Stat. 44.45 (1) and (2) as, ‘...the list of locally

designated historic places...[that] the state historical society shall maintain, publish, and disseminate..."

The net effect of this statute is that it requires the Department to review any state highway being considered for jurisdictional reassignment and identify any historic properties or sites pursuant to Wis. Stat. 44.45 that are within the right-of-way of that highway. If any such sites are found, the Department is obligated to follow the procedures prescribed in Wis. Stat. 44.41(3) before the jurisdictional reassignment of that state highway can occur. Documentation on how the obligations pursuant to Wis. Stat. 44.41 were concluded shall be made part of the Special Considerations.

If no historical properties or sites pursuant to Wis. Stat. 44.45 are identified within the right-of-way of the state highway being consider for jurisdictional reassignment, this negative finding shall be included in the Special Considerations to document that the Department had pursued the requisite review.

DTSD Bureau of Technical Services Environmental Services Section and Office of General Counsel shall be consulted anytime Wis. Stat. 44.41 and 44.45 are identified as part of a jurisdictional reassignment.

1.6.11 Highway Improvement Cost-to-Cure

Historically, parties involved in jurisdictional reassignment of public highways have understood that the involved highways should be reassigned in reasonable condition. Reasonable condition can be achieved through an improvement project on that highway, or a cash payment to cover the agreed cost of improvements necessary to return that highway to reasonable condition.

Historically, reasonable condition has been that level of treatment adequate for a 15-year improvement cycle. The Department method for arriving at the reasonable condition determination is conceptually quite simple, and is answered by the question, "What would the Department have spent over the next 15 years if it had kept this route as a STH." (WIDOT Program Management Manual, April 18, 1989).

1.6.11.1 Rules Governing Reasonable Cost-to-Cure for Highway Improvement Costs

1. Project scope, as a rule, is limited to no more than a 'perpetuation' of the existing features of the highway being reassigned.

Reassignments resulting from of a state highway being relocated (i.e. STH Change) or being routed to another highway (i.e. STH route change), typically reduces the traffic volume on the old highway as state traffic moves to the new route. As such, there would be no engineering basis to support relocation or expansion considerations as part of the reassignment action.

There may be considerations for some geometric changes to eliminate a lower-minimum highway element, or a spot location with significant crash history. However, these should be rare occurrences since state highways are generally built to upper minimum design criteria than those for local roads. Any exceptions should be fully vetted at the Departmental level before approved and included in a cost-to-cure agreement.

The situation is different when a local road is being reassigned to the Department since local roads may not be built to state highway design or access criteria. The Department should not accept reassignment of any local road that does not meet lower minimum Department design criteria for a state highway. Improvements necessary to bring the local road up to at least lower minimum state highway design criteria should be part of the local cost-to-cure to the Department.

2. Cost estimate is based on current Department bid item cost data and design criteria.
3. Cost to cure is constrained to only those items directly related to improvements necessary on the specific highway being reassigned.
4. All applicable Department Cost Share Policy rules are applied to all relevant items in the cost-to-cure estimates.

A cash payment for a reassignment cost-to-cure shall exclude any costs the local unit of government would have been required pay on any state highway improvement project. Any improvement project let for the reassignment cost-to-cure shall include all Department cost share requirements in that project agreement.

5. Cost-to-Cure for bridges and post-reassignment funding under the WisDOT Local Bridge Program.

If the used life of a state highway bridge is included in the state highway reassignment cost-to-cure, it must be clearly identified in the reassignment documentation so as to provide a record for future reference to prevent 'double-dipping' from Local Bridge Program funds at some future date.

Example:

A bridge with a \$2,000,000 replacement cost is determined to have 20% remaining life (i.e. 80% used life) remaining at the time of jurisdictional reassignment.

The bridge cost-to-cure would then be the 80% used life x \$2,000,000 replacement cost = \$1,600,000. If that \$1,600,000 is included in the reassignment cost-to-cure cash payment, the recipient local unit has then been made 100% whole for that bridge. Thus, it would be inappropriate to provide Local Program Bridge funding for future replacement or reconstruction of that bridge, since that was already provided in the reassignment cost-to-cure.

1.6.11.2 Determining Highway Improvement Cost-to-Cure

Cost-to Cure for highway improvements follows these basic rules and steps:

- Develop a project estimate for the improvement project(s) necessary to achieve a 15-year life cycle on the highway reassigned. This could be a single 15-year life cycle improvement with a 15-year life such as a pavement replacement, or a series of improvements over a period of years which cumulatively achieve a 15-year life, such as two successive 8-year resurfacing projects.
- Cost estimates are always done in current year dollars.
- Items which have replacement schedules that may not fit within a 15-year life cycle, such as lighting or signal systems, can be analyzed independently and made additive to the 15-year life cycle cost-to-cure. Cost-to-cure for these items would be its percent used life multiplied by current year replacement cost.
- Apply all current Department Cost Share rules to the appropriate items within the cost-to-cure estimate.

The best situation is if at the time of reassignment, the highways involved are all at the end of their life cycle. This allows the current year estimate to be the cost-to-cure estimate and everything matches. However, in many cases the highway being reassigned may have remaining years of life. Remaining life must be accounted for in one of the following ways:

- If cost-to-cure is a cash payment provided in the current year, its value would need to be reduced by the value of remaining life in the highway.
- Schedule the full cost-to-cure payment or letting of a commensurate improvement project to coincide with the year the remaining life of the highway approaches zero.

1.6.11.3 Scheduling Cost-to-Cure Payments

Ideally, a single cost-to-cure payment is issued to coincide more or less with the physical date of the jurisdictional reassignment. This is generally the easiest for all parties to understand and is most efficient from a financial management perspective. However, as indicated in the previous section, there may be reasons why cost-to-cure payments are deferred, such as:

- There is remaining life in the highway being reassigned and the desire is to receive the full cost-to-cure payment when the remaining life approaches zero. This should be avoided if possible since it can create the misperception that the reassignment is not actually completed until the cost-to-cure payment occurs. The preferred method is to include simply reduce the current year cost-to-cure payment by the remaining life value, and make the payment coincide with the physical date of the reassignment.
- The size of some cost-to-cure payments is large enough to create a budgetary cash flow problem for the Department. The Department can negotiate to do a series of payments over a period of years to achieve the 100% cost-to-cure obligation.

Scheduling of jurisdictional reassignment cost-to-cure payments must be done with the full knowledge, involvement, and approval of DTIM BSHP to ensure it is within the accepted rules and goals of the entire state highway program.

1.6.11.4 Summary Statement on Highway Improvement Cost-to-Cure

This section on Highway Improvement Cost-to-Cure is not intended to be a detailed user manual, but rather a basic outline of the process and guidelines to be followed. Developing highway improvement cost-to-cure estimates can be an extended and complex effort; that can become politically infused and engage the Department's highest level of management. Therefore, it is important that DTIM BSHP and any standing Jurisdictional Reassignment Committee be fully engaged at the earliest possible date to help validate appropriate scope and direction for development of any jurisdictional reassignment highway improvement cost-to-cure.

It is also important to involve DTIM BSHP and any standing Jurisdictional Reassignment Committee on

determination of whether the cost-to-cure should be accomplished through a let improvement project or by cash payment. Generally, it is most desirable for the Department to resolve reassignment cost-to-cure with a cash payment since that provides a very clear milestone event to mark the end of Department involvement with that highway, whereas a let improvement project may generate future questions on implied project warranties should there be premature deterioration of any item in that let project.

1.7 State Highway Jurisdictional Reassignment Documentation

While the Wisconsin State Statutes do not prescribe a specific format for official documentation for State Highway Changes pursuant to Wis. Stat. 84.02(3) or for Jurisdictional Transfers pursuant to Wis. Stat. 84.02(8); the Department has established standardized template documents to help ensure a consistent format for preparation, filing, and record keeping of these jurisdictional reassignment actions.

Templates are managed by DTSD Bureau of Project Development Design Standards and Oversight Section, Design Project Oversight Unit. They should be contacted for the most current and appropriate template for the jurisdictional reassignment action occurring.

1.7.1 Documentation for Jurisdictional Transfers, Wis. Stat. 84.02(8)

Template 1 - Wis. Stat. 84.02(8) Jurisdictional Transfer

The template document for a jurisdictional transfer pursuant to Wis. Stat. 84.02(8) includes a section for either jurisdictionally transferring a local roadway to Department jurisdiction as a state highway, or a state highway to a local unit of government as a local roadway. Depending on which is occurring, the template document is used or modified as follows:

- If both transfers are occurring under a single jurisdictional transfer action, then the template document can be used as is.
- If there is only a state highway to local highway jurisdictional transfer occurring, then delete the section on local highway to state highway jurisdictional transfer. No other changes to the template are required.
- If there is only a local highway to state highway jurisdictional transfer occurring, then delete the section on state highway to local highway jurisdictional transfer. No other changes to the template are required.

1.7.2 Documentation for State Highway Change, Wis. Stat. 84.02(3) ([Attachment 1.2](#))

[FDM 4-5-1.5](#) described the different requirements for a state highway change depending on the length of new highway being constructed on new location. Template documents for each of these different variants has been developed and should be used accordingly. The following provides a brief summary of what is different within each of the STH Change templates.

Template 2 - STH Change, less than 2-1/2 miles in length ([Attachment 1.3](#) and refer to [FDM 4-5-1.5.2.1](#))

On STH Changes where the new highway on new location is 2-1/2 miles or less, the Department has the unilateral authority to add or remove state trunk highways under that STH Change. Template 2 allows for either the addition (i.e. Section 3) or removal (i.e. Section 4) action.

If the STH Change is only adding a state highway segment, then delete all wording within Section 4 and Section 5, and replace with the following statement, *"No state trunk highway removals are occurring as part of this state highway change action."*

Template 3 - STH Change, Non-Major - Greater than 2-1/2 miles but less than 5 miles in length ([Attachment 1.5](#) and refer to [FDM 4-5-1.5.2.2](#))

This template is only applicable when no Major Project is involved in the state highway change. If there is a Major Highway Project involved, then refer to Template 4.

This template adds reference to the statutory requirement of obtaining County Board approval for either the addition of a new highway on new location to the state highway system (i.e. Section 3) or discontinuing an existing state highway from the state highway system (i.e. Section 4).

Pursuant to statutory requirements noted, Section 4 now requires documentation of the County Board approval action and that it be added as an Attachment to the completed Template 3.

Pursuant to statutory requirements noted therein, Section 5 requires documentation of the jurisdictional transfer of any existing state highway that occurred as part of this STH Change action. The proper documentation would be a completed Template 1 - Wis. Stat. 84.02(8) Jurisdictional Transfer Documentation, described in [FDM 4-5-1.8](#).

If the STH Change is only adding a state highway segment, then delete all wording within Section 4 and Section 5, and replace with the following statement, “No state trunk highway removals are occurring as part of this state highway change action.”

Template 4 - STH Change, Major Project - Greater than 2-1/2 miles but less than 5 miles in length ([Attachment 1.6](#) and refer to [FDM 4-5-1.5.2.2](#))

This template is applicable if the STH Change addition was a result of project specifically approved by the state legislature such as a Major Project. *If there is no Major Project involved in the STH Change addition, then refer to Template 3.*

Section 3 has been modified to include the appropriate language and statutory references on how the STH Change addition would be exempted from the County Board approval requirement because it was a result of a Major Project.

If the STH Change is only adding a state highway segment, then delete all wording within Section 4 and Section 5, and replace with the following statement, “No state trunk highway removals are occurring as part of this state highway change action.”

Template 5 - STH Change - Greater than 5 miles in length ([Attachment 1.7](#) and refer to [FDM 4-5-1.5.2.3](#))

If the new highway on new location is greater than 5 miles, the statutes no longer require County Board approval for STH Change additions to the state highway system.

Section 3 of this template has been modified to reflect this change.

Template 6 - Other Considerations ([Attachment 1.8](#))

Template 6 Other Considerations is set up to include the most commonly occurring "Other Considerations" that may arise on any jurisdictional reassignment action. The template also includes a "Miscellaneous Section" that allows one to include any topic beyond those specifically included in the template.

Each section within Template 6 includes brief instructions or a reference to the appropriate section in the FDM where further instructions on what should be included in that respective section can be found.

If the jurisdictional reassignment does not require one of the items identified in Template 6, simply leave it blank or add the statement, “Not applicable for this state highway change”.

1.8 Department Approval and Communication Processes for JT or STH Changes

This section describes the steps for final approval of either a jurisdictional transfer or state highway change action. It is emphasized that during the development of any jurisdictional reassignment, documentation for that action should be periodically sent up this same review path to ensure there is Department-wide concurrence on the agreement before final documents are submitted. Final approval should not be the first time that required signatories are made aware of the jurisdictional reassignment and its associated agreements.

The final approval process requires the following items and steps to conclude:

- Region has original reassignment documentation signed by the local unit of government, if required. Documentation and signatures may be completed electronically.
- Documentation is then sent to the DTSD Bureau of Project Development Project Services Section (DTSD BPD) for their review and concurrence on the completeness and accuracy of the documentation.
- Documentation is then sent to the Administrator of the Division of Transportation System Development for Department signatory approval. Statutorily this approval is granted to the Secretary, who in turn has delegated this authority to the DTSD Administrator.
- Documentation with Department signatory approval returned to DTSD BPD who retains one copy in their office for proper filing under permanent record retention for the Department.
- DTSD BPD sends documentation with Department signatory approval to Region who retains one copy for proper filing under permanent record retention within the Region office and sends one copy to recipient local unit.
- Region sends documentation with all signatures to recipient local unit. A paper copy is provided to the local unit of government upon request.

WisDOT staff should use the State Jurisdictional Transfer Job Aid to identify and document specific considerations regarding a proposed or potential Jurisdictional Transfer on State Highway. <https://wigo.v.sharepoint.com/sites/dot-dtsd/mydtsd/planning/SitePages/HSM.aspx> (internal link)

1.9 Documentation Routing and Filing within the Department

Once all approvals have been obtained, proper routing and filing of the action with the Department is crucial to ensure the jurisdictional reassignments are updated in all databases upon which local and state highway locations are defined.

DTSD Bureau of Project Development Design Standards and Oversight Section, Design Project Oversight Unit is responsible for internal Department distribution of approved jurisdictional reassignment documentation. Routing includes, but is not limited to, those sections and units within the Department who maintain the locational and attribute databases for the state and local highway systems. This is most particularly DTIM Bureau of State Highway Programs Data Management Section who manage the State Trunk Highway Network (STN) and Wisconsin Local Roads (WISLR) databases as well as DTIM Bureau of Planning and Economic Development (BPED), who manage various datasets and communications regarding the State Highway system

Additionally, the Region is responsible for informing other region sections and units of highway changes. These groups include but are not limited to Access Management, Programming, Scoping, Operations, Signals, Maintenance, Utilities, and Project Development.

LIST OF ATTACHMENTS

Attachment 1.1	Reference Pointer for Jurisdictional Transfer Template
Attachment 1.2	Template 1 - Wisconsin Statute 84.02(8) Jurisdictional Transfer
Attachment 1.3	Template 2 - STH Change, < 2.5 Miles in Length
Attachment 1.4	Template 2.1 - Notice of Intent to Change (NOITC) < 2.5 Miles in Length
Attachment 1.5	Template 3 - STH Change, Non-Major - > 2.5 Miles and < 5 Miles
Attachment 1.6	Template 4 - STH Change, Major Project - > 2.5 Miles and < 5 Miles
Attachment 1.7	Template 5 - STH Change, > 5 miles
Attachment 1.8	Template 6 - Other Considerations
Attachment 1.9	Template 7 - Reference Pointer for STH Change Templates

FDM 4-5-5 Connecting Highways

May 15, 2019

5.1 Scope

Wis. Stat. 86.32 provides that, *"The Department (WisDOT) may designate, or rescind the designation of, certain marked routes of the state trunk highway system over the streets or highways of any municipality for which the municipality will be responsible for maintenance and traffic control and the maintenance and operation of any swing or lift bridge. Such maintenance and traffic control shall be subject to review and approval by the Department (WisDOT). Those marked routes of the state trunk highway system designated as connecting streets prior to the effective date of this act (1977), shall become the connecting highways in municipalities which are eligible for aids payments under this section...."*

Wis. Stat. 84.02(11) states that, *"The state trunk highway system shall not include the marked routes thereof over the streets or highways in municipalities which the department has designated as being connecting highways. Those municipal streets or highways so excluded as state trunk highways but marked as such and designated as connecting highways are further described and the aids determined therefor under Wis. Stat. 86.32."*

This simply means that connecting highways are included in the state highway system log, but have their mileage uniquely and separately tracked.

Connecting highway aids payments are computed in accordance with the provisions of Section 86.32 and are based upon the population of the municipality and the character and lane miles of connecting highways under the municipality's jurisdiction.

As specified in Section 86.32, *"For the purpose of this section, the term "lane miles" means miles of through traffic carrying lanes and does not include lanes on which parking is permitted. Lane miles on any section of connecting highway which have been certified by the department (WisDOT) for payment purposes under this section shall not be increased unless they are needed for through traffic and approved by the department (WisDOT)...."*

Segments of the state highway system identified as 'connecting streets' prior to January 1, 1977 were made

eligible for lane mile maintenance aids payments on January 1, 1977. The connecting highway lanes are annually certified by the Department on January 1 of each calendar year, and become the lane miles eligible for connecting highway payments in the following fiscal year.

5.2 Lane Mile Definition and Payments

Section 86.32(2)(a) describes how connecting highway lane mile payments are computed. Section 86.32(2) (b) describes how lanes miles are defined as follows:

- Lane miles do not include auxiliary lanes, tapered lane sections of any type, nor any lanes on which any parking is permitted.
- On divided highways or one-way pairs,
 - The "first two lanes of a highway" include one lane in each direction of travel of said highway. Example would be a 4-lane divided highway where the driving lane in each direction is included, but the passing lane in each direction would not be.
 - The "second two lanes" include one more lane in each direction of travel of said highway. Example would be a 4-lane divided highway where both lanes in each direction are included.
 - The "third two lanes and any additional lanes" include all lanes over two lanes in each direction of travel. Example would be a 6-lane divided highway where all lanes in each direction would be included.
- A through traffic-carrying lane may be as short as one block such as the segment between the ramps of an interchange. However, normally such lanes must be needed for the entire distance between crossing arterials and collectors or combinations thereof.

Connecting highway mileage distances are measured as follows:

- Mileage is measured in both the cardinal and non-cardinal direction for divided routes.
- Where lanes are added or dropped, measurement shall begin and end where the normal lane width begins and ends. Tapers at the termini of such lanes are not to be included in the lane mileage.
- Lane miles are not to be measured across bridges being maintained by the state, or for which the municipality is being reimbursed specifically for bridge operation and maintenance.

WisDOT staff can review the Department's Program Management Manual for more information on this topic.

5.3 Qualifying Criteria for Eligibility for Lane Mile Definition

The "Need" for adding lanes for through traffic is determined by traffic volume and capacity. For any added through lane to be eligible for connecting highway lane-mile payments, the current traffic volume on that highway must exceed the service volume at Level of Service D as defined by procedures set forth in the Highway Capacity Manual.

If parking is removed in order to add through lanes, those added lanes must still meet the Level of Service D requirement to be eligible for any connecting highway lane-mile payments.

Added through lanes created by revising lane markings or other lane delineations will not be recognized for lane-mile payments unless those added lanes meet the Level of Service D criteria.

If an existing connecting highway is reconstructed with additional through lanes, those additional lanes will not be recognized for lane-mile payments unless those added lanes meet the Level of Service D criteria.

All requests for lane-mile payments on added lanes on a connecting highway are submitted to the Region for review and recommendation for approval or denial. The Regional review and recommendation is then submitted to the Project Development Section for subsequent action by the Deputy Administrator-Statewide Bureaus of the Division of Transportation System Development. (Establishment of the level of service determinations may be coordinated with the Division of Transportation Investment Management).

WisDOT staff can review the Department's Program Management Manual for more information on this topic.

5.4 Connecting Highway Changes - Designation and Rescission

[FDM 4-5-5.2](#) and [FDM 4-5-5.3](#) pre-suppose that connecting highway designation is already in place and one is simply adding or deleting eligible lane miles on that designated connecting highway. This section looks at the processes, procedures, and issues for initially designating a highway as a connecting highway, or in the future rescinding that connecting highway designation. Such actions are commonly referred to as a 'connecting highway change'.

A connecting highway change does not follow the formal procedures established in Section 84.02(3) of the Wisconsin Statutes for making changes in the State Trunk Highway System, i.e. State Trunk Highway Change.

The statutory directives for making changes in the connecting highway system are provided solely to the Department and identified in Wis. Stat. 86.32 (1) where it states,

“The department may designate, or rescind the designation of, certain marked routes of the state trunk highway system over the streets or highways in any municipality for which the municipality will be responsible for maintenance and traffic control and the maintenance and operation of any swing or lift bridge.....The decision of the secretary to designate or rescind a designation may be appealed to the division of hearings and appeals, which may affirm, reverse or modify the secretary's decision.”

While Stat. 86.32 (1) clearly provides the Department with the unilateral authority to make changes in the connecting highway system, it also advises the Department to ‘cooperate’ with local units of government when making any changes to the connecting highway system where it further states,

“The character of travel service provided by a route, uniformity of maintenance, the effect on the maintaining agency, and the municipality's maintenance capability will be considerations by the secretary, in cooperation with the municipalities and counties in making changes in the connecting highways of the state trunk highway system in municipalities.”

To that end, the Department should use a fully transparent process that makes every effort to achieve political consensus with local units of government before implementing any connecting highway change.

5.4.1 Connecting Highway Change - Designation

Connecting highway designation can be placed on either an existing state highway or upon an existing local highway. Either action creates several resultant changes for both the Department and the local unit of government.

Placing connecting highway designation on an existing local roadway results in the following:

- Adds connecting highway aids and removes general transportation aids (GTA) on that highway.
- Allows Department improvement funds to be used on that highway pursuant to Department Cost Share Policy rules for connecting highways as defined in the Department’s Facilities Development Manual (FDM) and Program Management Manual (PMM):
 - [FDM 04-1-10](#), PMM 04-01-10, PMM 03-25-5

Placing connecting highway designation on an existing state highway results in the following:

- Moves authority from the Department to the local unit for maintenance, permitting authority (i.e. utility, access, or work on right-of-way), and operational decisions for signing, marking, and intersection control.
- Adds connecting highway payments to the local unit.
- Changes the Department Cost Share Policy for that roadway to that of a connecting highway.

It is important the Department clearly articulate all of these changes with the local unit prior to making any connecting highway designation. It is advised that such communication be done in written form.

5.4.2 Connecting Highway Change - Rescission

Rescission of a connecting highway designation also creates a number of resultant changes that both the Department and local unit of government must be aware of.

First, rescission essentially reverses all the changes noted in the previous section that occur from the designation of a connecting highway.

Second, rescission requires answering the question of who is the jurisdictional authority of the underlying highway after rescission occurs. Rescission reverts jurisdictional authority back to what it was prior to that highway's original connecting highway designation. Depending on whether that may have been a state highway or local road, rescission may unintentionally create gaps in the state highway route system unless other jurisdictional reassignment actions also occur.

The following scenarios identify those potential outcomes and how they are resolved.

- Original Connecting Highway Designation Occurred on Existing State Highway
 - If connecting highway designation is rescinded on a portion or entire segment of connecting highway that was a state highway when original designation occurred, the rescinded portion would revert to a state highway.
 - If the intent is to make or keep the underlying highway a state highway, no gaps would occur in the resultant state highway route system. The rescission results in the connecting highway being shortened or eliminated, and the attached segment of state highway being lengthened.

- If the intent was to make the rescinded segment a local highway, it would require the Department to jurisdictionally transfer that segment to local jurisdiction.
- Original Connecting Highway Designation Occurred on Existing Local Roadway
 - If connecting highway designation is rescinded on a portion or entire segment of a connecting highway that was a local roadway when original designation occurred, the rescinded segment would revert to a local road.
 - If the intent was to make or keep the underlying highway a state highway, the rescinded segment would create a 'gap' in the state highway system on either end of that rescinded segment. A jurisdictional reassignment of that 'gap' of local highway to a state highway would be required to retain state highway routing continuity.
 - If the intent was to make the underlying roadway a local highway, no further action is required since rescission reverted it to a local road.

It is the responsibility of the Department to research, identify, and understand the historical record for jurisdictional authority of the highway prior to its original designation of a connecting highway in order to correctly identify the jurisdictional authority of that highway when connecting highway rescission occurs.

5.4.3 Cost to Cure Considerations When Make Connecting Highway Changes

Cost to cure needs to be considered whenever a connecting highway change is made. Cost to cure can be an obligation of either the Department or the local unit of government depending on the situation.

Cost to cure by the Department needs to be considered when the Department is rescinding connecting highway designation from a highway. Cost to cure would be for the depreciated use of that roadway that occurred from its use as a state highway while the route was a connecting highway.

Cost to cure by the local unit needs to be considered when:

- The local unit is requesting the Department move the connecting highway designation from one local street to another within its community. That new local road location should be in reasonable condition with applicable state highway design criteria for the Department to place connecting highway designation upon it. If not, the local unit should be responsible for cost to cure to achieve acceptable condition and design criteria.
- The local unit is requesting the Department remove the connecting highway designation from a local route and jurisdictionally assume that roadway as a state trunk highway. The Department needs to ensure the local unit has met all maintenance and improvement obligations required of them when that highway was a connecting highway. If not, the local unit should be responsible for cost to cure to compensate for their financial share of the depreciated condition of the roadway.

The cost to cure analysis for connecting highways is essentially the same process used for state highway reassignments as described in [FDM 4-5-1.7](#), except there are a few added nuances because of connecting highway status such as:

- Applying all Department and statutory local cost share requirements unique to connecting highways to the cost to cure elements.
 - [FDM 04-01-10](#), PMM 04-01-10, PMM 03-25-5
- Assessing whether the local unit has met its statutory obligation to appropriately maintain the connecting highway prior to having it jurisdictionally transferred to the state. If the local unit has not met those maintenance obligations, and said failure has directly contributed to the deteriorated condition of the roadway, the Department should include that resultant deterioration as part of the local cost to cure obligation.

Wis. Stat. 86.32 (4) also identifies one item that would be a statutorily defined cost to cure that can occur as part of a connecting highway change where it states the following:

"..., if lanes on which parking is permitted are required for through traffic and parking is no longer allowed, the department shall reimburse the municipality for the remaining life of those lanes based on a pavement life of 25 years and the original municipal cost for the lanes."

It is envisioned that in most cases, this reimbursement would be accomplished as part of a state highway improvement project. The state municipal cost share agreement for that project could include the value of past local investment on those lanes as an offset to any other local cost share obligations they may have on the project. If there is no near future improvement project available at the time the parking lane conversion occurs, or if value of past investment exceeds local unit cost share; a standalone payment could be used.

5.5 Department Approval Process for Making Connecting Highway Changes

Connecting highway changes are initiated by the Region and coordinated through the Project Development Section to the Administrator of the Division of Transportation System development. When a connecting highway change is not done as part of a State Trunk Highway System change, the action is coordinated through the Traffic Section to the Administrator of the Division of Transportation System Development. Changes affecting only connecting highways, as implemented by the Traffic Section, do not require public notice/public hearing as do changes involving the State Trunk Highway System. Connecting highway changes are typically coordinated with the Division of Transportation Investment Management Bureau of Planning and Economic Development, to assure compatibility with other systems. Connecting highway changes are made by minute entry and notification of the affected local unit(s) of government.

5.6 Documentation Procedures and Templates

Designation of a connecting highway only has one outcome, that being the creating of a connecting highway. However, [FDM 4-5-5.4.2](#) describes how rescission of connecting highway designation can result in the underlying highway reverting to either local or state highway jurisdictional authority, and where a subsequent jurisdictional transfer action may be required to move the highway to the desired, appropriate jurisdictional authority.

[FDM 4-5-5.4.2](#) describes the five (5) different possible connecting highway action paths that can occur. A unique TEMPLATE has been designed for each of these five (5) variants. Each TEMPLATE only requires the user to input information at prompted locations. No other additions or deletions to the TEMPLATE are required if the user chooses the correct TEMPLATE. These templates are managed by DTSD Bureau of Project Development Design Standards and Oversight Section, Design Project Oversight Unit. They should be contacted for the most current and appropriate template for the jurisdictional reassignment action occurring.

1. TEMPLATE CH1_DESIGNATION ([Attachment 5.1](#)) - Used only for the designation of a new connecting highway segment.
 - There is only one version of this template since connecting highway designation only has one resultant action of making that highway a connecting highway.
 - If a connecting highway rescission and designation are occurring simultaneously on the same highway, TEMPLATE CH1 shall only be used for the designation action. A separate rescission document, chosen from the four possible rescission outcomes described in TEMPLATE CH2 - CH 5 listed below, shall be used for the rescission action.
2. TEMPLATE CH2_RESCISSION TO LOCAL ([Attachment 5.2](#)) - Used only for rescinding designation of a connecting highway under the following conditions:
 - Upon rescission, the underlying highway reverts to local jurisdictional authority. The Department and local unit of government agree that local jurisdictional authority is appropriate.
3. TEMPLATE CH3_RESCISSION TO STH ([Attachment 5.3](#)) - Used only for rescinding designation of a connecting highway under the following conditions:
 - Upon rescission, the underlying highway reverts to state highway jurisdictional authority.
 - The Department and local unit of government agree that state jurisdictional authority is appropriate.
4. TEMPLATE CH4_RESCISSION TO LOCAL JT TO STH ([Attachment 5.4](#)) - Used only for rescinding designation of a connecting highway under the following conditions:
 - Upon rescission, the underlying highway reverts to local jurisdictional authority.
 - The Department and local unit of government have agreed that that highway should be a state highway, which then requires a separate jurisdictional transfer action.
 - The separate jurisdictional transfer action must be included as an attachment to this connecting highway rescission.
5. TEMPLATE CH5_RESCISSION TO STH JT TO LOCAL ([Attachment 5.5](#)) - Used only for rescinding designation of a connecting highway under the following conditions:
 - Upon rescission, the underlying highway reverts to state highway jurisdictional authority.
 - The Department and local unit of government have agreed that that highway should be a local highway, which then requires a separate jurisdictional transfer action.
 - That separate jurisdictional transfer action must be included as an attachment to this connecting highway rescission.

5.7 General Rules and Explanations on the Use of CH Templates

[Attachment 1.1](#) is an example reference pointer document for jurisdictional transfer for CH templates. General instruction for filling out the CH Templates are as follows:

- No black font text shall be changed.
- Orange font indicates where the user needs to input data specific to their connecting highway change.

Title Block

Connecting Highway Change <#> is a chronological file number that creates a uniquely numbered record of all Connecting Highway Change actions by the Department. The <#> is assigned by the Bureau of Project Development.

<TERMINI DESCRIPTION> identifies the beginning and endpoint for the connecting highway action and should logically occur at public road intersections.

City and County <NAME> are self-explanatory

Section 1:

This is the introduction which provides a single sentence executive summary of where the connecting highway change action is occurring, and whether that action is a rescission or designation action.

Section 2

A description of the statutory authority by which the Department is making the connecting highway change.

- The Connecting Highway Change <#> is the same as that used in the title block of the TEMPLATE.

Section 3:

A description of whether a rescission or designation connecting highway action is occurring. There are five (5) different TEMPLATES which have been uniquely edited to cover each of the five (5) possible connecting highway actions. If the appropriate TEMPLATE is chosen, the only user action required is to fill in the <red field> prompts. No other additions or deletions to the TEMPLATE should occur.

The Segment <#> is not the same as the Connecting Highway Number identified in Title Block and Section 2. The Segment <#> is a user chosen number that correlates to a colored map showing the location of the connecting highway action. That colored reference map is referred to as [Attachment 1.1](#) and is a required part of the TEMPLATE.

If there are two or more designation actions occurring, a separate TEMPLATE and Connecting Highway Change <#> should be used for each action.

The other <red field> prompts in this section are self-explanatory.

Section 4

The Physical Date is the day the highway physically changes to the status described in Section 3) and requires the user to input that specific date.

The Effective Date is the day the connecting highway change action is approved by the Department, and will always be the date the Department signatory signs the TEMPLATE.

Section 5

OTHER CONSIDERATIONS are explained in [FDM 4-5-1.6](#).

Signature Block

By statute connecting highway changes are done by unilateral declaration of the Department. Therefore, there is only a signature block for the appropriate Department approval signatures included in the TEMPLATE. Any letter, resolution, or written document that identifies local agreement with the connecting highway action can be attached as a reference document if desired. It is NOT required.

5.8 Documentation Routing and Filing Internal to Department

All approved connecting highway change documents shall be routed via email within the Department by the Design Standards and Oversight Section to ensure the changes to the connecting highway system are updated in all databases upon which local and state highway locations are defined.

DTSD Bureau of Project Development Design Standards and Oversight Section, Design Project Oversight Unit is responsible for internal Department distribution of approved jurisdictional reassignment documentation. Routing includes but is not limited to those section and units within the Department who maintain the locational

and attribute databases for the state and local highway systems. This is most particularly DTIM Bureau of State Highway Programs Data Management Section who manage the State Trunk Highway Network (STN), Wisconsin Local Roads (WISLR), and Connecting Highway databases.

LIST OF ATTACHMENTS

Attachment 5.1	Template CH1 - Connecting Highway Designation
Attachment 5.2	Template CH2 - CH Rescission Reverts Underlying Highway to Local Jurisdiction
Attachment 5.3	Template CH3 - CH Rescission Reverts Underlying Highway to Local Jurisdiction and then JT to STH
Attachment 5.4	Template CH4 - Connecting Highway Change Rescission Reverts to STH
Attachment 5.5	Template CH5 - Connecting Highway Change Rescission Reverts to STH and then JT to Local Jurisdiction

FDM 4-5-10 County Trunk Highways

June 30, 2017

10.1 Scope

Wis. Stat. Chapter 83 is entirely dedicated to how routes within the Wisconsin Country Trunk Highway system are created, altered, and managed. Wis. Stat. Chapter 84 primarily deals with state highways, but does contain some references specific to jurisdictionally transferring county trunk highways to state highways or vice versa. This section of the FDM focuses on those sections of these statutes where Department approval or interaction is required for country trunk highway alterations to occur.

10.2 Jurisdictional Alterations

This section deals with jurisdictional alterations to existing county trunk highways. The creating of new segments of country trunk highway on relocation will be covered in [FDM 4-5-10.3](#).

Wis. Stat. 84.02(7) allows a county to petition the Department to transfer portions of the County Trunk Highway System to the State Trunk Highway System, or vice versa. It is dependent on certain average daily traffic (ADT) volumes and requires agreement by the Department before it can occur. Wis. Stat. 84.02(7) has not been used for many decades and is no longer a prescribed method by which the Department seeks to make jurisdictional alterations between the state and country highway system.

Wis. Stat. 84.02(8) provides the Department the authority to jurisdictionally transfer any state highway to local jurisdiction or vice versa, and is the prescribed method for any jurisdictional transfer of a state highway to county trunk highway or vice versa. Wis. Stat. 84.02(8) is discussed in detail in [FDM 4-5-1.4](#).

Wis. Stat. 84.02(3) defines a State Highway Change and the certain criteria therein described which provide the Department unilateral authority to jurisdictionally reassign a state highway to local jurisdiction. Such actions could include reassigning a state highway to a county as a county trunk highway. Wis. Stat. 84.02(3) is discussed in detail in [FDM 4-5-1.5](#).

Wis. Stat. 83.025 provides the following regarding Department involvement in country trunk highway system alterations:

- 83.025(1) (a) allows the county board to make additions to the county highway system from a city or village street or town road, but only with the consent of the Department and the governing body of the city, village, or town in which that proposed addition is located. Similarly, the county board can only make deletions from the county trunk highway system with the approval of the Department, and approval of the governing body of the city, village, or town in which the proposed deletion is located. If multiple city, village, or towns are involved, it requires the approval of the majority of those city, village, or towns involved.

83.025(d) does allow counties with populations over 500,000 to make deletions from the county highway system within a city, village, or town without city, village, or town approval. These deletion actions still require the approval of the Department.

83.025 (1)(c) allows a governing body of a city or village by resolution to remove any city or village street from the county highway system, but where such removal is only applicable to that portion of the roadway lying wholly within the respective municipal boundaries.

Wis. Stat. 84.25 and Wis. Stat. 84.295 contain many Department authorities to make changes to the local system including country trunk highways. These are detailed in [FDM 4-5-15](#) and [FDM 7-40](#).

10.3 Physical Alterations or Laying of New County Highways on New Location

Wis. Stat. 83.025 (1) (a) of the Wisconsin Statutes provides that,

"Changes may be made in the county trunk system by the county board as provided in this section. The county board in making such changes may order the county highway committee to lay out new highways and acquire the interests necessary by the procedures under s. 83.08."

This portion of Wis. Stat. Section 83.025(1) (a) applies when creating an *entirely new county trunk highway on relocation*. No Department approval is required for this action by the county.

10.4 Department Approval Process for CTH Changes

For documentation of county highway changes because of a state highway jurisdictional transfer pursuant to Wis. Stat. 84.02(8) refer to [FDM 4-5-1.7.1](#).

For documentation of county highway changes because of a state highway change pursuant to Wis. Stat. 84.02(3) refer to [FDM 4-5-1.7.2](#).

For documentation of county highway changes because of requirements pursuant to Wis. Stat. 83.025, the county should provide a resolution to the requesting concurrence from the Department. The Regional offices typically work with the counties on such changes and associated documentation, which is then submitted to the Bureau of Data Resources for ultimate action by the Administrator of the Division of Transportation System Development.

For documentation of county highway changes as a result of Department actions pursuant to Wis. Stat. 84.29 or Wis. Stat. 84.295 refer to [FDM 4-5-15](#) and [FDM 7-40](#).

10.5 Documentation Routing and Filing Within the Department

Internal Department routing and filing of documentation of a county highway change is as follows:

- For those resulting from a state highway change pursuant to Wis. Stat. 84.02(8) or a state highway change pursuant to Wis. Stat. 84.02(3) refer to [FDM 4-5-1.9](#).
- For those resulting from Department actions pursuant to Wis. Stat. 84.29 Interstates or Wis. Stat. 84.295 Freeways or Expressways, refer to [FDM 4-5-15](#).
- For those resulting from County actions pursuant to Wis. Stat. 84.025, they should be routed as follows: The region office shall submit a copy of proposed changes to the Design Standards and Oversight Section for distribution within the Central Office to all appropriate Bureaus.

FDM 4-5-15 City, Village and Town Roads

May 15, 2019

15.1 Scope

The Town Road System represents the tertiary system of highways within the state and is under the jurisdiction of the respective town boards. City and village streets are the public thoroughfares within the boundaries of incorporated municipalities.

Chapter 82 of the Wisconsin State Statutes contains most of the rules for how town roads can be added, deleted, or altered within the public road system.

Chapter 66 of the Wisconsin State Statutes contains a variety of miscellaneous local road rules including but not limited to discontinuance of public roadway (66.1003), reversion of title (66.1005), public road reservation (66.1024), rights of abutting owners on local streets or alleys (66.1035), and establishing local roadway widths (66.1031).

[FDM 4-5-15](#) is intended to primarily focus on those aspects of local system alterations that require Department involvement or approvals. Department involvement can occur from either action initiated by local units of government, or by actions initiated by the Department.

15.2 Local System Alterations Initiated by City, Village, and Town Government Requiring Department Involvement

Alterations initiated by local units of government that require Department involvement or approvals are very limited.

- Wisconsin State Statute 66.1003(8)(a)(1) requires Department approval of any discontinuance of a public way within 1/4 mile of a state trunk highway.
- Department approval is required for any local road alteration that occurs within Department right-of-way or intersections with the state highway itself.

- Department approval is required to certify that local roadways are eligible for General Transportation Aids (GTA). However, GTA eligibility or ineligibility does not directly correlate to whether the roadway is or is not a public roadway. A public roadway can be deemed ineligible for GTA because it does not meet statutory or Department criteria for serviceability, maintenance, and property connectivity, but yet still retain its status as a public roadway.
- [FDM 4-5-10](#) County Highway System Alterations describes where Department approval may be required when changes are being made between city, village, or town roads, and the county trunk system.
- Petitioning the Department to make a specific change to the local system such as close a local road intersection with a state highway.
- Wis. Stat. 84.50 thru 52 contain the requirement that a Town get Department approval to construct a town road below the design criteria identified in those statutes, and establishment of Department authority to determine certain design and construction criteria for town roads in Wisconsin.

Chapter 82 and Chapter 66 go on to provide detail in the procedures required of local governments to make unilateral changes to city, village, or town roads. Rather than reiterate all those here, the reader should simply refer to those chapters of the Wisconsin State Statutes for that information.

15.3 Local System Alterations Initiated by Department

In addition to City, Village, and Town Roads, the remainder of FDM 4-5-15 also applies to country trunk highways.

15.3.1 Minor Alterations on STH Improvement Project

Wisconsin Statutes have provided the Department with broad authority in the administration of the STH System, and necessary minor alterations of local roads for approved state highway improvement projects require no authorization by the local unit. The adoption of the improvement project plan by the Department is sufficient documentation to authorize minor local road alterations required by that state highway improvement project.

Historically, minor alterations to a local roadway would include shifting intersection locations, realigning short stretches of intersecting local road for better intersection angle with the state trunk highway, connecting to new frontage or service roads, and the like. These types of minor alterations generally occur within the STH right-of-way where Department authority is very clear. However, if alterations require extensive new right-of-way or create significant new lengths of local roadway outside of existing state highway right-of-way, it may be determined that this is more than a minor alteration and where local agreement is desirable, if not necessary, to make that alteration. [FDM 4-5-1.5.2](#) has some additional information on minor alterations.

The Department should be openly discussing any proposed local system changes necessitated by a state highway improvement with affected local units of government, to gain their understanding, consensus, and ultimate agreement to those changes. Letters or resolutions of agreement would be desirable for the record. However, if local unit consensus is not achieved, and Department's use of its unilateral authority for the change is deemed necessary; clear documentation identifying the Department authority to make the change and why it is in the best interest of the public needs to do so, should be included in the project records and a copy forwarded to the affected local units.

15.3.2 State Highway Change Wis. Stat. 84.02(3)

[FDM 4-5-1.5](#) describes how Wis. Stat. 84.02(3) allows the Department to construct a new highway on relocation, and then discontinue the existing highway as a state highway. It further explains how under certain criteria the Department can by unilateral authority or jurisdictional transfer reassign an existing state highway to local jurisdiction, creating a local system alteration.

15.3.3 Interstate Wis. Stat. 84.29 and Freeway/Expressway State Highways Wis. Stat. 84.295

The Wisconsin State Statutes provide the Department broad authority to make alterations to the local road system when making improvements to the Interstate System pursuant to Wis. Stat. 84.29, and designated Freeways or Expressways pursuant to Wis. Stat. 84.295.

Authorities granted to the Department to make local road alterations pursuant to Wis. Stat. 84.29 and Wis. Stat. 84.295 include the following:

1. Vacation of local road, which includes disconnecting it from the state highway
2. Relocation of local road
3. Combining of local roads
4. Interchange with local road

5. Grade separation - local road under or over the state highway

Wis. Stat. 84.295 provides the additional authority to 'extend' a local road which Section 84.29 does not. However, Wis. Stat. 84.295(8) states the following:

(8) Establishing freeway status. After adoption of an order by the department laying out and establishing any portion of the interstate system as an expressway or freeway, the highway described in the order shall have the status of a freeway or expressway for all purposes of this section.

Thus, any declaring a highway an Interstate freeway or expressway pursuant to Wis. Stat. 84.29 Interstate makes that highway a Wis. Stat. 84.295 designated freeway or expressway as well, and eligible for all the authorities that go with that designation.

By definition, the term 'alter' pre-supposes the subject changes are occurring to an existing local road. Similarly, the terms 'vacate, relocate, combine' would also be understood to describe actions to an existing roadway. The Department needs to clearly document how its proposed local system alterations fit within these specific statutory definitions so there is no uncertainty regarding responsible jurisdictional authority for any roadway altered under Wis. Stat. 84.29 or Wis. Stat. 84.295.

New frontage or service roads constructed in conjunction with either Wis. Stat. 84.29 or 84.295 have no prior local road status, unless they can be identified as meeting the definition of an alteration. If the new frontage or service road cannot be defined as an alteration, it then has no prior local road status, and the appropriate local unit would need to petition the Department to assume jurisdiction of that new frontage road. In lieu of that petition and subsequent agreement by the Department, the frontage or service road would remain under the jurisdictional and maintaining authority of the Department.

Examples of where a change meets or doesn't meet the definition of an alteration are provided below.

- [Attachment 15.1](#). A new service road on new location is constructed on a Wis. Stat. 84.29 or 84.295 highway to connect two local roads which previously intersected that highway but now overpass it. If the new segment of roadway is connected as shown in Attachment 15.1, it would not meet any definition of an alteration and would require local petition to move it to local jurisdiction.
- [Attachment 15.2](#). This would be considered an 'extension' under Wis. Stat. 84.295 and thus an alteration to existing local road and assignable by Department order to local jurisdiction. However, Wis. Stat. 84.29 does not include 'extension' in its criteria and thus would require local petition to assign it to local jurisdiction on an Interstate project.
- [Attachment 15.3](#). This would be considered a 'relocate' and 'vacate' under both Wis. Stat. 84.29 and 84.295, and the new road would be assignable by Department order to local jurisdiction.

Before any summary orders are issued, the Department should be working cooperatively with affected local units of government to explain the proposed alterations, and hopefully secure an indication of local concurrence. In almost all cases, local system alterations from Department projects done under Wis. Stat. 84.29 or Wis. Stat. 84.295 are Interstate or Freeway/Expressway projects preceded by detailed planning, preliminary design, and environmental documentation; and where extensive local official and public input would occur before any summary orders would be issued by the Department. [FDM 7-40-1](#) provides a more detailed explanation of the process for issuing these summary orders.

Wis. Stat. 84.29 and 84.295 also afford local units of government the opportunity to petition the Department to use its authorities to make local systems alterations identified in those statutes. If the Department is agreeable to the petitioned alteration, it can make that alteration through a summary order or by a two-party agreement with the local unit. If a summary order is used, the local unit's petitioning resolution shall by policy be attached as a reference document to provide a record that the alteration was done with local initiation and concurrence.

Wis. Stat. 84.29 and 84.295 also allow the Department to enter into maintenance agreements with local units of government having jurisdiction over local roads impacted by those statutes. The statutes state that in absence of a mutual agreement to the contrary, the altered road will be maintained by the unit of government having jurisdiction before the alteration was made, except that any portion deemed [by the Department] to be useful in the operation of, or access to the interstate, or designated freeway or expressway will be maintained by the state.

The defining of maintenance responsibility of both the state and the local unit of governments for all alterations shall be included in the text of any summary order so there is a written record of all such determinations. The distribution of responsibilities for altered local roads is generally specified as follows:

1. For grade separations of local roads with respect to the Interstate System, or designated Freeways or Expressways, the local unit is required to maintain and provide traffic service on the local road as reconstructed, except that the bridge structure is maintained by and under the jurisdictional authority of

the state.

2. For grade separations of local roads involving an interchange with the Interstate System, or designated Freeways or Expressways, the entire interchange, between, and including, ramp connections with the local road, is maintained by and under the jurisdictional authority of the state.
3. For local roads relocated to intersect with other roads, to eliminate their particular crossing of the Interstate System, or designated Freeways or Expressways, the local unit is required to maintain the relocated road after completion.
4. For new frontage roads constructed on the right-of-way of the Interstate System, or designated Freeways or Expressways, jurisdiction and maintenance may be retained by the state. If the new frontage road does not meet the definition of an alteration it is retained by the state unless the local unit petitions the state for transfer of jurisdiction. If it is an alteration to an existing local roadway, the Department can unilaterally assign that new frontage to the appropriate local unit.

Identification and development of local road alterations should be part of every phase of project development starting with initial planning studies, any future freeway or expressway mapping of the Department, environmental documentation, and preliminary design leading up to actual project approval.

Procedures for processing Wis. Stat. 84.29 or Wis. Stat. 84.295 Finding, Determinations, and Orders is covered in [FDM 7-40-1](#).

15.4 Department Approval Process for Local Road Changes Under Wis. Stat. 84.29 and 84.295

[FDM 7-40-1](#) describes the documentation required by the Department to officially designate a state highway a freeway or expressway pursuant to Wis. Stat. 84.295(3). That is done under a Finding, Determination, and Order (FD&O) action and document.

However, Wis. Stat. 84.295(4) thru (9) goes on to describe the variety of authorities the Department now has when constructing or reconstructing those designated freeways or expressways in the future. Those authorities include the alterations described [FDM 4-5-15.3](#). Templates have been created to help execute and document those types of alterations described. These templates are managed by DTSD Bureau of Project Development Design Standards and Oversight Section, Design Project Oversight Unit. They should be contacted for the most current and appropriate template for the jurisdictional reassignment action occurring. The templates for Wis. Stat. 84.29 and Wis. Stat. 84.295 are described as follows:

1. TEMPLATE LRA1 - State Local Agreement to Disconnect Local Road ([Attachment 15.4](#))

This template is used when a local unit and the Department have agreed to disconnect a local road from a Wis. Stat. 84.295 highway. It requires documentation of a resolution from the local unit petitioning for, or concurring with the disconnection of the local road from the Wis. Stat. 84.295 highway. Once that resolution is obtained, the action document is singularly signed by the Department as a summary order by agreement.

2. TEMPLATE LRA2 - New Frontage Road under State Jurisdictional Authority ([Attachment 15.5](#))

This template is used when the state is proposing to construct a frontage road on either a Wis. Stat. 84.29 Interstate or a Wis. Stat. 84.295 freeway or expressway; and intending to retain the Departmental jurisdictional authority of that frontage road. This document provides a record that the Department has executed the appropriate statutory authority to create this roadway as a non-state highway, and therefore, is allowed to spend state funds on its future maintenance and improvement needs so long as it remains under the jurisdictional authority of the Department.

3. TEMPLATE LRA3 - New Frontage Road Petition and Agreed to Local Jurisdiction ([Attachment 15.6](#))

This template is used when the state is proposing to construct a new frontage road on either a Wis. Stat. 84.29 or a Wis. Stat. 84.295 facility, but where a local unit of government has petitioned to place that road under its jurisdictional authority as a local roadway. This template requires documentation of the petition from the local unit. Once that resolution is obtained, the template then requires the signature of both the local unit and the Department.

4. TEMPLATE LRA4 - Local Road Alteration by Unilateral Department Action ([Attachment 15.7](#))

This template attempts to be a catch all for the various alteration authorities granted the Department under both Wis. Stat. 84.29 and Wis. Stat. 84.295. This template is only to be used when the action clearly meets the definition of an 'alteration' as described in [FDM 4-5-15.3](#). New local roads that don't meet the definition of an alteration should be using TEMPLATE LRA2 or TEMPLATE LRA3.

15.5 Documentation Routing and Filing within the Department

[FDM 7-40-1](#) describes the documentation routing of any Finding, Determination, and Order (FD&O) action that designates a highway a Wis. Stat. freeway or expressway.

Once all approvals have been obtained, proper routing and filing of the action within the Department is crucial to ensure the jurisdictional reassignments are updated in all databases upon which local and state highway locations are defined.

DTSD Bureau of Project Development Design Standards and Oversight Section, Design Project Oversight Unit is responsible for internal Department distribution of approved jurisdictional reassignment documentation. Routing includes, but is not limited to, those sections and units within the Department who maintain the locational and attribute databases for the state and local highway systems. This is most particularly DTIM Bureau of State Highway Programs Data Management Section who manage the State Trunk Highway Network (STN) and Wisconsin Local Roads (WISLR) databases.

LIST OF ATTACHMENTS

Attachment 15.1	Example - Alteration to New Service Road on New Location
Attachment 15.2	Example - Alteration Considered an Extension
Attachment 15.3	Example - Alteration Considered a Relocate and Vacate
Attachment 15.4	Template LRA1 - State - Local Agreement to Disconnect Local Road
Attachment 15.5	Template LRA2 - New Frontage Road under State Jurisdictional Authority
Attachment 15.6	Template LRA3 - New Frontage Road Petition and Agreed to Local Jurisdiction
Attachment 15.7	Template LRA4 - Local Road Assignment under State Jurisdictional Authority