

A Perspective for State Highway Law Revision Studies: Wyoming

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• GOOD LAW has a direct bearing on the ability of government to perform effectively in the highway transportation field. Efficient highway planning, construction, operations and maintenance all depend on adequate law. This means simply that without the kind of law that makes for efficient highway administration, the people of any given State cannot get full return per dollar of expenditure for road purposes. In view of the large sums being spent currently for highway modernization, there is real need to get one's money's worth out of every tax dollar.

It is a tribute to the ability of many highway administrators that they have been able to do as well as they have in the face of legal inadequacies. Because good administration has been able in some instances to operate despite the handicaps of inadequate law is no justification for perpetuating legal obstacles when problems are identified and remedies are at hand.

Moreover, under inadequate legal mandates that affect the expenditure of public funds, even the best administration cannot insure economy in such expenditure. This is particularly true under a poor highway classification plan which, without regard to primary needs, may allow the wasteful dispersion of road funds. Another example in this category is an antiquated land acquisition policy which complicates, delays, and makes more costly the acquisition of right-of-way, and thus serves neither the highway agency, the public interest, nor the private land owner.

The complete recodification and improvement of Wyoming highway law was initiated by a mandate from the Wyoming legislature to the Legislative Council. To carry out this directive, the Council appointed a six-member Highways and Transportation Committee from its membership and asked the State Highway Commission to request the Automotive Safety Foundation to make the study. A contract was entered into between the Commission and the Foundation, with financing provided by 1½ percent Federal-aid highway research funds. A study of this character, under the policies of the U. S. Bureau of Public Roads, is eligible for such financing. As a nonprofit organization, the Foundation agreed to conduct the study with reimbursement only for out-of-pocket costs.

Before agreeing to undertake this work representatives of the Foundation discussed its philosophy and approach with members of the Legislative Committee and the highway officials concerned. This was done with the aid of a slide presentation developed and used on other occasions to explain the views and a suggested plan of procedure. In essence, this material pointed out the need for legislative sponsorship, which is essential in a study that eventually needs legislative implementation. This condition had, of course, already been met in Wyoming.

Unless one begins under the general sanction of the legislature and the direct auspices of one of its committees, the chances of success are very limited. Most legislatures meet for 60 or 90 days. During a busy legislative session the individual members cannot be expected to go through a complicated recommended code, understand all its ramifications and pass on it. A legislature must rely on the judgment of one of its committees which has had an opportunity to observe the study process closely and become familiar with the proposals made and their purposes and objectives.

Second, the Foundation recommended that the study be a joint enterprise in which the U. S. Bureau of Public Roads and all levels of State government having highway responsibilities would participate. This arrangement for intergovernmental cooperation was urged for two basic reasons: (a) the development of a modern integrated high-

way program requires close and harmonious interrelationships between all levels of government; and (b) the judgment and experience of the responsible officials is necessary in drafting an effective and workable legal tool. This condition was unanimously agreed to and advisory committees were later formed representing all such interests.

In addition to a committee of State highway officials, there were excellent advisory committees representing both the cities and counties. They consisted of men who were naturally concerned about their local road system but were also mindful of statewide considerations. Officials of the U. S. Bureau of Public Roads also participated in committee discussions, as did legal counsel from the attorney general's office.

Finally, it was agreed that the study would be published in such a format as to enable the legislature and the public readily to ascertain the changes in the law proposed and the reasons therefor. The finished study, which has been published, fully reflects that agreement.

By its very nature, highway law is little understood by, and has little dramatic appeal to, the average citizen. Yet, in the final analysis, it is the public that should be the most interested party and is the chief beneficiary of adequate law. The end product, therefore, must be clear and comprehensible to facilitate public understanding and help generate public support.

Now these three points represent no mysterious or magic formula—they are simply a common-sense but essential approach that helps to enhance the success of a long, arduous, but important, technical project.

So much for the general approach. The techniques involved and also some of the proposed basic recommendations (which have general applicability though geared to Wyoming's specific needs) can now be discussed.

With regard to methodology, the existing Wyoming highway law was rearranged into functional categories. As finally developed it was organized into eleven chapters. These included Legislative Intent, Definitions, Administration, Highway System Classification, Land Acquisition, Control of Access, Federal Aid, Contracts, Traffic Operations, Finance, and Miscellaneous Law.

The initial steps in the study process removed inconsistencies, ambiguities, duplications, obsolete provisions and sections repealed by implication. This was followed by a review of the substantive law in relation to court decisions and opinions of the attorney general's office. These opinions or decisions were not questioned, but an attempt was made to find out whether the highway department agreed as to the policy of these interpretations. If they did not agree it was pointed out that this was the time to change or clarify these opinions and decisions by legislation.

In evaluating the substantive law, the findings of the special legal research reports developed by the Highway Laws Committee of the Highway Research Board within recent years were used as a basic guide for changes in the Wyoming statutes.

In addition, a Wyoming engineering needs study completed in 1960 also served as the basis for legislative changes, though a formal statewide engineering needs study is not a necessary prerequisite to the recodification and improvement of highway law. However, a law improvement program must be conducted in close cooperation with the State and local administrative and engineering officials concerned if it is to be productive. In either case, great reliance must be placed on the judgment, experience, and recommendations of the officials with management responsibilities. Thus, in all of the several steps of the Wyoming study, decisions were reached after full consultation and discussion with all study participants.

In other words, the highway law is simply an engineering law. A good highway law should permit the engineer and the administrator to perform their jobs in an efficient manner. The highway lawyer cannot sit in his office and determine an engineering need without finding out what the engineer thinks about the law. For example, the State highway department's bridge engineer often knows more about how the State's bridge laws work out in practice than anyone else, and the lawyer is well advised to talk to this engineer before he makes up his own mind on whether that law is adequate in its present form. Furthermore, this sort of contact gives the lawyer a fine opportunity to straighten out misconceptions about what are legal problems and what are merely administrative problems that can be solved without changing the statutes.

The format used merits some mention because it was designed to show exactly what was done to the existing law. In addition to a general Foreword which summarized the major changes proposed, each chapter includes a general statement explaining more specifically the proposals recommended in that area of law and the purposes behind them.

A three-column arrangement was set up in each chapter: the first column contains existing law as rearranged; column two shows the text of the proposed code as related to the sections of law covered in column one; and column three explains the specific changes proposed, if any, in the existing statutes and the reasons and source for such changes. Indexes are also included to provide ready access, both to the sections of the present law and the proposed code, as organized in the study.

Finally, some of the major changes recommended may be discussed. A legislative intent statement was drafted as the first chapter of the new code. A number of States, in recent years, have seen fit to adopt such declarations of legislative intent when revising and updating their highway codes. Such statements have been found useful as general guidelines to administrative officials and in helping the courts interpret legislative purpose when ambiguities arise in the law.

In light of some recent indications of irregularities in a few States, they are also a reminder that the legislature expects highway administration to be conducted under a strict code of ethics.

North Dakota, which revised its highway law in 1953, following a full-scale study similar to the one conducted in Wyoming, was perhaps the first State in recent years to incorporate a comprehensive statement of legislative intent in its highway code. To refer briefly to that report in connection with the meaning attached to the legislative intent statement,

Under the proposed declaration, the legislature says, in effect, to designated highway officials: We are placing a high degree of trust in your hands and are giving you individual and joint responsibilities for constructing, managing, improving and preserving the roads and streets of this state; in carrying out this responsibility your primary objective shall be to provide, within the limits of available funds, a unified system of adequate highways that will serve the best interests of all our people; within the restrictions imposed upon you by law, the planning, construction and maintenance of our road facilities is left to your wisdom, judgment and integrity.

The Wyoming law was lacking in the definition of basic highway terms, a condition that was found not peculiar to that State alone. This was remedied by incorporating a complete set of definitions as recommended by the American Association of State Highway Officials.

To insure an integrated highway network, the State Highway Superintendent was made responsible for coordinating the total highway and street program.

Authority was given to the State Highway Commission to furnish engineering services to counties and municipalities and to join with other units of government, including the Federal government and other States, in conducting research and testing.

Counties are required to establish highway departments and employ county engineers.

The highway classification plan proposed, as recommended by the engineering study, is perhaps the most important element of the suggested new highway code.

State primary and secondary systems are established, including urban extensions, under the jurisdiction of the State highway agency. A county road system is provided for with responsibility vested in the respective counties, as is an arterial street system under the jurisdiction of the several municipalities. Selection of the prescribed road systems by the appropriate officials and the standards for their selection are specified.

Right-of-way acquisition authority is broadened to enable all levels of authority to acquire land for future, as well as present use. Additional authority is given to counties and cities to enable them to acquire excess land, as well as property containing

road materials, previously vested only in the State.

In addition, though not a part of the proposed code, an amendment to existing eminent domain statutes is suggested to improve procedures for acquisition of land for highway purposes.

Taxation and finance problems were outside the scope of the technical law study. But at the request of all the officials concerned, the formula covering distribution of State aid to counties and cities was revised and, to carry out the proposed classification plan, counties and cities would be required to use such aid exclusively on the county road system and the arterial street system.

These are, very briefly, some of the major policy changes recommended. The Wyoming Legislative Council, which met in mid-November, considered the study and has given its fullest endorsement to the study recommendations. Three bills have been drafted to implement the recommendations proposed and will be introduced during the current session of the legislature. There is every expectation that they will be adopted.

The mutual feeling of all who cooperated with the Foundation in developing a modern highway code for Wyoming can perhaps best be expressed by referring to the Wyoming report, which points out that by the adoption of the proposed recommendations by the legislature the following obtain:

Legislators will be provided with an orderly guide for future legislation
 Highway officials will be given clear-cut authority and responsibility for efficient management
 The court's problems in interpreting the law will be reduced
 And, the public will obtain increased value for every highway tax dollar through the efficiencies and the economies resulting from an up-to-date body of law.

For the benefit of those States contemplating highway law studies, re-emphasis is given to the importance of (a) having a legislative committee in one's corner, (b) utilizing the joint approach, and (c) publishing findings and recommendations in a clear-cut manner. Ultimate success in a program of this kind depends largely on these ground rules.

The concept of close cooperation between the committee and all study participants was pointed up in a statement by Senator Rudolph Anselmi, Chairman of the Highways and Transportation Committee:

To assure widest possible participation in the study of the highway laws, the Committee and the Council staff frequently met with the Wyoming Highway Commission, personnel of the Wyoming Highway Department, appointed representatives of Wyoming municipalities and counties, the Wyoming Attorney General and his staff, together with the staff of the Automotive Safety Foundation. Also, representatives of the U. S. Bureau of Public Roads participated. The combined thinking of these individuals is reflected in this report, "A Modern Highway Code for Wyoming."

On July 1, 1962, the Highways and Transportation Committee agreed to accept this report. However, this is not to be construed as an endorsement by the Committee of the recommendations proposed. The report will be submitted to the Legislative Council at its fall meeting at which time decisions will be reached on the recommendations to be made to the Legislature at the 1963 session.

As previously mentioned, the Legislative Council at its meeting in November, approved the report in its entirety and will submit it to the 1963 legislature to support adoption of the proposed bills that have been drafted.