

2011 DRAFTING REQUEST

Bill

Received: **02/10/2011**

Received By: **agary**

Wanted: **As time permits**

Companion to LRB:

For: **Administration-Budget**

By/Representing: **Byrnes**

May Contact:

Drafter: **agary**

Subject: **Transportation - highways**

Addl. Drafters:

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email:

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

Pre Topic:

DOA:.....Byrnes, BB0347 -

Topic:

SE Wisconsin Freeway megaprojects

Instructions:

See attached

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>
/?				_____			State
/1	agary 02/11/2011	jdyer 02/14/2011	rschluet 02/14/2011	_____	sbasford 02/14/2011		State
/2	agary 02/15/2011	kfollett 02/15/2011	phenry 02/15/2011	_____	mbarman 02/16/2011		State
/3	agary 02/16/2011	nmatzke 02/16/2011	jfrantze 02/16/2011	_____	cduerst 02/16/2011		State

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/4	agary 02/18/2011	nmatzke 02/18/2011	rschluet 02/18/2011	_____	mbarman 02/18/2011		

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/1	agary 02/11/2011	jdyer 02/14/2011	rschluet 02/14/2011	2/15	stasford 02/14/2011		
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FE Sent For:

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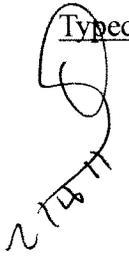
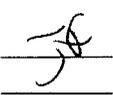
Topic:

SE Wisconsin Freeway megaprojects

Instructions:

See attached

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1/?	agary	/1 NWN 2/11					

FE Sent For:

<END>

Gary, Aaron

From: Hanaman, Cathlene
Sent: Thursday, February 10, 2011 10:05 AM
To: Gary, Aaron; Mueller, Eric
Subject: FW: Statutory Language Drafting Request

From: DOADLBASADMININTERNETSHAREPOINT@WI.GOV
[mailto:DOADLBASADMININTERNETSHAREPOINT@WI.GOV]
Sent: Thursday, February 10, 2011 10:04 AM
To: Hanaman, Cathlene
Cc: Hetzel, Shayna - DOA; Thornton, Scott - DOA; Grinde, Kirsten - DOA; Byrnes, Tyler - DOA
Subject: Statutory Language Drafting Request

Topic: SE Wisconsin Freeways "Megaprojects"

Tracking Code: BB0347

SBO Team: TTO

SBO Analyst: Byrnes, Tyler - DOA
Phone: (608) 266-1039
E-mail: Tyler.Byrnes@Wisconsin.gov

Agency Acronym: WisDOT

Agency Number: 395

Priority: High

Intent:

Create a transportation fund SEG appropriation and a transportation fund FED appropriation for "southeast Wisconsin freeways megaprojects". Define "southeast Wisconsin freeways megaproject" as any project on the southeast freeway system as defined in 84.014(1)(e) with total costs over \$500 million.

Require that any project meeting the definition of a "southeast Wisconsin freeways megaprojects" to be enumerated in statutes.

The I-94 North-South corridor and the Zoo Interchange projects that are currently enumerated should be enumerated "southeast Wisconsin freeways megaprojects"

Increase the minimum amount of a "major highway project" under s.84.013(1)(a) from the current \$5 million to \$30 million.

Change the definition of a major project to exclude any of the "southeast Wisconsin freeways megaprojects" or a project that forms a bridge over a river that forms a boundary of the state.

Maintain current criteria for a major highway project under s. 84.013(1)(a)1 – 3. Add a second option for qualifying as a major project as any project over \$75 million.

Require adjustments to the \$500 million threshold, the \$30 million threshold and the \$75 million threshold for construction inflation index annually. Create language stating that these amounts may never fall below the \$500 million, \$30 million or \$75 million threshold, regardless of construction inflation.

Any project under 84.014 that is not a “megaproject” or a “major highway project” should be eligible for the regular state highway rehabilitation program. This is similar to the way -0321/1 treated these projects.

Southeast Wisconsin freeways projects that meet the definition of a “major highway project” should be eligible for the majors program funding and should have to meet the same requirements as any other major project. This is similar to the way -0321/1 treated these projects

Attachments: False

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]
Sent: Thursday, February 10, 2011 8:54 AM
To: Gary, Aaron
Subject: FW: SE Freeway "Megaprojects" Draft - Add to LRB-0321
Attachments: SHP changes.docx

Aaron,

Can you make the following changes to this draft:

1. Create a transportation fund SEG appropriation and a transportation fund FED appropriation for "southeast Wisconsin freeways megaprojects". Define "southeast Wisconsin freeways megaproject" as any project on the southeast freeway system as defined in 84.014(1)(e) with total costs over \$500 million.
 - a. Require that any project meeting the definition of a "southeast Wisconsin freeways megaprojects" to be enumerated in statutes.
 - b. The I-94 North-South corridor and the Zoo Interchange projects that are currently enumerated should be enumerated "southeast Wisconsin freeways megaprojects"
2. Increase the minimum amount of a "major highway project" under s.84.013(1)(a) from the current \$5 million to \$30 million.
3. Change the definition of a major project to exclude any of the "southeast Wisconsin freeways megaprojects" or a project that forms a bridge over a river that forms a boundary of the state.
4. Maintain current criteria for a major highway project under s. 84.013(1)(a)1 – 3. Add a second option for qualifying as a major project as any project over \$75 million.
5. Require adjustments to the \$500 million threshold, the \$30 million threshold and the \$75 million threshold for construction inflation index annually. Create language stating that these amounts may never fall below the \$500 million, \$30 million or \$75 million threshold, regardless of construction inflation.
6. Any project under 84.014 that is not a "megaproject" or a "major highway project" should be eligible for the regular state highway rehabilitation program. This is similar to the way -0321/1 treated these projects.
7. Southeast Wisconsin freeways projects that meet the definition of a "major highway project" should be eligible for the majors program funding and should have to meet the same requirements as any other major project. This is similar to the way -0321/1 treated these projects.

Let me know if you want clarification. I've attached a document I received from DOT which lays out the basics of the request, for your reference.

Also, if you think this should be a completely new draft instead of additions to LRB-0321, let me know and I'll send it through that way.

Thanks,

Tyler

2/10/2011

STATE HIGHWAY PROGRAM STATUTORY CHANGES

I. Define a "southeast Wisconsin freeway megaproject" as any project on the southeast freeway system over \$500 million. Require that these projects be enumerated by the legislature.

II. Define a "major project" as any project, except a project providing an approach to a bridge over a river that forms a boundary of the state or a southeast Wisconsin freeway megaproject, which has a total cost of more than \$30,000,000, and meets at least one of the following criteria:

CRITERIA A

1. Constructing a new highway 2.5 miles or more in length.
2. Reconstructing or reconditioning an existing highway by either of the following:
 - a. Relocating 2.5 miles or more of the existing highway.
 - b. Adding one or more lanes 5 miles or more in length to the existing highway.
3. Improving to freeway standards 10 miles or more of an existing divided highway having 2 or more lanes in either direction.

Or –

CRITERIA B

Which has a total cost of more than \$75,000,000.

IV. Create three appropriations in the state highway program:

1. Southeast Wisconsin Freeway Megaprojects
2. Major Projects
3. SHR

V. Adjust all monetary values for construction inflation.

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]

Sent: Thursday, February 10, 2011 10:53 AM

To: Gary, Aaron

Subject: BB0347 - SE Freeway "Megaprojects" Draft

Aaron,

I have a couple of updates to these instructions:

1. Could you also create a SEG-L appropriation for the SE Wisconsin freeways megaprojects, similar to the expiring s. 20.395 (3)(cw)?
2. Could you use 3(aq), 3(ax) and 3(av)? Alternatively, could you avoid using the first letters B,C,D,I or S in the alpha? Apparently that makes it easier for DOT's programmers.

We're working on getting more specifics on the adjustment calculations, in terms of how to define construction inflation and when the adjustment would be made.

Thanks again.

Tyler

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]

Sent: Thursday, February 10, 2011 9:59 AM

To: Byrnes, Tyler - DOA

Subject: RE: SE Freeway "Megaprojects" Draft - Add to LRB-0321

Tyler,

Can you please send this through as a new draft? I'll start working on it in the meantime and add the new BB# later. Thanks. Aaron

Aaron R. Gary

Attorney, Legislative Reference Bureau

608.261.6926 (voice)

608.264.6948 (fax)

aaron.gary@legis.state.wi.us

From: Byrnes, Tyler - DOA [mailto:Tyler.Byrnes@wisconsin.gov]

Sent: Thursday, February 10, 2011 8:54 AM

To: Gary, Aaron

Subject: FW: SE Freeway "Megaprojects" Draft - Add to LRB-0321

Aaron,

Can you make the following changes to this draft:

1. Create a transportation fund SEG appropriation and a transportation fund FED appropriation for

2/10/2011

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]

Sent: Thursday, February 10, 2011 3:27 PM

To: Gary, Aaron

Subject: RE: BB0347 - SE Wisconsin Megaprojects

They're telling me the exact name is the "Wisconsin Department of Transportation Price Index, Yearly Moving Average" and it's a spreadsheet produced by the Bureau of Project Development within the Division of Transportation Systems Development.

Is that something we can reference in statutes? Doing so seems strange, since it's more of an internal document.

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]

Sent: Thursday, February 10, 2011 3:05 PM

To: Byrnes, Tyler - DOA

Subject: RE: BB0347 - SE Wisconsin Megaprojects

That's fine. I just need the exact name. Thanks.

From: Byrnes, Tyler - DOA [mailto:Tyler.Byrnes@wisconsin.gov]

Sent: Thursday, February 10, 2011 3:01 PM

To: Gary, Aaron

Subject: RE: BB0347 - SE Wisconsin Megaprojects

The department would like to use the WisDOT index as it more closely mirrors construction inflation conditions in the state.

Do you need a more specific description of the index to use it?

Thanks,

Tyler

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]

Sent: Thursday, February 10, 2011 2:28 PM

To: Byrnes, Tyler - DOA

Subject: RE: BB0347 - SE Wisconsin Megaprojects

Tyler,

We basically did this last session - does this language still work:

"The department shall annually adjust the amounts specified in to reflect the annual change in the Composite Index of Price Trends for Federal-Aid Highway Construction computed by the Federal Highway Administration of the U.S. Department of Transportation or, if this index becomes unavailable, another suitable index as determined by the department."

thanks. Aaron

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

From: Byrnes, Tyler - DOA [mailto:Tyler.Byrnes@wisconsin.gov]
Sent: Thursday, February 10, 2011 2:18 PM
To: Gary, Aaron
Subject: BB0347 - SE Wisconsin Megaprojects

Aaron,

Here are some additional specifics on the adjustment of the minimum thresholds for mega projects and major projects:

1. The amounts should be adjusted annually by the Department of Transportation, October 1st of each year, beginning the first calendar year after the budget is passed – so we don't adjust it right away in October 2011.
2. Specify that the basis for the adjustment would be the WisDOT Construction price index, using the moving yearly average.

Thanks,

Tyler



State of Wisconsin
2011 - 2012 LEGISLATURE

m
2/11



LRB-1403/1
ARG: | : : : :
nwn

DOA:.....Byrnes, BB0347 - SE Wisconsin Freeway megaprojects

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

(Note)

SA ✓
X-ref ✓

1

don't gen.
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, DOT administers a major highway projects program. With certain exceptions, a major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes five miles or more in length to the highway; or improvement of an existing multilane, divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, must generally receive the approval of the Transportation Projects Commission (TPC) and the legislature (generally referred to as "enumeration") before the project may be constructed. DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. The TPC may not recommend approval of any major highway project unless the TPC has been notified that a final EIS or EA for the project has been approved by the Federal Highway Administration. The legislature may not enumerate any major highway project unless the TPC has recommended approval of the project. The major highway projects program is funded from state, federal, and local funds appropriations and bond proceeds.

Under current law, southeast Wisconsin freeway rehabilitation projects include the reconditioning, reconstruction, or resurfacing of, or adding one or more lanes to, a state trunk highway, located in Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, or Waukesha county, that has four or more lanes of traffic physically separated by a median or barrier and that gives preference to through traffic by limiting access to interchanges only. A project may not be considered both a major highway project and a southeast Wisconsin freeway rehabilitation project. Southeast Wisconsin freeway rehabilitation projects, which include the Marquette interchange reconstruction project, the I 94 north-south corridor project, and the Zoo interchange project in Milwaukee County, may be funded only from appropriations specifically designated for such projects or from bond proceeds. Southeast Wisconsin freeway rehabilitation projects that involve adding at least one lane ^{five} 5 miles or more in length cannot be funded from state, federal, and local funds appropriations ^{e without} with legislative approval, accomplished through statutory enumeration. Only the reconstruction of the I 94 north-south corridor project and the Zoo interchange have been so enumerated. After June 30, 2011, funding under the state, federal, and local funds appropriations for southeast Wisconsin freeway rehabilitation projects terminates, but bond proceeds may still be used to fund these projects.

In addition to the major highway projects program and the southeast Wisconsin freeway rehabilitation program, DOT administers a state highway rehabilitation program. This program provides funding for state highway improvements that are not major highway projects or southeast Wisconsin freeway rehabilitation projects. The program is funded from state, federal, and local funds appropriations and bond proceeds.

This bill modifies the definition of "major highway project" to recognize two categories of major highway projects. In the first category, a major highway project is defined as under current law except that the total cost threshold is increased by the bill from \$5,000,000 to \$30,000,000. In the second category, with certain exceptions, a major highway project is a project having a total cost of at least \$75,000,000. For both categories of major highway projects, the total cost threshold is adjusted annually by DOT based on an inflation index ^{maintained} maintained by DOT. Under the bill, DOT may prepare an EIS or EA for a major highway project in the second category without TPC approval. However, major highway projects in the second category are subject to the remainder of the TPC review and approval process and to legislative enumeration.

The bill also creates a new category of highway projects called "southeast Wisconsin freeway megaprojects," which are projects on southeast Wisconsin freeways that have a total cost of more than \$500 million, as adjusted for inflation annually by DOT. These projects may be funded only from newly ^{e Δ} created state, federal, and local funds appropriations for these projects, along with an existing insurance cost-recovery appropriation, and no funding for these projects may be provided without legislative approval by means of statutory enumeration. The bill enumerates the I 94 north-south corridor project and the Zoo interchange project as southeast Wisconsin freeway megaprojects.

Under this bill, southeast Wisconsin freeway rehabilitation projects may also be considered major highway projects, eligible for major highway project funding, if they satisfy all criteria and requirements for major highway projects, including approval through the TPC process and statutory enumeration. A southeast Wisconsin freeway rehabilitation project that is not a major highway project and not a southeast Wisconsin freeway megaproject may be eligible for state highway rehabilitation funding. However, a southeast Wisconsin freeway rehabilitation project cannot also be considered a southeast Wisconsin freeway megaproject.

For further information see the *state* 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.** 13.489 (1m) (f) of the statutes is created to read:

2 13.489 (1m) (f) This subsection does not apply to major highway projects
3 described in s. 84.013 (1) (a) 2m.

4 **SECTION 2.** 20.395 (3) (aq) of the statutes is created to read:

5 20.395 (3) (aq) *Southeast Wisconsin freeway megaprojects, state funds.* As a
6 continuing appropriation, the amounts in the schedule for southeast Wisconsin
7 freeway megaprojects under s. 84.0145. This paragraph does not apply to the
8 installation, replacement, rehabilitation, or maintenance of highway signs, traffic
9 control signals, highway lighting, pavement markings, or intelligent transportation
10 systems, unless incidental to a southeast Wisconsin freeway megaproject.

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

11 **SECTION 3.** 20.395 (3) (av) of the statutes is created to read:

12 20.395 (3) (av) *Southeast Wisconsin freeway megaprojects, local funds.* All
13 moneys received from any local unit of government or other source for southeast
14 Wisconsin freeway megaprojects under s. 84.0145, for such purposes.

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

1 **SECTION 4.** 20.395[^] (3) (ax) of the statutes is created to read:

2 20.395 (3) (ax) *Southeast Wisconsin freeway megaprojects, federal funds.* All
3 moneys received from the federal government for southeast Wisconsin freeway
4 megaprojects under s. 84.0145[✓], for such purposes. This paragraph does not apply to
5 the installation, replacement, rehabilitation, or maintenance of highway signs,
6 traffic control signals, highway lighting, pavement markings, or intelligent
7 transportation systems, unless incidental to a southeast Wisconsin freeway
8 megaproject[✓].

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

9 **SECTION 5.** 20.395 (3) (bq) of the statutes is amended to read:

10 20.395 (3) (bq) *Major highway development, state funds.* As a continuing
11 appropriation, the amounts in the schedule for major development of state trunk and
12 connecting highways and for the disadvantaged business demonstration and
13 training program under s. 84.076. This paragraph does not apply to ~~major~~
14 ~~development of~~ with respect to any southeast Wisconsin freeway, as defined in s.
15 84.014 (1) (e) megaproject under s. 84.0145.[✓]

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 339, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109; 2003 a. 33, 64, 139, 220, 320; 2005 a. 25, 319, 335; 2007 a. 20, 42; 2009 a. 28, 224, 226, 276.

16 **SECTION 6.** 20.395 (3) (br) of the statutes is amended to read:

17 20.395 (3) (br) *Major highway development, service funds.* All moneys received
18 from the fund created under s. 18.57 (1) as reimbursement for the temporary
19 financing under sub. (9) (th) of projects for major development of state trunk and
20 connecting highways that are financed under s. 84.59 and enumerated under s.
21 84.013 (3), for the purpose of financing such projects. This paragraph does not apply

1 ~~to any project for major development of a~~ with respect to any southeast Wisconsin
 2 freeway, as defined in s. 84.014 (1) (e) megaproject under s. 84.0145. ✓

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 239, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109; 2003 a. 33, 64, 139, 220, 320; 2005 a. 25, 319, 335; 2007 a. 20, 42; 2009 a. 28, 224, 226, 276.

3 **SECTION 7. 20.395 (3) (bv) of the statutes is amended to read:**

4 **20.395 (3) (bv) Major highway development, local funds.** All moneys received
 5 from any local unit of government or other source for major development of state
 6 trunk and connecting highways, including the railroad and utility alteration and
 7 relocation loan program under s. 84.065, and the disadvantaged business
 8 demonstration and training program under s. 84.076, for such purposes. This
 9 paragraph does not apply with respect to ^{plain} ~~to~~ major development of any southeast
 10 Wisconsin freeway, as defined in s. 84.014 (1) (e) megaproject under s. 84.0145. ✓

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 239, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109; 2003 a. 33, 64, 139, 220, 320; 2005 a. 25, 319, 335; 2007 a. 20, 42; 2009 a. 28, 224, 226, 276.

11 **SECTION 8. 20.395 (3) (bx) of the statutes is amended to read:**

12 **20.395 (3) (bx) Major highway development, federal funds.** All moneys received
 13 from the federal government for major development of state trunk and connecting
 14 highways and the disadvantaged business demonstration and training program
 15 under s. 84.076, for such purposes. This paragraph does not apply to major
 16 development of with respect to any southeast Wisconsin freeway, as defined in s.
 17 84.014 (1) (e) megaproject under s. 84.0145. ✓

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 239, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109; 2003 a. 33, 64, 139, 220, 320; 2005 a. 25, 319, 335; 2007 a. 20, 42; 2009 a. 28, 224, 226, 276.

18 **SECTION 9. 20.395 (3) (cq) of the statutes is amended to read:**

19 **20.395 (3) (cq) State highway rehabilitation, state funds.** As a continuing
 20 appropriation, the amounts in the schedule for improvement of existing state trunk

1 and connecting highways; for improvement of bridges on state trunk or connecting
2 highways and other bridges for which improvement is a state responsibility, for
3 necessary approach work for such bridges and for replacement of such bridges with
4 at-grade crossing improvements; for the construction and rehabilitation of the
5 national system of interstate and defense highways and bridges and related
6 appurtenances; for special maintenance activities under s. 84.04 on roadside
7 improvements; for bridges under s. 84.10; for the bridge project under s. 84.115; for
8 payment to a local unit of government for a jurisdictional transfer under s. 84.02 (8);
9 for the disadvantaged business demonstration and training program under s.
10 84.076; for the transfers required under 1999 Wisconsin Act 9, section 9250 (1) and
11 2003 Wisconsin Act 33, section 9153 (4q); and for the purposes described under 1999
12 Wisconsin Act 9, section 9150 (8g), 2001 Wisconsin Act 16, section 9152 (4e), and 2007
13 Wisconsin Act 20, section 9148 (9i) (b) and (9x). This paragraph does not apply to any
14 southeast Wisconsin freeway megaprojects under s. 84.0145, to any southeast
15 Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major
16 highway projects under s. 84.013, or to the installation, replacement, rehabilitation,
17 or maintenance of highway signs, traffic control signals, highway lighting, pavement
18 markings, or intelligent transportation systems, unless incidental to the
19 improvement of existing state trunk and connecting highways.

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 239, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109; 2003 a. 33, 64, 139, 220, 320; 2005 a. 25, 319, 335; 2007 a. 20, 42; 2009 a. 28, 224, 226, 276.

20 **SECTION 10.** 20.395 (3) (cv) of the statutes is amended to read:

21 20.395 (3) (cv) *State highway rehabilitation, local funds.* All moneys received
22 from any local unit of government or other source for the specific information sign
23 program under s. 86.195; for improvement of existing state trunk and connecting

1 highways; for improvement of bridges on state trunk or connecting highways and
2 other bridges for which improvement is a state responsibility, for necessary approach
3 work for such bridges and for replacement of such bridges with at-grade crossing
4 improvements; for the construction and rehabilitation of the national system of
5 interstate and defense highways and bridges and related appurtenances; for special
6 maintenance activities under s. 84.04 on roadside improvements; for the bridge
7 project under s. 84.115; for the railroad and utility alteration and relocation loan
8 program under s. 84.065; and for the disadvantaged business demonstration and
9 training program under s. 84.076, for such purposes. This paragraph does not apply
10 to any southeast Wisconsin freeway megaprojects under s. 84.0145[✓] or to any
11 southeast Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify
12 as major highway projects under s. 84.013[✓].

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 239, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109; 2003 a. 33, 64, 139, 220, 320; 2005 a. 25, 319, 335; 2007 a. 20, 42; 2009 a. 28, 224, 226, 276.

13 **SECTION 11. 20.395 (3) (cx) of the statutes is amended to read:**

14 **20.395 (3) (cx) *State highway rehabilitation, federal funds.*** All moneys
15 received from the federal government for improvement of existing state trunk and
16 connecting highways; for improvement of bridges on state trunk or connecting
17 highways and other bridges for which improvement is a state responsibility, for
18 necessary approach work for such bridges and for replacement of such bridges with
19 at-grade crossing improvements; for the construction and rehabilitation of the
20 national system of interstate and defense highways and bridges and related
21 appurtenances; for special maintenance activities under s. 84.04 on roadside
22 improvements; for the bridge project under s. 84.115; and for the disadvantaged
23 business demonstration and training program under s. 84.076; and all moneys

1 received under 2003 Wisconsin Act 33, section 9153 (4q); for such purposes. This
 2 paragraph does not apply to any southeast Wisconsin freeway megaprojects under
 3 s. 84.0145 or to any southeast Wisconsin freeway rehabilitation projects under s.
 4 84.014 that also qualify as major highway projects under s. 84.013.

History: 1971 c. 40 s. 93; 1971 c. 42, 107; 1971 c. 125 ss. 122 to 137, 522 (1); 1971 c. 197, 211, 215, 307; 1973 c. 90, 142, 243, 333, 336; 1975 c. 39; 1975 c. 163 s. 16; 1975 c. 200, 224, 270, 288, 340, 422; 1977 c. 29, 377, 418; 1979 c. 34 ss. 322e to 420, 574, 575; 1979 c. 221; 1981 c. 20 ss. 238 to 300, 2202 (51) (c), (e); 1981 c. 165, 234; 1981 c. 314 s. 146; 1981 c. 347 s. 80; 1981 c. 362; 1983 a. 27 ss. 270g to 315, 2202 (20); 1983 a. 243; 1985 a. 29 ss. 357 to 402, 3202 (51) (a); 1985 a. 65, 76, 341; 1987 a. 27, 137, 349, 369, 399, 403; 1989 a. 31, 56; 1991 a. 39, 104, 239, 269; 1993 a. 16, 285, 354, 437; 1995 a. 27, 113, 201, 338, 445; 1997 a. 27, 35, 135, 237, 255; 1999 a. 9, 109, 146, 167, 185; 2001 a. 16, 104, 109; 2003 a. 33, 64, 139, 220, 320; 2005 a. 25, 319, 335; 2007 a. 20, 42; 2009 a. 28, 224, 226, 276.

5 **SECTION 12.** 20.866 (2) (ur) of the statutes is amended to read:

6 20.866 (2) (ur) *Transportation; accelerated highway improvements.* From the
 7 capital improvement fund, a sum sufficient to acquire, construct, develop, enlarge,
 8 or improve state highway facilities as provided by ss. 84.06 and 84.09. The state may
 9 contract public debt in an amount not to exceed \$185,000,000 for this purpose. This
 10 paragraph does not apply with respect to any southeast Wisconsin freeway
 11 rehabilitation projects under s. 84.014 megaproject under s. 84.0145.

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; 2009 a. 28, 361.

12 **SECTION 13.** 20.866 (2) (uu) of the statutes is amended to read:

13 20.866 (2) (uu) *Transportation; highway projects.* From the capital
 14 improvement fund, a sum sufficient for the department of transportation to acquire,
 15 construct, reconstruct, improve, or develop highway projects under ss. 84.06 and
 16 84.09. The state may contract public debt in an amount not to exceed \$41,000,000 for
 17 this purpose. This paragraph does not apply with respect to any southeast Wisconsin
 18 freeway rehabilitation projects under s. 84.014 megaproject under s. 84.0145.

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; 2009 a. 28, 361.

19 **SECTION 14.** 84.013 (1) (a) (intro.) of the statutes is amended to read:

1 84.013 (1) (a) (intro.) "Major highway project" means a project, except a project
2 providing an approach to a bridge over a river that forms a boundary of the state or
3 a southeast Wisconsin freeway ~~rehabilitation project under s. 84.014, which~~
4 megaproject under s. 84.0145, that satisfies any of the following:✓

5 1m. The project has a total cost of more than \$5,000,000 \$30,000,000, subject
6 to adjustment under sub. (2m),✓ and ~~which~~ involves any of the following:✓

7 **SECTION 15.** 84.013 (1) (a) 1. of the statutes is renumbered 84.013 (1) (a) 1m.
8 a.✓

9 **SECTION 16.** 84.013 (1) (a) 2. (intro.), a. and b. of the statutes are consolidated,
10 renumbered 84.013 (1) (a) 1m. b. and amended to read:

11 84.013 (1) (a) 1m. b.✓ Reconstructing or reconditioning an existing highway by
12 either of the following: a. ~~Relocating~~ relocating 2.5 miles or more of the existing
13 highway. b. ~~Adding or adding~~ one or more lanes 5 miles or more in length to the
14 existing highway.✓

15 **SECTION 17.** 84.013 (1) (a) 2m. of the statutes is created to read:

16 84.013 (1) (a) 2m. The project has a total cost of more than \$75,000,000, subject
17 to adjustment under sub. (2m).✓

18 **SECTION 18.** 84.013 (1) (a) 3. of the statutes is renumbered 84.013 (1) (a) 1m.
19 c.✓

20 **SECTION 19.** 84.013 (2) (a) of the statutes is amended to read:

21 84.013 (2) (a) Subject to ss. 84.014 (6) (b),✓ 84.555, and 86.255, major highway
22 projects shall be funded from the appropriations under ss. 20.395 (3) (bq) to (bx) and
23 (ct) and (4) (jq) and 20.866 (2) (ur) to (uum) and (uus).✓

History: 1983 a. 27; 1985 a. 29 ss. 1564 to 1566, 3202 (51); 1987 a. 27 ss. 10cm, 1654un to 1654uws; 1987 a. 403; 1989 a. 31; 1991 a. 39; 1993 a. 16, 237, 246; 1995 a. 27 s. 9116 (5); 1995 a. 113; 1997 a. 27; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2009 a. 28, 276.

24 **SECTION 20.** 84.013 (2) (b) of the statutes is amended to read:

1 84.013 (2) (b) Except as provided in ss. 84.014[✓], 84.03 (3)[↓], and 84.555, and
 2 subject to ~~ss.~~ ss. 84.014 (6) (c)[✓] and 86.255, reconditioning, reconstruction and
 3 resurfacing of highways shall be funded from the appropriations under ss. 20.395 (3)
 4 (cq) to (cx) and 20.866 (2) (uur) and (uut).[✓]

History: 1983 a. 27; 1985 a. 29 ss. 1564 to 1566, 202 (51); 1987 a. 27 ss. 10cm, 1654un to 1654uws; 1987 a. 403; 1989 a. 31; 1991 a. 39; 1993 a. 16, 237, 246; 1995 a. 27 s. 9116 (5); 1995 a. 113; 1997 a. 27; 1999 a. 9; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25; 2007 a. 20; 2009 a. 28, 276.

5 **SECTION 21.** 84.013 (2m) of the statutes is created to read:

6 84.013 (2m) The department shall annually adjust the amounts specified in
 7 sub. (1) (a) 1m.[✓] and 2m.[✓] to reflect the annual change in the Wisconsin Department
 8 of Transportation Price Index, Yearly Moving Average, as maintained by the
 9 department[✓] or, if at any time the department no longer maintains this index, another
 10 suitable index as determined by the department.[✓] Beginning in 2012, prior to October
 11 1 of each year, the department shall compute the annual adjustment required under
 12 this subsection[✓] and shall publish the new adjusted amount applicable under sub. (1)
 13 (a) 1m.[✓] and 2m.[✓], which amount shall become effective on October 1 of that year.[✓] The
 14 department may not adjust the amounts specified in sub. (1) (a) 1m.[✓] and 2m.[✓] to an
 15 amount less than that specified in sub. (1) (a) 1m.[✓] and 2m.[✓]

16 **SECTION 22.** 84.014 (2) of the statutes is amended to read:

17 84.014 (2) Subject to ss. 84.555 and 86.255, any southeast Wisconsin freeway
 18 rehabilitation projects, including the Marquette interchange reconstruction project
 19 and projects that involve adding one or more lanes 5 miles or more in length to the
 20 existing freeway, may be funded ~~only~~ from the appropriations under ss. 20.395 (3)
 21 (cr), (ct), (cw), and (cy) and 20.866 (2) (uum) and (uup).[✓]

22 **SECTION 23.** 84.014 (6) of the statutes is created to read:

1 84.014 (6) (a) A southeast Wisconsin freeway rehabilitation project under this
 2 section may not also be considered a southeast Wisconsin freeway megaproject under
 3 s. 84.0145.

4 (b) Notwithstanding subs. (2) and (5m), a southeast Wisconsin freeway
 5 rehabilitation project under this section may also be considered a major highway
 6 project, eligible for funding under s. 84.013 (2) (a), if the project meets the criteria
 7 for a major highway project under s. 84.013 (1) (a) and satisfies all applicable
 8 requirements under ss. 13.489 and 84.013.

9 (c) Notwithstanding subs. (2) and (5m), a southeast Wisconsin freeway
 10 rehabilitation project under this section may also be eligible for funding under s.
 11 84.013 (2) (b) if the project is not considered a southeast Wisconsin freeway
 12 megaproject under s. 84.0145 or a major highway project under s. 84.013.

13 SECTION 24. 84.0145 of the statutes is created to read:

14 **84.0145 Southeast Wisconsin freeway megaprojects.** (1) In this section:

15 (a) "I 94 north-south corridor" has the meaning given in s. 84.014 (5m) (ag) 1.

16 (b) "Southeast Wisconsin freeway" has the meaning given in s. 84.014 (1) (e).

17 (c) "Southeast Wisconsin freeway megaproject" means any project on a
 18 southeast Wisconsin freeway having a total cost of more than \$500 million, subject
 19 to adjustment under sub. (4).

20 (d) "Zoo interchange" has the meaning given in s. 84.014 (5m) (ag) 2.

21 (2) Subject to sub. (3) and s. 86.255, any southeast Wisconsin freeway
 22 megaproject may be funded only from the appropriations under ss. 20.395 (3) (aq),
 23 (av), (ax), and (ct).

1 (3) (a) The department may not encumber or expend any moneys for a
 2 southeast Wisconsin freeway megaproject unless the project is specifically
 3 enumerated in a list under par. (b).[✓]

4 (b) The department may provide funding for the following southeast Wisconsin
 5 freeway megaprojects:[✓]

6 1. The I 94 north-south corridor project.[✓]

7 2. The Zoo interchange project.[✓]

8 (4) The department shall annually adjust the amount specified in sub. (1) (c)[✓]
 9 to reflect the annual change in the Wisconsin Department of Transportation Price
 10 Index, Yearly Moving Average,[✓] as maintained by the department or, if at any time
 11 the department no longer maintains this index, another suitable index as
 12 determined by the department.[✓] Beginning in 2012, prior to October 1 of each year,
 13 the department shall compute the annual adjustment required under this subsection[✓]
 14 and shall publish the new adjusted amount applicable under sub. (1) (c),[✓] which
 15 amount shall become effective on October 1 of that year.[✓] The department may not
 16 adjust the amount specified in sub. (1) (c)[✓] to an amount less than that specified in sub.
 17 (1) (c).[✓]

18 **SECTION 25.** 227.01 (13) (yc) of the statutes is created to read:

19 227.01 (13) (yc) Adjusts the total cost threshold for highway projects under ss.
 20 84.013 (2m)[✓] and 84.0145 (4).[✓]

21 **SECTION 9348. Initial applicability; Transportation.**[✓]

22 (1) MAJOR HIGHWAY PROJECTS. The treatment of sections 13.489 (1m) (f), 84.013
 23 (1) (a) (intro.), 1., 2. (intro.), a., and b., 2m., and 3. and (2m), and 227.01 (13) (zy) (as
 24 it relates to major highway projects) of the statutes first applies to highway projects

1 for which preliminary engineering and design work commences after the effective
2 date of this subsection.✓

3 (END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1403/1dn

ARG:|:....

nwn

Date

ATTN: Tyler Byrnes

Please review the attached draft carefully to ensure that it is consistent with your intent. ✓

Did you intend for the new \$75,000,000 category of major highway projects to be exempt from any or all of the TPC process? ✓ It would seem that there is no reason to create a two-tiered major highway projects structure unless there is some difference between the tiers. ✓ I have included s. 13.489 (1m) (f) in the attached draft, which was included in the 2009 budget draft LRB-0626. Please advise if this is not consistent with your intent. ✓

Did you intend for there to be any bonding funding for the southeast Wisconsin freeway megaprojects? ✓

It seems that s. 84.01 (33) ✓ should be revised, but there is no obvious approach for the changes so I have left the provision untreated. ✓

If you prefer not to refer to the DOT inflation index, we could substitute a more generic term, which would give more (but not much more) discretion to DOT to determine the inflation adjustments. ✓

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1403/1dn
ARG:nwn:rs

February 14, 2011

ATTN: Tyler Byrnes

Please review the attached draft carefully to ensure that it is consistent with your intent.

Did you intend for the new \$75,000,000 category of major highway projects to be exempt from any or all of the TPC process? It would seem that there is no reason to create a two-tiered major highway projects structure unless there is some difference between the tiers. I have included s. 13.489 (1m) (f) in the attached draft, which was included in the 2009 budget draft LRB-0626. Please advise if this is not consistent with your intent.

Did you intend for there to be any bonding funding for the southeast Wisconsin freeway megaprojects?

It seems that s. 84.01 (33) should be revised, but there is no obvious approach for the changes so I have left the provision untreated.

If you prefer not to refer to the DOT inflation index, we could substitute a more generic term, which would give more (but not much more) discretion to DOT to determine the inflation adjustments.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov



in
2/15



RMR
EKF

DOA:.....Byrnes, BB0347 - SE Wisconsin Freeway megaprojects

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

D-Note

Don't Gen

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

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Insert
ANAL-A

✓
✗

Under current law, DOT administers a major highway projects program. With certain exceptions, a major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes five miles or more in length to the highway; or improvement of an existing multilane, divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, must generally receive the approval of the ~~Transportation Projects Commission (TPC)~~ and the legislature (generally referred to as "enumeration") before the project may be constructed. DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. The TPC may not recommend approval of any major highway project unless the TPC has been notified that a final EIS or EA for the project has been approved by the Federal Highway Administration. The legislature may not enumerate any major highway project unless the TPC has recommended approval of the project. The major highway projects program is funded from state, federal, and local funds appropriations and bond proceeds.

Under current law, southeast Wisconsin freeway rehabilitation projects include the reconditioning, reconstruction, or resurfacing of, or adding one or more lanes to, a state trunk highway, located in Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, or Waukesha county, that has four or more lanes of traffic physically separated by a median or barrier and that gives preference to through traffic by limiting access to interchanges only. A project may not be considered both a major highway project and a southeast Wisconsin freeway rehabilitation project. Southeast Wisconsin freeway rehabilitation projects, which include the Marquette interchange reconstruction project, the I 94 north-south corridor project, and the Zoo interchange project in Milwaukee County, may be funded only from appropriations specifically designated for such projects or from bond proceeds. Southeast Wisconsin freeway rehabilitation projects that involve adding at least one lane five miles or more in length cannot be funded from state, federal, and local funds appropriations without legislative approval, accomplished through statutory enumeration. Only the reconstruction of the I 94 north-south corridor project and the Zoo interchange have been so enumerated. After June 30, 2011, funding under the state, federal, and local funds appropriations for southeast Wisconsin freeway rehabilitation projects terminates, but bond proceeds may still be used to fund these projects.

In addition to the major highway projects program and the southeast Wisconsin freeway rehabilitation program, DOT administers a state highway rehabilitation program. This program provides funding for state highway improvements that are not major highway projects or southeast Wisconsin freeway rehabilitation projects. The program is funded from state, federal, and local funds appropriations and bond proceeds.

This bill modifies the definition of "major highway project" to recognize two categories of major highway projects. In the first category, a major highway project is defined as under current law except that the total cost threshold is increased by the bill from \$5,000,000 to \$30,000,000. In the second category, with certain exceptions, a major highway project is a project having a total cost of at least \$75,000,000. For both categories of major highway projects, the total cost threshold is adjusted annually by DOT based on an inflation index maintained by DOT. Under the bill, DOT may prepare an EIS or EA for a major highway project in the second category without TPC approval. However, major highway projects in the second category are subject to the remainder of the TPC review and approval process and to legislative enumeration.

The bill also creates a new category of highway projects called "southeast Wisconsin freeway megaprojects," which are projects on southeast Wisconsin freeways that have a total cost of more than \$500 million, as adjusted for inflation annually by DOT. These projects may be funded only from newly created state, federal, and local funds appropriations for these projects, along with an existing insurance cost-recovery appropriation, and no funding for these projects may be provided without legislative approval by means of statutory enumeration. The bill enumerates the I 94 north-south corridor project and the Zoo interchange project as southeast Wisconsin freeway megaprojects.

Insert
ANAL - B

Construction of

Insert
ANAL - C

Bond proceeds and

Under this bill, southeast Wisconsin freeway rehabilitation projects may also be considered major highway projects, eligible for major highway project funding, if they satisfy all criteria and requirements for major highway projects, including approval through the TPC process and statutory enumeration. A southeast Wisconsin freeway rehabilitation project that is not a major highway project and not a southeast Wisconsin freeway megaproject may be eligible for state highway rehabilitation funding. However, a southeast Wisconsin freeway rehabilitation project cannot also be considered a southeast Wisconsin freeway megaproject.

For further information see the *state* 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.** 13.489 (1m) (f) of the statutes is created to read:

2 13.489 **(1m)** (f) This subsection does not apply to major highway projects
3 described in s. 84.013 (1) (a) 2m.

4 **SECTION 2.** 20.395 (3) (aq) of the statutes is created to read:

5 20.395 **(3)** (aq) *Southeast Wisconsin freeway megaprojects, state funds.* As a
6 continuing appropriation, the amounts in the schedule for southeast Wisconsin
7 freeway megaprojects under s. 84.0145. This paragraph does not apply to the
8 installation, replacement, rehabilitation, or maintenance of highway signs, traffic
9 control signals, highway lighting, pavement markings, or intelligent transportation
10 systems, unless incidental to a southeast Wisconsin freeway megaproject.

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

11 **SECTION 3.** 20.395 (3) (av) of the statutes is created to read:

12 20.395 **(3)** (av) *Southeast Wisconsin freeway megaprojects, local funds.* All
13 moneys received from any local unit of government or other source for southeast
14 Wisconsin freeway megaprojects under s. 84.0145, for such purposes.

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

Inst
3-3 →

1 **SECTION 4.** 20.395 (3) (ax) of the statutes is created to read:

2 20.395 (3) (ax) *Southeast Wisconsin freeway megaprojects, federal funds.* All
3 moneys received from the federal government for southeast Wisconsin freeway
4 megaprojects under s. 84.0145, for such purposes. This paragraph does not apply to
5 the installation, replacement, rehabilitation, or maintenance of highway signs,
6 traffic control signals, highway lighting, pavement markings, or intelligent
7 transportation systems, unless incidental to a southeast Wisconsin freeway
8 megaproject.

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

9 **SECTION 5.** 20.395 (3) (bq) of the statutes is amended to read:

10 20.395 (3) (bq) *Major highway development, state funds.* As a continuing
11 appropriation, the amounts in the schedule for major development of state trunk and
12 connecting highways and for the disadvantaged business demonstration and
13 training program under s. 84.076. This paragraph does not apply to ~~major~~
14 ~~development of~~ with respect to any southeast Wisconsin freeway, ~~as defined in s.~~
15 ~~84.014 (1) (e)~~ megaproject under s. 84.0145.

16 **SECTION 6.** 20.395 (3) (br) of the statutes is amended to read:

17 20.395 (3) (br) *Major highway development, service funds.* All moneys received
18 from the fund created under s. 18.57 (1) as reimbursement for the temporary
19 financing under sub. (9) (th) of projects for major development of state trunk and
20 connecting highways that are financed under s. 84.59 and enumerated under s.
21 84.013 (3), for the purpose of financing such projects. This paragraph does not apply
22 ~~to any project for major development of a~~ with respect to any southeast Wisconsin
23 ~~freeway, as defined in s. 84.014 (1) (e)~~ megaproject under s. 84.0145.

1 **SECTION 7.** 20.395 (3) (bv) of the statutes is amended to read:

2 20.395 (3) (bv) *Major highway development, local funds.* All moneys received
3 from any local unit of government or other source for major development of state
4 trunk and connecting highways, including the railroad and utility alteration and
5 relocation loan program under s. 84.065, and the disadvantaged business
6 demonstration and training program under s. 84.076, for such purposes. This
7 paragraph does not apply with respect to ~~major development of~~ any southeast
8 Wisconsin freeway, ~~as defined in s. 84.014 (1) (e)~~ megaproject under s. 84.0145.

9 **SECTION 8.** 20.395 (3) (bx) of the statutes is amended to read:

10 20.395 (3) (bx) *Major highway development, federal funds.* All moneys received
11 from the federal government for major development of state trunk and connecting
12 highways and the disadvantaged business demonstration and training program
13 under s. 84.076, for such purposes. This paragraph does not apply ~~to major~~
14 ~~development of~~ with respect to any southeast Wisconsin freeway, ~~as defined in s.~~
15 ~~84.014 (1) (e)~~ megaproject under s. 84.0145.

16 **SECTION 9.** 20.395 (3) (cq) of the statutes is amended to read:

17 20.395 (3) (cq) *State highway rehabilitation, state funds.* As a continuing
18 appropriation, the amounts in the schedule for improvement of existing state trunk
19 and connecting highways; for improvement of bridges on state trunk or connecting
20 highways and other bridges for which improvement is a state responsibility, for
21 necessary approach work for such bridges and for replacement of such bridges with
22 at-grade crossing improvements; for the construction and rehabilitation of the
23 national system of interstate and defense highways and bridges and related
24 appurtenances; for special maintenance activities under s. 84.04 on roadside
25 improvements; for bridges under s. 84.10; for the bridge project under s. 84.115; for

1 payment to a local unit of government for a jurisdictional transfer under s. 84.02 (8);
2 for the disadvantaged business demonstration and training program under s.
3 84.076; for the transfers required under 1999 Wisconsin Act 9, section 9250 (1) and
4 2003 Wisconsin Act 33, section 9153 (4q); and for the purposes described under 1999
5 Wisconsin Act 9, section 9150 (8g), 2001 Wisconsin Act 16, section 9152 (4e), and 2007
6 Wisconsin Act 20, section 9148 (9i) (b) and (9x). This paragraph does not apply to any
7 southeast Wisconsin freeway megaprojects under s. 84.0145, to any southeast
8 Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major
9 highway projects under s. 84.013, or to the installation, replacement, rehabilitation,
10 or maintenance of highway signs, traffic control signals, highway lighting, pavement
11 markings, or intelligent transportation systems, unless incidental to the
12 improvement of existing state trunk and connecting highways.

13 **SECTION 10.** 20.395 (3) (cv) of the statutes is amended to read:

14 20.395 (3) (cv) *State highway rehabilitation, local funds.* All moneys received
15 from any local unit of government or other source for the specific information sign
16 program under s. 86.195; for improvement of existing state trunk and connecting
17 highways; for improvement of bridges on state trunk or connecting highways and
18 other bridges for which improvement is a state responsibility, for necessary approach
19 work for such bridges and for replacement of such bridges with at-grade crossing
20 improvements; for the construction and rehabilitation of the national system of
21 interstate and defense highways and bridges and related appurtenances; for special
22 maintenance activities under s. 84.04 on roadside improvements; for the bridge
23 project under s. 84.115; for the railroad and utility alteration and relocation loan
24 program under s. 84.065; and for the disadvantaged business demonstration and
25 training program under s. 84.076, for such purposes. This paragraph does not apply

1 to any southeast Wisconsin freeway megaprojects under s. 84.0145 or to any
2 southeast Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify
3 as major highway projects under s. 84.013.

4 **SECTION 11.** 20.395 (3) (cx) of the statutes is amended to read:

5 20.395 (3) (cx) *State highway rehabilitation, federal funds.* All moneys
6 received from the federal government for improvement of existing state trunk and
7 connecting highways; for improvement of bridges on state trunk or connecting
8 highways and other bridges for which improvement is a state responsibility, for
9 necessary approach work for such bridges and for replacement of such bridges with
10 at-grade crossing improvements; for the construction and rehabilitation of the
11 national system of interstate and defense highways and bridges and related
12 appurtenances; for special maintenance activities under s. 84.04 on roadside
13 improvements; for the bridge project under s. 84.115; and for the disadvantaged
14 business demonstration and training program under s. 84.076; and all moneys
15 received under 2003 Wisconsin Act 33, section 9153 (4q); for such purposes. This
16 paragraph does not apply to any southeast Wisconsin freeway megaprojects under
17 s. 84.0145 or to any southeast Wisconsin freeway rehabilitation projects under s.
18 84.014 that also qualify as major highway projects under s. 84.013.

19 **SECTION 12.** 20.866 (2) (ur) of the statutes is amended to read:

20 20.866 (2) (ur) *Transportation; accelerated highway improvements.* From the
21 capital improvement fund, a sum sufficient to acquire, construct, develop, enlarge,
22 or improve state highway facilities as provided by ss. 84.06 and 84.09. The state may
23 contract public debt in an amount not to exceed \$185,000,000 for this purpose. This
24 paragraph does not apply with respect to any southeast Wisconsin freeway
25 ~~rehabilitation projects under s. 84.014~~ megaproject under s. 84.0145.

MSL
7-18 →

1 **SECTION 13.** 20.866 (2) (uu) of the statutes is amended to read:

2 20.866 (2) (uu) *Transportation; highway projects.* From the capital
3 improvement fund, a sum sufficient for the department of transportation to acquire,
4 construct, reconstruct, improve, or develop highway projects under ss. 84.06 and
5 84.09. The state may contract public debt in an amount not to exceed \$41,000,000 for
6 this purpose. This paragraph does not apply with respect to any southeast Wisconsin
7 freeway ~~rehabilitation projects under s. 84.014~~ megaproject under s. 84.0145.

8 **SECTION 14.** 84.013 (1) (a) (intro.) of the statutes is amended to read:

9 84.013 (1) (a) (intro.) "Major highway project" means a project, except a project
10 providing an approach to a bridge over a river that forms a boundary of the state or
11 a southeast Wisconsin freeway ~~rehabilitation project under s. 84.014, which~~
12 megaproject under s. 84.0145, that satisfies any of the following:

13 1m. The project has a total cost of more than \$5,000,000 \$30,000,000, subject
14 to adjustment under sub. (2m), and which involves any of the following:

15 **SECTION 15.** 84.013 (1) (a) 1. of the statutes is renumbered 84.013 (1) (a) 1m.

16 a.

17 **SECTION 16.** 84.013 (1) (a) 2. (intro.), a. and b. of the statutes are consolidated,
18 renumbered 84.013 (1) (a) 1m. b. and amended to read:

19 84.013 (1) (a) 1m. b. Reconstructing or reconditioning an existing highway by
20 either of the following: ~~a. Relocating~~ relocating 2.5 miles or more of the existing
21 highway. ~~b. Adding or adding~~ one or more lanes 5 miles or more in length to the
22 existing highway.

23 **SECTION 17.** 84.013 (1) (a) 2m. of the statutes is created to read:

24 84.013 (1) (a) 2m. The project has a total cost of more than \$75,000,000, subject
25 to adjustment under sub. (2m).

1 **SECTION 18.** 84.013 (1) (a) 3. of the statutes is renumbered 84.013 (1) (a) 1m.
2 c.

3 **SECTION 19.** 84.013 (2) (a) of the statutes is amended to read:

4 84.013 (2) (a) Subject to ss. 84.014 (6) (b), 84.555, and 86.255, major highway
5 projects shall be funded from the appropriations under ss. 20.395 (3) (bq) to (bx) and
6 (ct) and (4) (jq) and 20.866 (2) (ur) to (uum) and (uus).

7 **SECTION 20.** 84.013 (2) (b) of the statutes is amended to read:

8 84.013 (2) (b) Except as provided in ss. ~~84.014~~, 84.03 (3), and 84.555, and
9 subject to ~~s. ss. 84.014 (6) (c) and~~ 86.255, reconditioning, reconstruction and
10 resurfacing of highways shall be funded from the appropriations under ss. 20.395 (3)
11 (cq) to (cx) and 20.866 (2) (uur) and (uut).

12 **SECTION 21.** 84.013 (2m) of the statutes is created to read:

13 84.013 (2m) The department shall annually adjust the amounts specified in
14 sub. (1) (a) 1m. and 2m. to reflect the annual change in the Wisconsin Department
15 of Transportation Price Index, Yearly Moving Average, as maintained by the
16 department or, if at any time the department no longer maintains this index, another
17 suitable index as determined by the department. Beginning in 2012, prior to October
18 1 of each year, the department shall compute the annual adjustment required under
19 this subsection and shall publish the new adjusted amount applicable under sub. (1)
20 (a) 1m. and 2m., which amount shall become effective on October 1 of that year. The
21 department may not adjust the amounts specified in sub. (1) (a) 1m. and 2m. to an
22 amount less than that specified in sub. (1) (a) 1m. and 2m.

23 **SECTION 22.** 84.014 (2) of the statutes is amended to read:

24 84.014 (2) Subject to ss. 84.555 and 86.255, any southeast Wisconsin freeway
25 rehabilitation projects, including the Marquette interchange reconstruction project

1 and projects that involve adding one or more lanes 5 miles or more in length to the
2 existing freeway, may be funded ~~only~~ from the appropriations under ss. 20.395 (3)
3 (cr), (ct), (cw), and (cy) and 20.866 (2) (uum) and (uup).

4 **SECTION 23.** 84.014 (6) of the statutes is created to read:

5 84.014 (6) (a) A southeast Wisconsin freeway rehabilitation project under this
6 section may not simultaneously be considered a southeast Wisconsin freeway
7 megaproject under s. 84.0145.

8 (b) Notwithstanding sub. (2) and (5m), a southeast Wisconsin freeway
9 rehabilitation project under this section may also be considered a major highway
10 project, eligible for funding under s. 84.013 (2) (a), if the project meets the criteria
11 for a major highway project under s. 84.013 (1) (a) and satisfies all applicable
12 requirements under ss. 13.489 and 84.013.

13 (c) Notwithstanding sub. (5m), a southeast Wisconsin freeway rehabilitation
14 project under this section may also be eligible for funding under s. 84.013 (2) (b) if
15 the project is not considered a southeast Wisconsin freeway megaproject under s.
16 84.0145 or a major highway project under s. 84.013.

17 **SECTION 24.** 84.0145 of the statutes is created to read:

18 **84.0145 Southeast Wisconsin freeway megaprojects.** (1) In this section:

19 (a) "I 94 north-south corridor" has the meaning given in s. 84.014 (5m) (ag) 1.

20 (b) "Southeast Wisconsin freeway" has the meaning given in s. 84.014 (1) (e).

21 (c) "Southeast Wisconsin freeway megaproject" means any project on a
22 southeast Wisconsin freeway having a total cost of more than \$500 million, subject
23 to adjustment under sub. (4).

24 (d) "Zoo interchange" has the meaning given in s. 84.014 (5m) (ag) 2.

1 (2) Subject to sub. (3) and s. 86.255, any southeast Wisconsin freeway
2 megaproject may be funded only from the appropriations under ss. 20.395 (3) (aq),

3 (av), (ax), and (ct) and 20.866 (2) (unp) construction of

4 (3) (a) The department may not encumber or expend any moneys for a
5 southeast Wisconsin freeway megaproject unless the project is specifically
6 enumerated in a list under par. (b).

7 (b) The department may provide funding for the following southeast Wisconsin
8 freeway megaprojects:

- 9 1. The I 94 north-south corridor project.
- 10 2. The Zoo interchange project.

11 (4) The department shall annually adjust the amount specified in sub. (1) (c)
12 to reflect the annual change in the Wisconsin Department of Transportation Price
13 Index, Yearly Moving Average, as maintained by the department or, if at any time
14 the department no longer maintains this index, another suitable index as
15 determined by the department. Beginning in 2012, prior to October 1 of each year,
16 the department shall compute the annual adjustment required under this subsection
17 and shall publish the new adjusted amount applicable under sub. (1) (c), which
18 amount shall become effective on October 1 of that year. The department may not
19 adjust the amount specified in sub. (1) (c) to an amount less than that specified in sub.
20 (1) (c).

Insert
11-20 →

21 **SECTION 25.** 227.01 (13) (yc) of the statutes is created to read:

22 227.01 (13) (yc) Adjusts the total cost threshold for highway projects under ss.
23 84.013 (2m) and 84.0145 (4).

24 **SECTION 9348. Initial applicability; Transportation.**

and (3) (ad), 85.05,

(4) (d), and (4m),

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(1) MAJOR HIGHWAY PROJECTS. The treatment of sections 13.489 (1m) (f), 84.013

(1) (a) (intro.), 1., 2. (intro.), a., and b., 2m., and 3., and (2m), and 227.01 (13) (yc) (as it relates to major highway projects) of the statutes first applies to highway projects for which preliminary engineering and design work commences after the effective date of this subsection.

(END)

D-Note

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INSERT ANAL-A:

Under current law, the Transportation Projects Commission (TPC) consists of the governor, three citizen members, and ten members of the legislature. The secretary of transportation serves as a nonvoting member of the TPC and the governor serves as chairperson of the TPC.

3

INSERT ANAL-B:

(no P) The bill maintains the current TPC review and approval process for major highway projects in the first category but creates a new TPC review and approval process for major highway projects in the second category. Under the bill, DOT may prepare an EIS or EA for a major highway project in the second category without TPC approval. However, prior to final design and construction of the project, DOT must submit a report to the TPC and request TPC approval to proceed with the project. If the chairperson of the TPC does not notify DOT within 14 working days after this request for approval is submitted that the TPC has scheduled a meeting for the purpose of reviewing the request, the request is considered approved and DOT may proceed with the project. If, within 14 working days after DOT submits the request, the chairperson of the TPC notifies DOT that the TPC has scheduled a meeting for the purpose of reviewing the request, DOT may implement the request only as approved by the TPC. DOT may not complete the final design and proceed with construction of a major highway project in the second category unless the project is approved, implicitly or explicitly, by the TPC under this passive review process. Once approved by the TPC, the project is considered "enumerated" as a major highway project under the statutes.

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INSERT ANAL-C:

(no P) This bill also authorizes proceeds from certain general obligation bonding to be used to fund southeast Wisconsin freeway megaprojects.

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INSERT 3-3:

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SECTION 1. 13.489 (4) (d) of the statutes is created to read:

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13.489 (4) (d) This subsection does not apply to major highway projects

8

described in s. 84.013 (1) (a) 2m.

9

SECTION 2. 13.489 (4m) of the statutes is created to read:

1 13.489 (4m) REVIEW OF HIGH-COST MAJOR HIGHWAY PROJECTS. (a)
2 Notwithstanding sub. (4), for any major highway project described in s. 84.013 (1) (a)
3 2m., the department of transportation shall submit a report to the commission, prior
4 to final design and construction of the project, which report may request the
5 commission's approval to proceed with the project. The department may submit this
6 request at any time following completion by the department of a final environmental
7 impact statement or environmental assessment for the project.

8 (b) After receiving a request under par. (a) for approval to proceed with a major
9 highway project described in s. 84.013, if the chairperson of the commission does not
10 notify the department of transportation within 14 working days after the date on
11 which the department submits the request under par. (a) that the commission has
12 scheduled a meeting for the purpose of reviewing the request, the request is
13 considered approved and the department may proceed with the project. If, within
14 14 working days after the date on which the department submits the request, the
15 chairperson of the commission notifies the department that the commission has
16 scheduled a meeting for the purpose of reviewing the request, the department may
17 implement the request only as approved by the commission, including approval after
18 modification by the commission.

19 (c) The department of transportation may not complete the final design and
20 proceed with construction of a major highway project described in s. 84.013 (1) (a) 2m.
21 unless the project is approved by the commission as provided in par. (b).

22 (d) The procedures specified in this subsection shall apply to all major highway
23 projects described in s. 84.013 (1) (a) 2m. in lieu of the procedures described in sub.
24 (4).

****NOTE: Does the EIS or EA merely need to be "completed" by DOT, or does it also need to be approved by the FHWA?

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SECTION 3. 20.395 (6) (au) of the statutes is amended to read:

20.395 (6) (au) *Principal repayment and interest, Marquette interchange, southeast megaprojects, and I 94 north-south corridor reconstruction projects, state funds.* A sum sufficient to reimburse s. 20.866 (1) (u) for the payment of principal and interest costs incurred in financing the Marquette interchange reconstruction project and the reconstruction of the I 94 north-south corridor and southeast Wisconsin freeway megaprojects, as provided under ss. 20.866 (2) (uup) and 84.555, and to make payments under an agreement or ancillary arrangement entered into under s. 18.06 (8) (a).

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

****NOTE: When the budget bill is compiled, this provision will be reconciled with the treatment of the same statute in LRB-0459.

SECTION 4. 20.866 (2) (uup) of the statutes is amended to read:

20.866 (2) (uup) *Transportation; Marquette interchange, southeast megaprojects, and I 94 north-south corridor reconstruction projects.* From the capital improvement fund, a sum sufficient for the department of transportation to fund the Marquette interchange reconstruction project under s. 84.014, as provided under s. 84.555, and the reconstruction of the I 94 north-south corridor, as provided under s. 84.555 (1m), and southeast Wisconsin freeway megaprojects under s. 84.0145, as provided under s. 84.555 (1m). The state may contract public debt in an amount not to exceed \$553,550,000 for these purposes.

****NOTE: When the budget bill is compiled, this provision will be reconciled with the treatment of the same statute in LRB-0459.

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INSERT 8-7:

SECTION 5. 84.01 (33) (c) of the statutes is repealed.

SECTION 6. 84.013 (3) (ad) of the statutes is created to read:

84.013 (3) (ad) Notwithstanding s. 13.489 (4) (c), any project approved by the transportation projects commission under s. 13.489 (4m) (b).

INSERT 11-20:

SECTION 7. 84.555 (1m) of the statutes is amended to read:

84.555 (1m) Notwithstanding sub. (1) and ss. 84.51 and 84.59, the proceeds of general obligation bonds issued under s. 20.866 (2) (uum) are allocated for expenditure obligations under s. 84.95 and s. 84.014 and the proceeds of general obligation bonds issued under s. 20.866 (2) (uup) may be used to fund expenditure obligations for the Marquette interchange reconstruction project under s. 84.014 and, for the reconstruction of the I 94 north-south corridor, as defined in s. 84.014 (5m) (ag) 1., and southeast Wisconsin freeway megaprojects under s. 84.0145.

****NOTE: When the budget bill is compiled, this provision will be reconciled with the treatment of the same statute in LRB-0459.

SECTION 8. 85.05 of the statutes is amended to read:

85.05 Evaluation of proposed major highway projects. The department by rule shall establish a procedure for numerically evaluating projects considered for enumeration under s. 84.013 (3) as a major highway project. The evaluation procedure may include any criteria that the department considers relevant. The rules shall establish a minimum score that a project shall meet or exceed when evaluated under the procedure established under this section before the department

1 may recommend the project to the transportation projects commission for
2 consideration under s. 13.489 (4). This section does not apply to major highway
3 projects identified in s. 84.013 (3) (ad).

4 **History:** 1997 a. 86; 1999 a. 9.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1403/2dn

ARG.: kjf

Date

ATTN: Tyler Byrnes ✓

Created s. 84.013 (3) (ad) automatically enumerates the \$75,000,000 category of highway projects upon TPC approval. The major highway projects approved under created s. 13.489 (4m) (b) will therefore be considered enumerated projects as soon as the TPC approves them, without the need for further legislative approval. Will this approach work for you? If not, I will need to treat numerous additional statutory provisions, including ss. 20.395 (3) (br) and (9) (th), 13.489 (5) (a) 1. and (c), and others.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]
Sent: Tuesday, February 15, 2011 12:11 PM
To: Gary, Aaron
Subject: RE: Draft review: LRB 11-1403/1 Topic: SE Wisconsin Freeway megaprojects
One final change:

Related to your question in the drafters note about s. 84.01 (33):

- s. 84.01 (33)(c) can be repealed.

Thanks,

Tyler

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Monday, February 14, 2011 4:12 PM
To: Byrnes, Tyler - DOA
Cc: Dyer, Joy - LEGIS
Subject: FW: Draft review: LRB 11-1403/1 Topic: SE Wisconsin Freeway megaprojects

Tyler,

I assume there will be some redrafting of this one. Just FYI, I need to take out the cross-reference to sub. (2) on p. 10, line 8, as it is not necessary. The beginning of (b) on line 8 should look like the beginning of (c) on line 13.

If it turns out there won't be additional changes, let me know and I will make this technical correction. Otherwise, I'll just make this fix when I redraft it next.

Thanks. Aaron

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

From: Basford, Sarah
Sent: Monday, February 14, 2011 1:12 PM
To: Gary, Aaron
Subject: Draft review: LRB 11-1403/1 Topic: SE Wisconsin Freeway megaprojects

Draft Requester: Administration-Budget

Following is the PDF version of draft LRB 11-1403/1 and drafter's note.

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]
Sent: Tuesday, February 15, 2011 12:20 PM
To: Gary, Aaron
Cc: Wolfgram, Mark - DOT; Grinde, Kirsten - DOA; Newman, Kenneth - DOT
Subject: LRB 11-1403/1 Topic: SE Wisconsin Freeway megaprojects
 Aaron,

These are the changes to the draft that DOT is requesting. They want to make a separate approval TPC approval process for projects that qualify as a major project based on the \$75 million threshold. See below for specific instructions.

If you have questions, please work with Mark Wolfgram.

Thanks,

Tyler

From: Wolfgram, Mark - DOT
Sent: Tuesday, February 15, 2011 11:24 AM
To: Byrnes, Tyler - DOA
Cc: Gottlieb, Mark - DOT; Newman, Kenneth - DOT; Nestler, Joseph - DOT
Subject: Needed Changes to Major Highway Program in Budget Bill

Tyler, here's the essence of what we discussed relative to the redefinition of major projects. The changes requested from the current bill draft relate to B 2) and B 3) below. Give me a call at 608 220-9097 if you have questions. Thanks.

In the new statute there will be two ways to be a major project.....

1. The traditional way, where we're either building a new highway or adding capacity beyond some length limits and the cost of the project exceeds \$30 million, indexed for inflation
2. The new way, where what has traditionally been a project in the highway rehab program is now a major project because it's cost exceeds \$75 million, indexed for inflation (excludes SE Mega Projects).

The TPC process followed for these two situations needs to differ.....

- A. The TPC process for major projects defined in the traditional way remains unchanged from what's currently in statute
- B. The TPC process for major projects defined in the new way should have the following elements
 1. The DOT is authorized to begin an environmental study and preliminary engineering without TPC approval
 2. TPC approval is required before the DOT can proceed to construction. Prior to final design and construction, the DOT must transmit a report to the TPC requesting their approval to proceed. This request can be made at any time following the completion of the draft environmental impact statement. The DOT request is subject to a 14 day passive review by the TPC.
 3. No further legislative action is needed. Unlike traditional major projects, enumeration of this type of major project in the statutes is not needed prior to final design and construction.
 - 4.

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]
Sent: Tuesday, February 15, 2011 1:18 PM
To: Gary, Aaron
Subject: LRB 11-1403/1 Topic: SE Wisconsin Freeway megaprojects

Hopefully the last change:

Could we change the draft to allow the department to encumber or expend moneys for preliminary planning and environmental work on SE Megaprojects before they're enumerated, but prohibit them from expending money for construction activities on the project? Suggested language change below in red:

(3) (a) The department may not encumber or expend any moneys for construction of a southeast Wisconsin freeway megaproject unless the project is specifically enumerated in a list under par. (b).

Thanks,

Tyler

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Tuesday, February 15, 2011 12:22 PM
To: Byrnes, Tyler - DOA
Subject: RE: Draft review: LRB 11-1403/1 Topic: SE Wisconsin Freeway megaprojects

Thanks.

From: Byrnes, Tyler - DOA [mailto:Tyler.Byrnes@wisconsin.gov]
Sent: Tuesday, February 15, 2011 10:54 AM
To: Gary, Aaron
Subject: RE: Draft review: LRB 11-1403/1 Topic: SE Wisconsin Freeway megaprojects

Aaron,

DOT is writing up some specific instructions for changes to the draft. However, I do know that we want the southeast megaprojects to be eligible for G.O. bonds, as authorized under s. 20.866 (2) (uup), as modified by LRB-0459/2. These should be the only currently authorized bonds that the enumerated "megaprojects" would be eligible for.

I'll get you the DOT changes as soon as possible.

Thanks,

Tyler

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Monday, February 14, 2011 4:12 PM
To: Byrnes, Tyler - DOA
Cc: Dyer, Joy - LEGIS
Subject: FW: Draft review: LRB 11-1403/1 Topic: SE Wisconsin Freeway megaprojects

Tyler,

I assume there will be some redrafting of this one. Just FYI, I need to take out the cross-reference to

2/15/2011

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1403/2dn
ARG:kjf:ph

February 15, 2011

ATTN: Tyler Byrnes

Created s. 84.013 (3) (ad) automatically enumerates the \$75,000,000 category of highway projects upon TPC approval. The major highway projects approved under created s. 13.489 (4m) (b) will therefore be considered enumerated projects as soon as the TPC approves them, without the need for further legislative approval. Will this approach work for you? If not, I will need to treat numerous additional statutory provisions, including ss. 20.395 (3) (br) and (9) (th), 13.489 (5) (a) 1. and (c), and others.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]

Sent: Wednesday, February 16, 2011 3:14 PM

To: Gary, Aaron

Subject: LRB-1403/2 - SE Megaprojects

Aaron,

We'd like two additional changes to the draft:

1. In Section 3: 13.489 (4m), can we change "final environmental impact statement" to "draft environmental impact statement"
2. Also in Section 3, eliminate the prohibition on entering "final design" before projects are approved by the TPC? The department should still be prohibited from entering construction. In addition, could we eliminate the prohibition on entering "final design" for major highway projects before enumeration that exists under current law? The department should be prohibited from entering construction on these projects.

Let me know if you have questions.

Thanks,

Tyler