

## 2009 DRAFTING REQUEST

### Bill

Received: **11/03/2008**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Byrnes**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - mass trnst/rail**

Extra Copies: **EVM, RLR, RCT**

Submit via email: **NO**

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### Pre Topic:

DOA:.....Byrnes, BB0209 -

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### Topic:

Southeast Wisconsin transit capital assistance program

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/3	agary 01/30/2009	bkraft 01/30/2009	phenry 01/30/2009	_____ _____	sbasford 01/30/2009		

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*1/3 bjk 1/30*

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12 bjk 1/22 MD MDW  
<END>  
1/22

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11bjk12/3

**LRB-0627**

12/03/2008 12:06:50 PM

Page 2

FE Sent For:

**<END>**

**2009 DRAFTING REQUEST**

**Bill**

Received: **11/03/2008**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Transportation**

By/Representing: **Karen Baetsen**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - mass trnst/rail**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Karen.Baetsen@dot.state.wi.us**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Southeast Wisconsin transit capital assistance program

**Instructions:**

See attached

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Subject: Transportation - mass trnst/rail

Extra Copies: EVM

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Requester's email: Karen.Baetsen@dot.state.wi.us

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Handwritten notes: 1P3 bjk 12/2, Jb 12/2, Jb/Ph 12/2

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May Contact:

Addl. Drafters:

Subject: Transportation - mass trnst/rail

Extra Copies: EVM

Submit via email: YES

Requester's email: Karen.Baetsen@dot.state.wi.us

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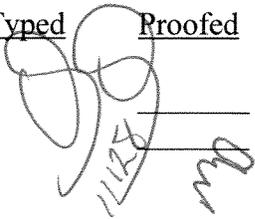
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<END>

## Gary, Aaron

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**From:** Baetsen, Karen [karen.baetsen@dot.state.wi.us]  
**Sent:** Friday, October 31, 2008 11:17 AM  
**To:** Gary, Aaron  
**Cc:** Hammer, Paul; Nilsen, Paul; Donlin, James  
**Subject:** Another DOT budget drafting request -- SE WI Transit Initiative

**Importance:** High

**Attachments:** SE Transit.doc; SE Transt Stat.doc



SE Transit.doc (23 KB)



SE Transt Stat.doc (19 KB)

Hi Aaron:

The attached issue paper is for background to help understand our intent for creation of a SE Wisconsin Transit program that would provide state funds to partially fund transit capital, through a new grant process.

Paper:

<<SE Transit.doc>>

Statutory Modification:

<<SE Transt Stat.doc>>

~~ Karen

Karen Baetsen  
Department of Transportation  
Office of Policy, Budget and Finance  
Room 132B Hill Farms  
608/ 266-0179  
karen.baetsen@dot.state.wi.us

**Department of Transportation  
2009-2011 Biennial Budget Request  
STATUTORY MODIFICATIONS**

**DIN NUMBER:** 5605

**TOPIC:** Southeast Wisconsin Transit Initiative

**DESCRIPTION OF CHANGE:**

1. Create in s. 20.866(2), Wis. Stats., authorization for \$100 million in General Obligation (GO) bonds for the Southeast Wisconsin Transit Capital Assistance Program.
2. Specify that any uncommitted bonding authorized for the Southeast Wisconsin Transit Capital Assistance Program sunsets on December 31, 2020.
3. Create a sum sufficient appropriation in s. 20.395(6), Wis. Stats., for the purposes of the debt service related to the bonding for the Southeast Wisconsin Transit Capital Assistance Program.
4. Create a Southeast Wisconsin Transit Capital Assistance Program in Chapter 85 of the statutes as follows:
  - a. Authorizes the Department to administer the program and make conditional grants to eligible recipients for eligible projects;
  - b. Specify that the amount of a grant is limited to 50% of the non-federal share of project costs, 25% of total project costs, or \$50 million, whichever is less;
  - c. Specify the following eligibility requirements for a grant:
    - i. An eligible applicant must be a regional entity comprising more than one county, at least one city of the first class, and one other city with a population greater than 50,000, must be responsible for transit services within the entity's jurisdiction, and must also be eligible to be the public sponsor for a project that receives federal funding;
    - ii. The applicant must have enacted a dedicated local revenue source for support of transit capital and operating costs prior to applying for a grant;
    - iii. Prior to application for a grant, the project must be enumerated under s. 85.062, Wis. Stats., if the project meets the definition of a major transit capital improvement project under s. 85.062(1), Wis. Stats.;
    - iv. Prior to application for a grant, a project must have received the required authorizations and ratification under s. 85.205, Wis. Stats., if applicable;
    - v. Prior to grant approval, the project for which a grant is being applied for must have received approval to proceed by the appropriate federal agency, if such approval is required. In the case of a project(s) resulting from the Wisconsin Center District's Milwaukee Downtown Transit Connector Study and/or which will utilize federal Interstate Cost Estimate Substitute Project funding, the necessary federal agency approval to proceed must be received by December 31, 2012;
    - vi. Prior to grant approval for any entity in whose jurisdictional area transit services were provided in 2001, the number of revenue hours of transit service provided by each transit provider must be equal to or greater than the number of revenue hours of transit service provided in 2001.
  - a. No new applications may be accepted after December 31, 2015.

**JUSTIFICATION:**

Transit services are essential to Southeast Wisconsin, yet services have been reduced and fares increased over the past few years in the State's largest metropolitan area – where they are needed most. Lack of local funding to keep pace with costs, lack of multi-jurisdictional governance, lack of dedicated local revenue sources, and lack of local consensus on the preferred mode(s) of transit have caused a severe deterioration of transit services in Southeast Wisconsin, leaving many without a much needed mobility option. The program proposed by the Department would provide a share of funding for transit capital and also provide an incentive to local governments in Southeast Wisconsin to come to consensus on regional governance and local revenue options for support of transit operations.

**Department of Transportation**  
**2009-2011 Biennial Budget Request**  
**ISSUE PAPER**

**PROGRAM:** Southeast Wisconsin Transit Capital Assistance

**DIN NUMBER:** 5605

**ISSUE TITLE:** Southeast Wisconsin Transit Initiative

**REQUEST:**

The Department requests creation of a Southeast Wisconsin Transit Capital Assistance Program and authorization for \$100 million in General Obligation (GO) bonding to fund the program.

**SUMMARY:**

Under state law, transit is a local responsibility. However, it has been recognized that local governments are unable to support transit systems by themselves and a significant amount of state aid is provided for transit system operations every year. In fact, state funds are the largest funding source for transit operations in Wisconsin. This is unique and most other states provide little or no transit aid. Instead, funding for transit in other states is supported and administered at a local and regional level with dedicated funding sources. In Wisconsin, there are currently few options for regional governance and dedicated local revenue sources, but they do exist. Unfortunately, very few areas and localities in the state have elected to adopt these options. This is especially true in Southeast Wisconsin where local consensus has not been reached on any of these issues.

While transit is an important and needed mobility option in all areas of the state, it is an essential service in Southeast Wisconsin due to population densities and demographics. This is especially true in the Milwaukee area where, in the past, the Milwaukee County Transit System has been a national example of an efficient and effective transit system. However, while transit ridership all over the country is at all-time highs due to high fuel costs, environmental concerns, and congested highways, transit ridership in Milwaukee County is on the decline.

Due to high fuel costs and other issues, the cost of providing transit services has increased at a rate much higher than general inflation. Federal and state funds for transit in Milwaukee have increased modestly in recent years, and Milwaukee County has not been able to generate sufficient local revenues to meet increasing costs. As a result, transit services have been reduced and fares increased, which has caused ridership decreases and created a significant unmet need for transportation in Milwaukee County.

In addition, limited authority for dedicated local revenue has led to a reliance on the local property tax to fund the local share of transit services. Lack of local consensus on funding for transit, on the methods by which transit should be provided, and on governance issues, especially across jurisdictional boundaries, have further exacerbated transit issues in Southeast Wisconsin.

The program the Department is proposing would provide an incentive for local governments in Southeast Wisconsin to work together to address these issues in a more expedited manner and to restore and provide new transit services which are much needed in the region. While the Department recognizes that transit services are also important to other regions of the state, the highest demand, highest unmet need, and the most outstanding issues occur in the Southeast region.

The program would make funding available for transit capital improvements if certain requirements are met within a specified timeframe. Grants could be made available to fund a portion of the non-federal share for the locally preferred alternative resulting from the Wisconsin Center District's Milwaukee Downtown Transit Connector Study. Grants could also provide a share of funding for other system developments, such as express or regional bus service, upgrades to local streets, intersections, and signal systems facilitating smoother flow of transit services, and construction of park and ride lots with convenient transit access. The grants would be funded on a competitive basis from the \$100 million in GO bonding requested by the Department.

To qualify for a grant, eligible applicants would have to meet certain requirements. One would include the adoption of a dedicated local revenue source for transit, which would address the operating cost issues

and provide a share of funding for capital costs. Other requirements would include the adoption of regional governance, restoration of previous service reductions, local consensus on the method(s) of transit, and the adoption of a locally preferred alternative resulting from the Milwaukee Downtown Transit Connector Study.

To facilitate timeliness in reaching these requirements, some would have to be met prior to application, others would have to be met prior to awarding of a grant, others would be contingent on meeting the requirements by a certain date, and requiring a sunset date on the availability of the bonding. For example, a locally preferred alternative for the Milwaukee Downtown Transit Connector Study would have to be adopted and approval to begin preliminary engineering on that alternative obtained from the Federal Transit Administration by December 31, 2012. Other examples might include adoption of a dedicated local revenue source before being eligible to apply, and restoration of previously reduced transit services prior to application for a grant. As further incentive to address issues in a timely manner, the program would be closed to new applications by December 31, 2015 and the bonding would sunset on December 31, 2020.

**JUSTIFICATION:**

Transit services are essential to Southeast Wisconsin, yet services have been reduced and fares increased over the past few years in the state's largest metropolitan area – where they are needed most. Lack of local funding to keep pace with costs, lack of multi-jurisdictional governance, lack of dedicated local revenue sources, and lack of local consensus on the preferred mode(s) of transit have caused a severe deterioration of transit services in Southeast Wisconsin leaving many without a much needed mobility option.

Reductions in Milwaukee County Transit Service services coupled with fare increases in recent years have had a significant negative impact on the mobility of area residents, many of whom rely almost exclusively on transit for mobility, on the local economy, and on Milwaukee's standing in relation to its peer cities. Further, lack of local consensus has let \$91.5 million in federal Interstate Cost Estimate Substitute Project funds sit idle for 14 years eroding the value of that \$91.5 million to \$63.7 million – nearly a one-third reduction in purchasing power – based on the Consumer Price Index. Since construction costs have increased at a rate greater than inflation, the actual purchasing power in relation to infrastructure construction has eroded even more.

At a time when demand for transit services is at an all-time high, it is crucial for the mobility and well-being of the residents of Southeast Wisconsin and the region's economy to restore and invest in transit services. It is hoped that the incentives provided by this program will encourage and facilitate the local governments responsible for transit services in Southeast Wisconsin to do just that, while also providing state funding for a share of capital costs.

## Gary, Aaron

**From:** Donlin, James [james.donlin@dot.state.wi.us]  
**Sent:** Friday, November 07, 2008 12:43 PM  
**To:** Gary, Aaron; Donlin, James  
**Cc:** Hammer, Paul; Baetsen, Karen  
**Subject:** RE: LRB question --- drafting request -- SE WI Transit Initiative

Aaron,

I don't think the intent is to limit it. I found out the two current regional transit operations are functioning using two completely different methods. One (Bay Area Rural Transit) is formed (with a board, etc., but no revenue authority) under a statute (sources did not have the exact reference) specifically related to agreements with local governments and one or more tribes in providing transit services.

The other (Appleton area) is done simply through contractual arrangements between participating local governments.

I believe that the intent is mainly to form an RTA that has not yet been defined in statute, but may be in the near future, but also to not rule out other, currently available means for local governments to cooperate in providing transit services.

I apologize as I am sure that is not much help, but a good deal of this is focused on authority that is not yet there and may occur under a separate legislative vehicle.

Jim

-----Original Message-----

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]  
**Sent:** Friday, November 07, 2008 12:14 PM  
**To:** Donlin, James  
**Cc:** Hammer, Paul; Baetsen, Karen  
**Subject:** RE: LRB question --- drafting request -- SE WI Transit Initiative

Jim,

Under s. 66.0301, for example, two governmental units may enter into an agreement under which each maintains its own governmental identity or they may enter into an agreement under which a new governmental entity (a commission) is formed. Is it the intent to limit this draft to the latter situation (where the commission is formed)?

Thanks for your help, and if you get feedback from your inquiries mentioned below, I'd find that useful. Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

-----Original Message-----

**From:** Donlin, James [mailto:james.donlin@dot.state.wi.us]  
**Sent:** Friday, November 07, 2008 10:24 AM  
**To:** Gary, Aaron  
**Cc:** Hammer, Paul; Baetsen, Karen  
**Subject:** RE: LRB question --- drafting request -- SE WI Transit Initiative

Aaron,

By regional entity/governance, etc., the Department is referring to both existing ability for inter-governmental cooperation, which take many forms and are currently being used to provide transit services in other parts of the state, and possible new regional entities which may be authorized by subsequent legislation (i.e. RTAs).

I do not have exact knowledge under what statutes the current regional transit entities in the state are operating under, but have calls in to find out. I will forward that information when I get it.

Thanks,

Jim

-----Original Message-----

From: Baetsen, Karen  
Sent: Friday, November 07, 2008 10:14 AM  
To: Donlin, James  
Cc: Hammer, Paul  
Subject: LRB question --- drafting request -- SE WI Transit Initiative  
Importance: High

Jim, can you respond to Aaron directly, since time is of the essence now??

-----Original Message-----

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]  
Sent: Friday, November 07, 2008 10:09 AM  
To: Baetsen, Karen  
Subject: RE: Another DOT budget drafting request -- SE WI Transit Initiative

Hi Karen,

I've been working on this draft but have reached a roadblock. The "Description of change" describes an eligible applicant to be a "regional entity" comprising more than one county, etc., and the summary refers to "regional governance." I'm not sure what DOT means by such a "regional entity" that would have authority to make capital improvements. Can you give me an example of what "regional entities" we are talking about?

Thanks. Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Baetsen, Karen [mailto:karen.baetsen@dot.state.wi.us]  
Sent: Friday, October 31, 2008 11:17 AM  
To: Gary, Aaron  
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Paper:

<<SE Transit.doc>>

Statutory Modification:



Agency budget draft

in 11/11

Lbjk

wanted by 11/14

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert

SA ✓  
X-ref ✓

do not gen.

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

TRANSPORTATION AIDS

> This bill creates a southeast Wisconsin transit capital assistance program (program) under which DOT may award grants to certain public bodies for transit capital improvements. The bill allows DOT to make grants to: 1) transit commissions or authorities, and public corporations established to provide mass transportation services and facilities, that meet specified criteria; and 2) counties and municipalities that enter into intergovernmental cooperation contracts to jointly provide transit or mass transportation services or facilities and that meet specified criteria. Among the specified criteria, the transit commission or authority, public corporation, or contracting county or municipality must be located in southeast Wisconsin, and a first class city (presently only Milwaukee) must have participated in forming the transit commission or authority or public corporation or must have entered into the intergovernmental cooperation contract. In addition, as a precondition for eligibility for a grant under the program, a grant recipient must receive funds from a dedicated local revenue source for capital and operating costs associated with providing transit services.

Under the program, DOT may award grants, subject to certain restrictions, not exceeding \$50,000,000, 25 percent of the total project cost, or 50 percent of the portion of the total project cost not funded with federal aid, whichever is least. Among the restrictions, DOT may not award a grant for a project that has not received any

required federal approval to proceed and may not award a grant if the level of transit service in the applicable service area has decreased since 2001.

DOT must promulgate rules to implement and administer the program, including establishing criteria and standards for grant eligibility for transit capital improvement projects and for evaluating and ranking applications and awarding grants. DOT may not accept grant applications under the program after December 31, 2015.

Under the bill, the state may contract up to \$100,000,000 in public debt, in the form of general obligation bonds, to provide grants for transit capital improvements under the program. However, the state may not incur debt under this authorization after December 31, 2020.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           SECTION 1. 13.101 (6) (a) of the statutes is amended to read:  
2           13.101 (6) (a) As an emergency measure necessitated by decreased state  
3 revenues and to prevent the necessity for a state tax on general property, the  
4 committee may reduce any appropriation made to any board, commission,  
5 department, or the University of Wisconsin System, or to any other state agency or  
6 activity, by such amount as it deems feasible, not exceeding 25% of the  
7 appropriations, except appropriations made by ss. 20.255 (2) (ac), (bc), (bh), (cg), and  
8 (cr), 20.395 (1), (2) (cq), (eq) to (ex) and (gq) to (gx), (3), (4) (aq) to (ax), and (6) (af),  
9 (aq), (ar), and (au), and (av), 20.435 (6) (a) and (7) (da), and 20.437 (2) (a) and (dz) or  
10 for forestry purposes under s. 20.370 (1), or any other moneys distributed to any  
11 county, city, village, town, or school district. Appropriations of receipts and of a sum  
12 sufficient shall for the purposes of this section be regarded as equivalent to the  
13 amounts expended under such appropriations in the prior fiscal year which ended  
14 June 30. All functions of said state agencies shall be continued in an efficient  
15 manner, but because of the uncertainties of the existing situation no public funds

1 should be expended or obligations incurred unless there shall be adequate revenues  
2 to meet the expenditures therefor. For such reason the committee may make  
3 reductions of such appropriations as in its judgment will secure sound financial  
4 operations of the administration for said state agencies and at the same time  
5 interfere least with their services and activities.

**History:** 1975 c. 39, 199, 224; 1977 c. 29 ss. 1649, 1656 (15); 1979 c. 1; 1979 c. 34 ss. 1b to 1g, 631j to 631s, 2102 (43) (a), (52) (a); 1979 c. 221; 1981 c. 20 ss. 3d to 3v; 1983 a. 27 ss. 5p to 7, 2202 (20) and (42); 1983 a. 538; 1985 a. 29 ss. 22, 3202 (51); 1987 a. 4; 1989 a. 31, 336, 366; 1991 a. 39, 309; 1993 a. 16, 184, 414; 1995 a. 27, 132, 225, 227, 445; 1997 a. 27, 35, 113, 252; 1999 a. 9, 29; 2001 a. 16, 38, 109; 2003 a. 33, 64, 102; 2005 a. 25; 2007 a. 20 ss. 5, 9121 (6) (a).

move  
current  
section  
4 and  
note here

6 **SECTION 2.** 20.866 (1) (u) of the statutes is amended to read:

7 20.866 (1) (u) *Principal repayment and interest.* A sum sufficient from moneys  
8 appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (b), (f), and (s), 20.190  
9 (1) (c), (d), (i), and (j), 20.225 (1) (c) and (i), 20.245 (1) (e) and (j), 20.250 (1) (c) and (e),  
10 20.255 (1) (d), 20.285 (1) (d), (db), (im), (in), (je), (jq), (kd), (km), and (ko) and (5) (i),  
11 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ac), (ag), (aq), (ar), (at), (au), (bq), (br),  
12 (ca), (cb), (cc), (cd), (ce), (cf), (cg), (ea), (eq), and (er), 20.395 (6) (af), (aq), (ar), and (au),  
13 and (av), 20.410 (1) (e), (ec), and (ko) and (3) (e), 20.435 (2) (ee) and (6) (e), 20.465 (1)  
14 (d), 20.485 (1) (f) and (go), (3) (t) and (4) (qm), 20.505 (4) (es), (et), (ha), and (hb) and  
15 (5) (c), (g), (kc), and (kd), 20.855 (8) (a), and 20.867 (1) (a) and (b) and (3) (a), (b), (bm),  
16 (bn), (bp), (bq), (br), (bu), (bv), (g), (h), (i), and (q) for the payment of principal,  
17 interest, premium due, if any, and payment due, if any, under an agreement or  
18 ancillary arrangement entered into under s. 18.06 (8) (a) relating to any public debt  
19 contracted under subchs. I and IV of ch. 18.

**History:** 1971 c. 42; 1971 c. 100 s. 23; 1971 c. 125, 211, 215, 236, 307, 330, 336; 1973 c. 90 ss. 148 to 149m, 555m (2); 1973 c. 333; 1975 c. 26, 39, 40, 41, 200, 224, 422; 1977 c. 4, 6; 1977 c. 29 ss. 385 to 387, 1650m (4), 1656 (43); 1977 c. 418; 1979 c. 4; 1979 c. 34 ss. 675a to 677v, 2102 (6) (a), (39) (a), (52) (a); 1979 c. 107, 221; 1981 c. 1 ss. 17, 18, 47; 1981 c. 20, 108, 317, 336; 1983 a. 27; 1983 a. 36 s. 96 (4); 1983 a. 97, 192, 195, 212; 1983 a. 410 s. 2202 (2); 1985 a. 6; 1985 a. 8 ss. 4, 12; 1985 a. 29 ss. 589m to 598, 3202 (23) (c), (26) (a), (53) (a); 1985 a. 77, 120, 332; 1987 a. 27, 295, 298, 399, 403, 409; 1989 a. 31, 46, 107, 122, 219, 336, 359, 366; 1991 a. 39, 51, 269, 309, 324; 1993 a. 2, 16, 98, 115, 213, 343, 377, 413, 437, 453, 485; 1995 a. 27 ss. 1159 to 1168s, 9126 (19), 9145 (1); 1995 a. 40, 57, 60, 113; 1995 a. 216, s. 30m and 9127; 1995 a. 227, 246, 372, 388, 416, 452; 1997 a. 27, 35, 61, 164, 237, 252; 1999 a. 4, 9, 146; 1999 a. 150 s. 672; 1999 a. 184; 2001 a. 12, 16, 103, 109; 2003 a. 33, 64, 91, 129; 2005 a. 1, 22, 25, 102, 300; 2007 a. 5; 2007 a. 20 ss. 582 to 597s, 9121 (6) (a); 2007 a. 226.

20 **SECTION 3.** 20.866 (2) (uq) of the statutes is created to read:

21 20.866 (2) (uq) *Transportation* Southeast Wisconsin transit improvements.  
22 From the capital improvement fund, a sum sufficient for the department of

1 transportation to provide grants for transit capital improvements under s. 85.11.  
 2 The state may contract public debt in an amount not to exceed \$100,000,000 for this  
 3 purpose. Debt incurred under this paragraph shall be incurred prior to January 1,  
 4 2021.

MOVE SECTION AND NOTE  
 TO P. 3, BEFORE LINE 6

5 SECTION 4. 20.395 (6) (av) of the statutes is created to read:

6 20.395 (6) (av) *Principal repayment and interest, Southeast Wisconsin transit*  
 7 *improvements, state funds.* A sum sufficient to reimburse s. 20.866 (1) (u) for the  
 8 payment of principal and interest costs incurred in financing transit capital  
 9 improvements under s. 85.11, as provided under s. 20.866 (2) (uq), and to make  
 10 payments under an agreement or ancillary arrangement entered into under s. 18.06  
 11 (8) (a).

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

12 SECTION 5. 85.11 of the statutes is created to read:

13 85.11 Southeast Wisconsin transit capital assistance program. (1)

14 DEFINITIONS. In this section:

15 (a) "Local public body" means, except as limited by rule of the department, a  
 16 local public body, as defined in s. 85.20 (1) (d), located in southeast Wisconsin.

17 (b) "Major transit capital improvement project" has the meaning given in s.  
 18 85.062 (1).

19 (c) "Southeast Wisconsin" means the geographical area comprising the  
 20 counties of Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and  
 21 Waukesha.

22 (2) ADMINISTRATION. The department shall develop and administer a southeast  
 23 Wisconsin transit capital assistance program. From the appropriation under s.

1 20.866 (2) (uq), the department may award grants for transit capital improvements  
2 as provided under subs. (4) and (5) and rules promulgated under sub. (6).

3 (3) APPLICATIONS. (a) Each grant applicant shall specify any project for which  
4 grant funds are requested. An applicant may not include a project in a grant  
5 application if any of the following apply:

6 1. The project is a major transit capital improvement project and the project  
7 has not been enumerated under s. 85.062 (3).

8 2. The project requires authorization and ratification under s. 85.205 and the  
9 project has not received this authorization and ratification.

10 (b) The department may not accept grant applications under this section after  
11 December 31, 2015.

12 (4) ELIGIBILITY. A local public body is eligible for a grant under this section if  
13 any of the following apply:

14 (a) The local public body is a transit or transportation commission or authority,  
15 including a commission recognized under s. 66.0301 (4), or is a public corporation  
16 established by law or by interstate compact to provide mass transportation services  
17 or facilities, and all of the following apply with respect to this commission, authority,  
18 or public corporation:

19 1. The commission, authority, or public corporation was formed by 2 or more  
20 counties and 2 or more cities with a population greater than 50,000, including one  
21 city of the 1st class.

22 2. The commission, authority, or public corporation is responsible for providing  
23 transit services within the geographic area over which the commission, authority, or  
24 public corporation has jurisdiction.

1 3. The commission, authority, or public corporation is eligible under federal law  
2 to be a public sponsor for a project that receives federal funding.

3 4. The commission, authority, or public corporation receives funds from a  
4 dedicated local revenue source for capital and operating costs associated with  
5 providing transit services.

6 (b) The local public body is a local public body that is not described in par. (a)  
7 (intro.) and that contracts under s. 66.0301 (2) with other local public bodies to jointly  
8 provide transit or mass transportation services or facilities, and all of the following  
9 apply:

10 1. The local public bodies that entered into the contract under s. 66.0301 (2)  
11 include 2 or more counties and 2 or more cities with a population greater than 50,000,  
12 including one city of the 1st class.

13 2. The contract under s. 66.0301 (2) requires the contracting local public bodies  
14 to jointly provide transit services within the geographic boundaries over which these  
15 local public bodies have jurisdiction.

16 3. Each local public body that entered into the contract under s. 66.0301 (2) is  
17 eligible under federal law to be a public sponsor for a project that receives federal  
18 funding.

19 (d) Each local public body that entered into the contract under s. 66.0301 (2)  
20 receives funds from a dedicated local revenue source for capital and operating costs  
21 associated with providing transit services.

22 (5) GRANT AWARDS. (a) Subject to par. (b), the department may award grants  
23 to applicants eligible under sub. (4). Any grant awarded under this section may not  
24 exceed \$50,000,000, 25 percent of the total project cost, or 50 percent of the portion  
25 of the total project cost not funded with federal aid, whichever is least.

1 (b) The department may award a grant under par. (a) only if all of the following  
2 apply:

3 1. Any project for which the grant is to be awarded has received any approval  
4 to proceed required by the appropriate federal agency. Approval to proceed under  
5 this subdivision is required by December 31, 2012, for any project utilizing federal  
6 interstate cost estimate substitute project funding and for any project resulting from  
7 the Milwaukee Downtown Transit Connector Study of the Wisconsin Center District.

7-8  
Insert

8 2. If transit services were provided in 2001 by the grant applicant, or by any  
9 other local public body, in the area serviced by the grant applicant at the time of the  
10 grant application, the number of revenue hours of transit service provided in this  
11 area has not decreased since 2001.

12 (6) RULE-MAKING. The department shall promulgate rules to implement and  
13 administer this section, including all of the following:

14 (a) Prescribing the form of grant applications and the nature and extent of  
15 information to be provided with these applications, and establishing an annual  
16 application cycle for receiving and evaluating applications under the program.

17 (b) Establishing criteria and standards for grant eligibility for transit capital  
18 improvement projects under the program.

19 (c) Establishing criteria and standards for evaluating and ranking applications  
20 and for awarding grants under the program.

21 (d) If the department limits the definition under sub. (1) (a), establishing any  
22 such limitation.

23 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0627/P1bkins  
ARG:hjk:...

7-8 Insert

*NOA* The number of revenue hours of transit service provided in the area serviced by the grant applicant at the time of the grant application has not decreased since 2001, if transit services were provided in 2001 by the grant applicant or by any other local public body.

**Gary, Aaron**

---

**From:** Baetsen, Karen - DOT [karen.baetsen@dot.state.wi.us]  
**Sent:** Wednesday, November 19, 2008 2:01 PM  
**To:** Gary, Aaron  
**Cc:** Donlin, James - DOT; Hammer, Paul - DOT; Nilsen, Paul - DOT  
**Subject:** FW: Draft review: LRB 09-0627/P1 Topic: Southeast Wisconsin transit capital assistance program  
**Importance:** High  
**Attachments:** LRB-0627\_P1.pdf

Hi Aaron:

The following comments and changes are requested for the SE Transit Initiative (LRB 09-0627/P1):

1. Page 5, lines 17-19 - We have decided this is too restrictive in including whole counties. The intent is to be able to allow municipalities without having the whole county. For example, city of Waukesha and Milwaukee County, or Milwaukee County, Kenosha County, half of Racine county, and related municipalities. So maybe something like two or more counties, one of which must include a city of the first class, or two or more municipalities with a population greater than 50,000 which are located in at least two separate counties, or a combination.
2. Page 6, lines 4-19 - Another change of direction - the intent is to have only one option for cooperation - an RTA - and not have arrangements that can be/are currently made under intergovernmental contract be eligible. So, please delete.
3. Page 7, lines 6-9 - The impetus here is for transit providers to restore cut service before being eligible. So, instead of "has not decreased since" perhaps "are not less than those provided in".
4. Page 7, lines 10-20 - I was asked to ask if rule-making was necessary? Or, could we administer this program in a similar way to the commuter rail development grant program under s. 85.064

Given the timeline to finalize the draft, if you have further questions or need clarification, please contact Jim Donlin directly at 266-9546. Thanks!

- Karen

-----Original Message-----

**From:** Parisi, Lori [mailto:Lori.Parisi@legis.wisconsin.gov]  
**Sent:** Thursday, November 13, 2008 12:55 PM  
**To:** Baetsen, Karen - DOT  
**Subject:** Draft review: LRB 09-0627/P1 Topic: Southeast Wisconsin transit capital assistance program

**Following is the PDF version of draft LRB 09-0627/P1.**



in 11/21

RMR stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Inserts

SA ✓

do not gen.

1 AN ACT ...; relating to: the budget.

are located in southeast Wisconsin and that

**Analysis by the Legislative Reference Bureau**

**TRANSPORTATION**

**TRANSPORTATION AIDS**

\* This bill creates a southeast Wisconsin Transit Capital Assistance Program (program) under which DOT may award grants to certain public bodies for transit capital improvements. The bill allows DOT to make grants to 1) transit commissions or authorities, and public corporations established to provide mass transportation services and facilities, that meet specified criteria; and 2) counties and municipalities that enter into intergovernmental cooperation contracts to jointly provide transit or mass transportation services or facilities and that meet specified criteria. Among the specified criteria, the transit commission or authority, public corporation, or contracting county or municipality must be located in southeast Wisconsin, and a first class city (presently only Milwaukee) must have participated in forming the transit commission or authority or public corporation or must have entered into the intergovernmental cooperation contract. In addition, as a precondition for eligibility for a grant under the program, a grant recipient must receive funds from a dedicated local revenue source for capital and operating costs associated with providing transit services.

Under the program, DOT may award grants, subject to certain restrictions, not exceeding \$50,000,000, 25 percent of the total project cost, or 50 percent of the portion of the total project cost not funded with federal aid, whichever is least. Among the restrictions, DOT may not award a grant for a project that has not received any

\* required federal approval to proceed and may not award a grant if the level of transit service in the applicable service area ~~has decreased since~~ 2001. *is less than the level in*

DOT must promulgate rules to implement and administer the program, including establishing criteria and standards for grant eligibility for transit capital improvement projects and for evaluating and ranking applications and awarding grants. DOT may not accept grant applications under the program after December 31, 2015.

Under the bill, the state may contract up to \$100,000,000 in public debt, in the form of general obligation bonds, to provide grants for transit capital improvements under the program. However, the state may not incur debt under this authorization after December 31, 2020.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

✓

1           **SECTION 1.** 13.101 (6) (a) of the statutes is amended to read:

2           13.101 (6) (a) As an emergency measure necessitated by decreased state  
3 revenues and to prevent the necessity for a state tax on general property, the  
4 committee may reduce any appropriation made to any board, commission,  
5 department, or the University of Wisconsin System, or to any other state agency or  
6 activity, by such amount as it deems feasible, not exceeding 25% of the  
7 appropriations, except appropriations made by ss. 20.255 (2) (ac), (bc), (bh), (cg), and  
8 (cr), 20.395 (1), (2) (cq), (eq) to (ex) and (gq) to (gx), (3), (4) (aq) to (ax), and (6) (af),  
9 (aq), (ar), ~~and~~ (au), and (av), 20.435 (6) (a) and (7) (da), and 20.437 (2) (a) and (dz) or  
10 for forestry purposes under s. 20.370 (1), or any other moneys distributed to any  
11 county, city, village, town, or school district. Appropriations of receipts and of a sum  
12 sufficient shall for the purposes of this section be regarded as equivalent to the  
13 amounts expended under such appropriations in the prior fiscal year which ended  
14 June 30. All functions of said state agencies shall be continued in an efficient  
15 manner, but because of the uncertainties of the existing situation no public funds

1 should be expended or obligations incurred unless there shall be adequate revenues  
2 to meet the expenditures therefor. For such reason the committee may make  
3 reductions of such appropriations as in its judgment will secure sound financial  
4 operations of the administration for said state agencies and at the same time  
5 interfere least with their services and activities.

6 **SECTION 2.** 20.395 (6) (av) of the statutes is created to read:

7 20.395 (6) (av) *Principal repayment and interest, southeast Wisconsin transit*  
8 *improvements, state funds.* A sum sufficient to reimburse s. 20.866 (1) (u) for the  
9 payment of principal and interest costs incurred in financing transit capital  
10 improvements under s. 85.11, as provided under s. 20.866 (2) (uq), and to make  
11 payments under an agreement or ancillary arrangement entered into under s. 18.06  
12 (8) (a).

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

13 **SECTION 3.** 20.866 (1) (u) of the statutes is amended to read:

14 20.866 (1) (u) *Principal repayment and interest.* A sum sufficient from moneys  
15 appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (b), (f), and (s), 20.190  
16 (1) (c), (d), (i), and (j), 20.225 (1) (c) and (i), 20.245 (1) (e) and (j), 20.250 (1) (c) and (e),  
17 20.255 (1) (d), 20.285 (1) (d), (db), (im), (in), (je), (jq), (kd), (km), and (ko) and (5) (i),  
18 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ac), (ag), (aq), (ar), (at), (au), (bq), (br),  
19 (ca), (cb), (cc), (cd), (ce), (cf), (cg), (ea), (eq), and (er), 20.395 (6) (af), (aq), (ar), ~~and~~ (au),  
20 and (av), 20.410 (1) (e), (ec), and (ko) and (3) (e), 20.435 (2) (ee) and (6) (e), 20.465 (1)  
21 (d), 20.485 (1) (f) and (go), (3) (t) and (4) (qm), 20.505 (4) (es), (et), (ha), and (hb) and  
22 (5) (c), (g), (kc), and (kd), 20.855 (8) (a), and 20.867 (1) (a) and (b) and (3) (a), (b), (bm),  
23 (bn), (bp), (bq), (br), (bu), (bv), (g), (h), (i), and (q) for the payment of principal,

1 interest, premium due, if any, and payment due, if any, under an agreement or  
2 ancillary arrangement entered into under s. 18.06 (8) (a) relating to any public debt  
3 contracted under subchs. I and IV of ch. 18.

4 SECTION 4. 20.866 (2) (uq) of the statutes is created to read:

5 20.866 (2) (uq) *Transportation; southeast Wisconsin transit improvements.*

6 From the capital improvement fund, a sum sufficient for the department of  
7 transportation to provide grants for transit capital improvements under s. 85.11.  
8 The state may contract public debt in an amount not to exceed \$100,000,000 for this  
9 purpose. Debt incurred under this paragraph shall be incurred prior to January 1,  
10 2021.

11 SECTION 5. 85.11 of the statutes is created to read:

12 **85.11 Southeast Wisconsin transit capital assistance program. (1)**

13 DEFINITIONS. In this section:

14 (a) "Local public body" means, except as limited by rule of the department, a  
15 local public body, as defined in s. 85.20 (1) (d), located in southeast Wisconsin.

16 (b) "Major transit capital improvement project" has the meaning given in s.  
17 85.062 (1).

18 (d) <sup>e</sup> "Southeast Wisconsin" means the geographical area comprising the  
19 counties of Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and  
20 Waukesha.

21 (2) ADMINISTRATION. The department shall develop and administer a southeast  
22 Wisconsin transit capital assistance program. From the appropriation under s.  
23 20.866 (2) (uq), the department may award grants for transit capital improvements  
24 as provided under subs. (4) and (5) and rules promulgated under sub. (6).

MS&T  
4-17  
→

1 (3) APPLICATIONS. (a) Each grant applicant shall specify any project for which  
2 grant funds are requested. An applicant may not include a project in a grant  
3 application if any of the following apply:

4 1. The project is a major transit capital improvement project and the project  
5 has not been enumerated under s. 85.062 (3).

6 2. The project requires authorization and ratification under s. 85.205 and the  
7 project has not received this authorization and ratification.

8 (b) The department may not accept grant applications under this section after  
9 December 31, 2015.

10 (4) ELIGIBILITY. A local public body is eligible for a grant under this section if  
11 any of the following apply:

12 (a) The local public body is a transit or transportation commission or authority,  
13 including a commission recognized under s. 66.0301 (4), or is a public corporation  
14 established by law or by interstate compact to provide mass transportation services  
15 or facilities, and all of the following apply with respect to this commission, authority,  
16 or public corporation:

17 (a) 1. The commission, authority, or public corporation was formed by ~~2 or more~~<sup>insert 5-17</sup>  
18 counties and 2 or more cities with a population greater than 50,000, including one  
19 city of the 1st class.

20 (b) 2. The commission, authority, or public corporation is responsible for providing  
21 transit services within the geographic area over which the commission, authority, or  
22 public corporation has jurisdiction.

23 (c) 3. The commission, authority, or public corporation is eligible under federal law  
24 to be a public sponsor for a project that receives federal funding.

1 (d) <sup>e</sup> 4. The commission, authority, or public corporation receives funds from a  
2 dedicated local revenue source for capital and operating costs associated with  
3 providing transit services.

4 (b) The local public body is a local public body that is not described in par. (a)  
5 (intro.) and that contracts under s. 66.0301 (2) with other local public bodies to jointly  
6 provide transit or mass transportation services or facilities, and all of the following  
7 apply:

8 1. The local public bodies that entered into the contract under s. 66.0301 (2)  
9 include 2 or more counties and 2 or more cities with a population greater than 50,000,  
10 including one city of the 1st class.

11 2. The contract under s. 66.0301 (2) requires the contracting local public bodies  
12 to jointly provide transit services within the geographic boundaries over which these  
13 local public bodies have jurisdiction.

14 3. Each local public body that entered into the contract under s. 66.0301 (2) is  
15 eligible under federal law to be a public sponsor for a project that receives federal  
16 funding.

17 4. Each local public body that entered into the contract under s. 66.0301 (2)  
18 receives funds from a dedicated local revenue source for capital and operating costs  
19 associated with providing transit services.

20 (5) GRANT AWARDS. (a) Subject to par. (b), the department may award grants  
21 to applicants eligible under sub. (4). Any grant awarded under this section may not  
22 exceed \$50,000,000, 25 percent of the total project cost, or 50 percent of the portion  
23 of the total project cost not funded with federal aid, whichever is least.

24 (b) The department may award a grant under par. (a) only if all of the following  
25 apply:



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0627/P2ins  
ARG:.....

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**INSERT 4-17:**

~~¶~~ (c) "Municipality" means a city, village, or town. ✓

**INSERT 5-17:**

~~NO¶~~ any of the following:

1. Two or more counties, one of which includes a city of the 1st class. ✓
2. Two or more municipalities that have a population greater than 50,000 and that are located in at least 2 counties. ✓
3. Any combination of municipalities and counties if the criteria under subd. 1. or 2. is satisfied. ✓

**Gary, Aaron**

**From:** Baetsen, Karen - DOT [karen.baetsen@dot.state.wi.us]  
**Sent:** Monday, December 01, 2008 3:38 PM  
**To:** Gary, Aaron  
**Cc:** Newman, Kenneth - DOT; Hammer, Paul - DOT; Nilsen, Paul - DOT; Donlin, James - DOT  
**Subject:** RE: Draft review: LRB 09-0627/P1 Topic: Southeast Wisconsin transit capital assistance program  
**Importance:** High

1. DOT approves the drafting in response to our various q/a.
2. In response to the questions regarding rule making for the new aids program; Page 7, lines 10-20.....

We can see both sides of the situation -- We know that the commuter rail grant program under s. 85.064 does not have required rule making and we anticipate the requested program would be administered in a similar manner, but will have significantly fewer grant awards. There are numerous DOT programs in Chapter 85 that do not have rule making requirements, including 85.063, 85.24, 85.026, 85.024, 85.064, etc.

On the other hand, we understand that Ch 227 requires us to promulgate rules interpreting statutes. 85.16 authorizes us to design and require forms. Then in s.110.215, the department shall adopt rules to implement and administer this section, including procedures, standards, and criteria for awarding and distributing the grants. OGC opined that subsection (d) was redundant since the definition implies authority to do exclusions by rule.

However, to create a rule making process for a program that will award a small number of grants, when other larger grant programs do not require rule-making, seems inefficient and not an effective use of limited staff resources. If enacted, the SE Wisc. transit capital assistance program would be modeled similar to the larger grant programs.

Therefore, we request that the rule making requirement be removed. DOT's Office of General Counsel has reminded us that we may be vulnerable to challenge for administering the new program without rules.

Let me know, Aaron, if you need further clarification. thanks again! -- Karen

***Karen Baetsen***

Department of Transportation  
Office of Policy, Budget and Finance  
Room 132B Hill Farms  
608/ 266-0179  
karen.baetsen@dot.state.wi.us

-----Original Message-----

**From:** Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]  
**Sent:** Wednesday, November 26, 2008 10:37 AM  
**To:** Baetsen, Karen - DOT  
**Subject:** RE: Draft review: LRB 09-0627/P1 Topic: Southeast Wisconsin transit capital assistance program

Hi Karen,

Do you know when DOT might be getting back to me on this draft? I need to move forward with it soon (maybe sometime next week). Thanks. Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

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**From:** Gary, Aaron  
**Sent:** Friday, November 21, 2008 2:48 PM  
**To:** 'Baetsen, Karen - DOT'  
**Subject:** RE: Draft review: LRB 09-0627/P1 Topic: Southeast Wisconsin transit capital assistance program

Karen,

You should have just received a /P2 draft on this. I decided to send the /P2 draft out before I got an answer to the e-mail below because DOT will have to review the /P2 changes anyway and I am trying to expedite the process. If DOT decides to keep the rule-making, then this /P2 should cover everything. If DOT wants the rule-making stuff pulled out, those changes will be relatively simple. But the changes to items 1. to 3. in the attached /P2 deserve another look by DOT.

Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

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**From:** Gary, Aaron  
**Sent:** Thursday, November 20, 2008 10:54 AM  
**To:** 'Baetsen, Karen - DOT'  
**Cc:** Donlin, James - DOT; Hammer, Paul - DOT; Nilsen, Paul - DOT  
**Subject:** RE: Draft review: LRB 09-0627/P1 Topic: Southeast Wisconsin transit capital assistance program

I have made changes regarding items 1. to 3. Regarding item 4., the draft is pretty bare bones - it is designed to delegate to DOT most of the details of how this new program is going to be administered. For this reason, I believe rule-making is essential. (And under current law the standards for administering the program would clearly be rules under s. 227.01 (13) (intro.) subject to the rule-making process). However, if you want me to create an exception to rule-making under s. 227.01 (13) and remove the rule-related language at p. 4, line 14 and elsewhere in the draft, I could do it - but given the lack of direction/criteria in the draft as to how DOT will actually award the grants under the program, I think this borders on an unconstitutional delegation of legislative authority (as of course rules are subject to further legislative review).

Please let me know how to proceed on item 4.

Thanks. Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

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**From:** Baetsen, Karen - DOT [mailto:karen.baetsen@dot.state.wi.us]  
**Sent:** Wednesday, November 19, 2008 2:01 PM  
**To:** Gary, Aaron  
**Cc:** Donlin, James - DOT; Hammer, Paul - DOT; Nilsen, Paul - DOT  
**Subject:** FW: Draft review: LRB 09-0627/P1 Topic: Southeast Wisconsin transit capital assistance program  
**Importance:** High

Hi Aaron:

The following comments and changes are requested for the SE Transit Initiative (LRB 09-0627/P1):

1. Page 5, lines 17-19 - We have decided this is too restrictive in including whole counties. The intent is to be able to allow municipalities without having the whole county. For example, city of Waukesha and Milwaukee County, or Milwaukee County, Kenosha County, half or Racine county, and related municipalities. So maybe something like two or more counties, one of which must include a city of the first class, or two or more municipalities with a population greater than 50,000 which are located in at least two separate counties, or a combination.
2. Page 6, lines 4-19 - Another change of direction - the intent is to have only one option for cooperation - an RTA - and not have arrangements that can be/are currently made under intergovernmental contract be eligible. So, please delete.
3. Page 7, lines 6-9 - The impetus here is for transit providers to restore cut service before being eligible. So, instead of "has not decreased since" perhaps "are not less than those provided in".
4. Page 7, lines 10-20 - I was asked to ask of rule-making was necessary? Or, could we administer this program in a similar way to the commuter rail development grant program under s. 85.064

Given the timeline to finalize the draft, if you have further questions or need clarification, please contact Jim Donlin directly at 266-9546. Thanks!

- Karen

-----Original Message-----

**From:** Parisi, Lori [mailto:Lori.Parisi@legis.wisconsin.gov]  
**Sent:** Thursday, November 13, 2008 12:55 PM  
**To:** Baetsen, Karen - DOT  
**Subject:** Draft review: LRB 09-0627/P1 Topic: Southeast Wisconsin transit capital assistance program

**Following is the PDF version of draft LRB 09-0627/P1.**