

Western Wisconsin Locals Raise Questions about Railroad Police

Written by Kathleen Vinehout, State Senator 31st District
Tuesday, 15 March 2016 09:50

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Area sportsmen clash with railroad enforcement on public lands along the Mississippi. Sen. Vinehout writes about the questions she has heard from local residents, enforcement and elected officials on the authority of railroad police. She has authored three bills addressing issues brought forward in her conversations.

LA CROSSE, WI - It was no wonder the Legislative committee chairperson did not want to hold a public hearing on Senate Bill 734, a bill that would return railroad trespassing law to pre-2006, which allowed crossing.

Madison lobbyists lined up against the bill to allow people to cross railroad tracks. The lobbyists represented seven different law enforcement groups, three labor groups, six different railroad groups, the oil industry and the state's largest business lobby – Wisconsin Manufacturers and Commerce.

The Railroad Association asked lawmakers to oppose the bill because...“changing this law works against ongoing safety efforts by federal, state and local officials.”

In western Wisconsin, the epicenter of the rail police's 'education campaign' to stop rail track trespassing, the local sentiment was very different. “Utter nonsense,” a local enforcement official said when I asked about the railroad police stopping an elderly angler.

I spoke with law enforcement, county board supervisors, a judge and city council members from around western Wisconsin. The common response was “Ice fishermen crossing the tracks? We have too many real problems.”

I also heard from many local residents who were concerned about losing access to over 200 miles of public lands along the Mississippi River.

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Some outdoor enthusiasts told me they already gave up using public lands along the Mississippi. “My son was afraid when we were threatened,” one man told me.” His son went duck hunting last fall. “Now the boy doesn’t want to go hunting again.”

“This [action of the railroad] dissuades people from doing things they have a right to do,” said a trout angler, who is also a retired attorney. He questioned whether the railroad company had authority to write citations.

“Trespass citations are issued by a local authority unless special authority is conferred by the Legislature,” said the angler/retired attorney.

Federal law allows rail police to exist, but individual states must grant authority. Some states, like Minnesota, don’t allow rail police at all. Other states, like Illinois, highly regulate rail police and do give authority to write citations.

Wisconsin law allows limited authority to arrest but the officer must “immediately take the offender before a judge.” I could find no mention in the law of authority granted to issue “tickets” or local citations.

The retired attorney continued, “Say I was an angler and wanted to get to the river. The railroad does not have the authority to cite me for trespassing and they are threatening me. Doesn’t that come under the angler harassment law?”

In response to local concerns, I introduced three bills. The first would abolish the law that grants railroad police authority. By removing a section of the law, Wisconsin would become similar to Minnesota where rail police protect the property of the railroad but do not serve in a law enforcement capacity.

A story by a LaCrosse Tribune reporter was inspiration for the second bill. Under the open records law, the reporter requested from the railroad records of all rail police arrests and

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citations. The railroad denied the reporter's request saying that as a private company the railroad did not follow open records laws.

However, if a company acts in a public law enforcement capacity, the public has a right to know what is going on. For this reason, I introduced a bill to apply the open records law to the railroad with regard to the arrests and citations for trespassing made by rail police.

Many people complained about the treatment they received by rail police. Unlike other states, Wisconsin has no avenue for residents to complain about unfair treatment by rail police. For this reason, I wrote a third bill to create a complaint process through the Wisconsin Department of Justice.

I asked the attorneys at the Wisconsin Legislative Council just what authority do railroad police have to write a citation or take other action. These attorneys serve lawmakers and research legal questions. Unfortunately, these folks are scrambling right now to keep up with the Capitol's version of March Madness as the legislative majority rushes through hundreds of bills. I expect they will provide an answer to my question in a few weeks.

Stay tuned. I'll keep you posted on what I learn.