

Model State Legislation *Context Sensitive Highway Design*



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Transportation is big business in the United States. Almost \$90 billion of federal, state and local funds will be invested in the highway program this year. This may be bad news for America's communities and countryside if thousands of miles of scenic, historic and environmentally sensitive roads are widened, straightened and flattened beyond recognition; or if opportunities are lost to promote pedestrian and bike friendly communities. While we know how to get it right, in too many places we're still getting it wrong in the right-of-way.

Fortunately, the movement for reform in road design is underway and a growing number of far-sighted highway engineers are promoting a new way of thinking. Both ISTEA and the National Highway System legislation of 1995 adopted language that sets the stage for context-sensitive design (also known as "flexible" or "place-sensitive" design).

In 1997, FHWA published *Flexibility in Highway Design*, an invaluable book of case studies that respect the natural and constructed environments. The Maryland State Highway Administration, AASHTO, FHWA, along with 30 other groups including Scenic America, sponsored the highly successful "Thinking Beyond the Pavement" conference in May, 1998. Five states – KY, MN, CT, UT and MD – are conducting pilot training programs for highway

engineers in context-sensitive design. Both CT and VT have adopted new design standards which are far more sensitive to the character of those states. And, in 1999, the CA legislature passed legislation that would reexamine the state's road design practices (though Gov. Gray Davis vetoed the bill along with all others that came with associated costs but with no authorizations for expenditures). So things are moving in the right direction, but slowly....

.... much too slowly. In spite of all the talk about customer service and public involvement, few states fully include the public in the design process, have adopted context-sensitive design guidelines, or are retraining state and county highway engineers. Even as the public demands closer linkage of transportation and land use issues through "smart growth" policies, many departments of transportation still resist the growing demand for context-sensitive highway design.

In the sample legislation below, citizens can advocate for context-sensitive design through their state legislatures. State legislators can accelerate reform in highway design by promoting context-sensitive design and, where needed, by adopting legislation that requires that every road project in their state will a) fully involve citizens who are affected by the design or re-design of that road; and b) reflect sensitivity to the

environment, to aesthetics and to the character of place. Legislators need to be aware of the efforts, if any, underway in their DOT's to incorporate context-sensitive design and find ways to support this progress. They may also want to adopt the statement of policy in Sec. A and discuss with the DOT the need

for Sec. B in their particular state. *Our challenge is to work with those who champion reform -- citizens, far-sighted state transportation officials, and national leadership organizations -- to accelerate adoption of context-sensitive design by states.*

**MODEL STATE LAW
TO FOSTER CONTEXT-SENSITIVE HIGHWAY DESIGN
ON AMERICA'S STATE AND LOCAL ROADS AND STREETS
Prepared by Scenic America**

Scenic America proposes that states adopt model language to foster context-sensitive highway design on state and local roads and streets throughout the nation. We have taken language from both Connecticut Public Act No. 98-118, and from Section 304 of the National Highway System Act of 1995, adding some original text to make clear the legislative intent.

**PUBLIC ACT NO. _____
AN ACT CONCERNING ALTERNATIVE DESIGN CRITERIA
FOR ROADS AND BRIDGES**

It is the intent of the Legislature to encourage the highest quality design to ensure that road and bridge projects adequately meet our transportation needs, exist in harmony with their surroundings, and add lasting value to the communities they serve.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

a) On or before _____ date _____, the Commissioner of Transportation shall establish new design criteria to govern new construction, reconstruction, resurfacing, restoration, or rehabilitation of bridges, principal and minor arterial roads, collector roads and local roads and streets. The criteria shall take into account:

- 1) safety, durability, and economy of maintenance;
- 2) the constructed and natural environment of the area;
- 3) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and
- 4) access for other modes of transportation, including those that promote physically active communities.

b) In establishing the criteria required under subsection (a) of this section, the Commissioner shall solicit and consider the views of chief elected officials and organizations including, but not limited to: those with expertise in environmental protection, historic preservation, scenic conservation, bicycle and pedestrian transportation, as well as regional councils of governments, rural development councils, the state council on the arts, the Federal Highway Administration and (add other categories as appropriate).

Certified as correct
by _____

Legislative Commissioner

Clerk of the Senate

Clerk of the House

Approved _____, 2000

Governor, State of _____