

2013 DRAFTING REQUEST

Bill

Received: 9/27/2012 Received By: agary
Wanted: As time permits Same as LRB:
For: Administration-Budget By/Representing: Byrnes
May Contact: Drafter: agary
Subject: Transportation - highways Addl. Drafters:
Transportation - other Extra Copies: EVM

Submit via email: YES
Requester's email:
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

DOA:.....Byrnes, BB0235 -

Topic:

Appropriation and operational changes allowing sponsorship agreements

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>
/?	agary 9/28/2012			_____			
/P1	agary 10/18/2012	scalvin 9/28/2012	rschluet 9/28/2012	_____	lparisi 9/28/2012		State S&L
/P2	agary 11/7/2012	scalvin 10/19/2012	phenry 10/19/2012	_____	lparisi 10/19/2012		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	agary 11/13/2012	scalvin 11/8/2012	rschluet 11/8/2012	_____	sbasford 11/8/2012		State S&L
/1	agary 1/23/2013	scalvin 11/13/2012	phenry 11/13/2012	_____	sbasford 11/13/2012		State S&L
/2	agary 2/13/2013	scalvin 1/23/2013	rschluet 1/23/2013	_____	sbasford 1/23/2013		State S&L
/3		scalvin 2/13/2013	rschluet 2/13/2013	_____	srose 2/13/2013		State S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/27/2012	Received By: agary
Wanted: As time permits	Same as LRB:
For: Administration-Budget	By/Representing: Byrnes
May Contact:	Drafter: agary
Subject: Transportation - highways Transportation - other	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, BB0235 -

Topic:

Appropriation and operational changes allowing sponsorship agreements

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>
/?	agary 9/28/2012			_____			
/P1	agary 10/18/2012	scalvin 9/28/2012	rschluet 9/28/2012	_____	lparisi 9/28/2012		State S&L
/P2	agary 11/7/2012	scalvin 10/19/2012	phenry 10/19/2012	_____	lparisi 10/19/2012		State S&L
		1/P3 SAC 02/13/2013	<i>[Signature]</i> 2/13/13				

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	agary 11/13/2012	scalvin 11/8/2012	rschlue 11/8/2012	_____	sbasford 11/8/2012		State S&L
/1	agary 1/23/2013	scalvin 11/13/2012	phenry 11/13/2012	_____	sbasford 11/13/2012		State S&L
/2		scalvin 1/23/2013	rschlue 1/23/2013	_____	sbasford 1/23/2013		State S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/27/2012 Received By: agary
 Wanted: As time permits Same as LRB:
 For: Administration-Budget By/Representing: Byrnes
 May Contact: Drafter: agary
 Subject: Transportation - highways Addl. Drafters:
 Transportation - other Extra Copies: EVM

Submit via email: YES
 Requester's email:
 Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

DOA:.....Byrnes, BB0235 -

Topic:

Appropriation and operational changes allowing sponsorship agreements

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	agary 9/28/2012			_____			
/P1	agary 10/18/2012	scalvin 9/28/2012	rschluet 9/28/2012	_____	lparisi 9/28/2012		State S&L
/P2	agary 11/7/2012	scalvin 10/19/2012	phenry 10/19/2012	_____	lparisi 10/19/2012		State S&L

A handwritten signature and the number '235' are written over the bottom right portion of the Drafting History table.

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	agary 11/13/2012	scalvin 11/8/2012	rschluet 11/8/2012	_____	sbasford 11/8/2012		State S&L
/1		scalvin 11/13/2012	phenry 11/13/2012	_____	sbasford 11/13/2012		State S&L

*1/2 01/23/2013
sac*

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: **9/27/2012** Received By: **agary**
Wanted: **As time permits** Same as LRB:
For: **Transportation** By/Representing: **Anna Richter**
May Contact: Drafter: **agary**
Subject: **Transportation - highways** Addl. Drafters:
Transportation - other Extra Copies: **EVM**

Submit via email: **YES**
Requester's email: **Anna.Richter@dot.wi.gov**
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Appropriation and operational changes allowing sponsorship agreements

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>
/?	agary 9/28/2012			_____			
/P1	agary 10/18/2012	scalvin 9/28/2012	rschluet 9/28/2012	_____	lparisi 9/28/2012		State S&L
/P2	agary 11/7/2012	scalvin 10/19/2012	phenry 10/19/2012	_____	lparisi 10/19/2012		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3		scalvin 11/8/2012	rschluet 11/8/2012	_____	sbasford 11/8/2012		State S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: **9/27/2012** Received By: **agary**
 Wanted: **As time permits** Same as LRB:
 For: **Administration-Budget** By/Representing: **Byrnes**
 May Contact: Drafter: **agary**
 Subject: **Transportation - highways** Addl. Drafters:
Transportation - other Extra Copies: **EVM**

Submit via email: **YES**
 Requester's email:
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

DOA:.....Byrnes, BB0235 -

Topic:

Appropriation and operational changes allowing sponsorship agreements

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>
/?	agary 9/28/2012		<i>11/13/12 ph</i>	_____			
/P1	agary 10/18/2012	scalvin 9/28/2012	rschluet 9/28/2012	_____	lparisi 9/28/2012		State S&L
/P2	agary 11/7/2012	scalvin 10/19/2012	phenry 10/19/2012	_____	lparisi 10/19/2012		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	agary	scalvin 11/8/2012	rschluet 11/8/2012	_____	sbasford 11/8/2012		State S&L

FE Sent For: /1 sac
11/13/12

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/27/2012	Received By: agary
Wanted: As time permits	Companion to LRB:
For: Transportation	By/Representing: Anna Richter
May Contact:	Drafter: agary
Subject: Transportation - highways Transportation - other	Addl. Drafters:
	Extra Copies: EVM

Submit via email: **YES**
 Requester's email: **Anna.Richter@dot.wi.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

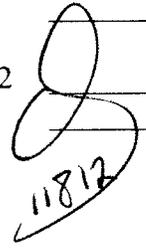
Topic:

Appropriation and operational changes allowing sponsorship agreements

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>
/?	agary 9/28/2012			_____			
/P1	agary 10/18/2012	scalvin 9/28/2012	9/28/2012	_____	lparisi 9/28/2012		State S&L
/P2		scalvin 10/19/2012	10/19/2012	_____	lparisi 10/19/2012		State S&L
		10/18/12 SIC 11/8/12	10/18/12 SIC 11/8/12				

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: **9/27/2012** Received By: **agary**
Wanted: **As time permits** Companion to LRB:
For: **Transportation** By/Representing: **Anna Richter**
May Contact: Drafter: **agary**
Subject: **Transportation - highways** Addl. Drafters:
Transportation - other Extra Copies: **EVM**

Submit via email: **YES**
Requester's email: **Anna.Richter@dot.wi.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Appropriation and operational changes allowing sponsorship agreements

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>
/?	agary 9/28/2012			_____			
/P1		scalvin 9/28/2012 1P2 sac 10/19/12	9/28/2012 10/19 ph	ph/	lparisi 9/28/2012		State S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/27/2012 Received By: agary
 Wanted: As time permits Companion to LRB:
 For: Transportation By/Representing: Anna Richter
 May Contact: Drafter: agary
 Subject: Transportation - highways Addl. Drafters:
 Transportation - other Extra Copies: EVM

Submit via email: YES
 Requester's email: Anna.Richter@dot.wi.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Appropriation and operational changes allowing sponsorship agreements

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>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

1?	agary	/fl sac 9/28/12					
----	-------	-----------------	--	--	--	--	--

FE Sent For:

<END>

Gary, Aaron

To: Richter, Anna - DOT
Subject: RE: DOT Budget Drafts-PR Appropriations

From: Richter, Anna - DOT [<mailto:Anna.Richter@dot.wi.gov>]
Sent: Tuesday, September 25, 2012 11:54 AM
To: Gary, Aaron
Cc: Merriman Hitchman, Linda H - DOT
Subject: DOT Budget Drafts-PR Appropriations

Hi Aaron,

Here's the requests for the two PR appropriations I mentioned yesterday.

The second is to create a PR-Continuing appropriation so that the Department can enter into sponsorship-type arrangements with 3rd parties to fund maintenance and traffic operations activities like:

- Park-and-ride facilities
- Freeway service teams
- 511 webpage
- Rest areas

These activities are currently funded under s.20.395(5)(eq). We'd like the flexibility to fund the activities mentioned under s.20.395(5)(eq) under the new PR appropriation.

We probably also need some kind of language in chapter 84 that authorizes us to enter into a sponsorship or public-private arrangement like this.

<< File: 2013-15 sponsorship stat mod_Todd comments.docx >>

Thanks,
Anna

Department of Transportation
2013-2015 Biennial Budget Request
STATUTORY MODIFICATIONS

DIN:

TOPIC: Creation of a Program Revenue Appropriation for Sponsorships

REQUEST:

The Department requests the creation of Appropriation XXX, s. 20.395(3)(xx) Wis. Stats., a continuing Program Revenue (PR) appropriation, to receive and expend revenue from private or governmental sponsorship agreements entered into to accomplish the Department's responsibilities under s.84.04 relating to roadside improvements, s. 84.07 relating to maintenance of state trunk highways, and s. 84.60 relating to bikeways.

JUSTIFICATION:

The Department is seeking new ways to fund some of its highway maintenance responsibilities by partnering with private, quasi-governmental or other governmental entities in sponsorship agreements. Under these agreements, the partner would pay a fee to the Department for the ability to have its marketing or informational materials in a state highway or roadside facility, would receive recognition of its sponsorship through placement of signage on a segment of roadway, or mutually agreed arrangements, all subject to the limitations of state and federal law. Payments received would be used to supplement state segregated funding for maintenance activities such as roadside mowing, pavement marking, sign replacement, snow removal, etc.

Comment [d1]: Do we need to go into more detail beyond just signing. We potentially will have sponsorship on the 511 web page and signs on freeway service team vehicles etc.

Funding appropriated to Appropriation 365, Highway Maintenance, Repair and Traffic Operations, s. 20.395 (3)(eq), Wis. Stats, has been insufficient to meet priority highway maintenance needs for several years. The Highway Maintenance program has had shortfalls in funding in each of the past two biennia that were supplemented through s. 13.10 requests to the Joint Committee on Finance. This program's responsibilities include activities such as winter snow removal, roadside vegetation management, rest stop and park-and-ride maintenance, bridge maintenance, as well as pavement crack filling and sealing, and highway traffic signage and signal maintenance.

In seeking alternative funding to accomplish its responsibilities the Department is working with local tourism bodies, visitor centers and local governments to identify entities interested in entering into sponsorship agreements. The Department has received interest from several businesses and local governments in executing such agreements.

Under current law, the Department has no appropriate mechanism for receiving and spending these funds. The Department's Appropriation 423, Gifts and Grants, s. 20.395 (4)(ch), Wis. Stats, authorizes the expenditures of all moneys received from gifts, grants, donations, bequests and devices to carry out the purposes for which they are made. However, it is not clear that sponsorship agreements fit the intended meaning of this definition since they involve a contractual relationship and are not simply granted. Therefore the Department requests the creation of a PR appropriation for this purpose.

Currently, interest in sponsorship agreements focuses on park-and-ride facilities, rest areas, freeway service teams, 511 and roadway segments. However, opportunities for sponsorships for other highway facilities, such as bikepaths, could arise. Therefore, the Department requests that this appropriation be drafted broadly to include a wide range of potential future agreements.



Agency Budget Request
 State of Wisconsin
 2013 - 2014 LEGISLATURE

Scan



LRB-0161/P1
 ARG:):...
 sac

in 9/28

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

1 AN ACT *do not gen*; relating to: sponsorship agreements.

Analysis by the Legislative Reference Bureau

TRANSPORTATION ✓

HIGHWAYS ✓

Under current law, DOT is responsible for maintenance of the state trunk highway system. Maintenance activities include snow and ice removal, interim repair of highway surfaces, vegetation control, and other operations required on a continuing basis to preserve state highways or to provide adequate traffic service. Maintenance activities also include the installation, replacement, or maintenance of highway signs, traffic control signals, highway lighting, and pavement markings. For purposes of DOT's maintenance activities, bikeways established by DOT are considered state trunk highways. Also under current law, DOT may construct and maintain certain roadside improvements along or close to state trunk highways, including rest areas, overlooks, turnouts, and windbreak hedges.

This bill allows DOT to enter into sponsorship agreements under which DOT displays advertising, promotional, or sponsorship material, or other information, associated with the sponsor at locations owned or controlled by DOT in exchange for the sponsor's payment of fees to DOT. The sponsor may be a public or private entity or an individual. All fees received by DOT under the agreement may be used by DOT only for state highway maintenance activities and maintenance activities for state highway roadside improvements.

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

LRB-0161/P1.dn

ARG:):....

Sac

- date -

ATTN: Anna Richter

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

The drafting request specified the creation of a "PR" appropriation, which is an appropriation from the general fund. It is possible to create a "PR-type" appropriation from the transportation fund. Please let me know if you did not intend for this to be an appropriation from the general fund.

The text of the attached draft does not mention s. 84.60 because s. 84.60 does not refer to maintenance of bikeways. Instead, under s. 84.60 (3), bikeway maintenance falls under s. 84.07. I briefly mentioned this in the analysis.

Under s. 990.01 (26), "person" is defined to include both private and governmental entities.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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

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

LRB-0161/P1dn
ARG:sac:rs

September 28, 2012

ATTN: Anna Richter

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

The drafting request specified the creation of a "PR" appropriation, which is an appropriation from the general fund. It is possible to create a "PR-type" appropriation from the transportation fund. Please let me know if you did not intend for this to be an appropriation from the general fund.

The text of the attached draft does not mention s. 84.60 because s. 84.60 does not refer to maintenance of bikeways. Instead, under s. 84.60 (3), bikeway maintenance falls under s. 84.07. I briefly mentioned this in the analysis.

Under s. 990.01 (26), "person" is defined to include both private and governmental entities.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

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

Gary, Aaron

From: Merriman Hitchman, Linda H - DOT <Linda.MerrimanHitchman@dot.wi.gov>
Sent: Tuesday, October 16, 2012 9:38 AM
To: Gary, Aaron
Cc: Richter, Anna - DOT; Chung, Kathleen - DOT
Subject: RE: Draft review: LRB -0161/P1 Topic: Appropriation and operational changes allowing sponsorship agreements
Attachments: 2013-15 sponsorship partnership stat mod 10-16.docx

Hi Aaron

I am following up on your email from October 4th and asking that you redraft LRB-0161 to make the additions/modifications we discussed. I have attached the revised stat language narrative. Thank you again for your help on this.

Here is a summary of changes we discussed:

1. PR appropriation. We do want a PR, not a SEG appropriation, based on guidance from DOA. So that does not need to be changed.
2. We want to modify the draft to include sponsorship and partnership agreements, such as the one described in this example:
This proposal involves a partnership at a park-and-ride facility and/or commuter center (yet to be built). In each case a private entity would be co-located at a DOT owned facility by agreement. Depending on the situation the agreement may involve the exchange of monies and/or providing maintenance service in lieu of paying rent. One example would be a coffee or donut shop being located at a DOT owned commuter center. The private entity would then be responsible for maintaining (plowing, litter removal, mowing, etc.) for the entire facility. An open RFP process would be used to establish the best private partner.
3. Please expand the spending authorization to cover everything under s. 20.395 (3) (eq) and everything under the new county contracted maintenance appropriation (since most of the same activities could theoretically fall under both appropriations. Do you see any problem with this?
4. We want to make sure we include agreements that have the partner provide a service in addition to payment of a fee.

Linda

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Thursday, October 04, 2012 12:37 PM
To: Merriman Hitchman, Linda H - DOT
Cc: Richter, Anna - DOT
Subject: RE: Draft review: LRB -0161/P1 Topic: Appropriation and operational changes allowing sponsorship agreements

Hi Linda,

Please see my responses below. Let me know if you want me to proceed with redrafting LRB-0161 to add the private partnership concept described below. Thanks. Aaron

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

From: Merriman Hitchman, Linda H - DOT [mailto:Linda.MerrimanHitchman@dot.wi.gov]
Sent: Wednesday, October 03, 2012 10:17 AM
To: Gary, Aaron
Cc: Richter, Anna - DOT

Subject: FW: Draft review: LRB -0161/P1 Topic: Appropriation and operational changes allowing sponsorship agreements

Hi Aaron

I am the budget analyst in OPBF working on the sponsorship statutory language. Thank you for your quick turnaround on this draft.

I am also working on a proposal to request authority for broader public private partnerships, which hasn't been submitted to you yet. The division initially proposed expanding s. 84.01(30) in some way to facilitate partnerships similar to the one described below in the blue italics:

This proposal involves a partnership at a park-and-ride facility and/or commuter center (yet to be built). In each case a private entity would be co-located at a DOT owned facility by agreement. Depending on the situation the agreement may involve the exchange of monies and/or providing maintenance service in lieu of paying rent. One example would be a coffee or donut shop being located at a DOT owned commuter center. The private entity would then be responsible for maintaining (plowing, litter removal, mowing, etc.) for the entire facility. An open RFP process would be used to establish the best private partner.

1. Could the sponsorship draft be modified to include activities described in this example, or would these modifications require different/additional authority that should be drafted separately?
Aaron: Yes, I can incorporate these new concepts into LRB-0161, the sponsorship draft.
2. If a broader partnership authority should be drafted separately, what information do you need? Aaron: I think this is enough info. to get started with.
3. On both the sponsorship and partnership issues, could we broaden them to capture things we haven't encountered but which may arise, for example any activities funded by s. 20.395 (3) (eq)? I assume including any activities under chapter 84 would be too broad, but appreciate any suggestions you have along this line. Aaron: yes, I could expand the spending authorization to cover everything covered by s. 20.395 (3) (eq). We could go broader than that too, if you want. If you intend to cover highway construction/reconstruction activities, it does get a lot more complicated.

On another issue - you mention in your drafter's note that we could set up a PR type appropriation in the Transportation Fund. I have a question in to Ed Tuecke, head of our management accounting section as to why we haven't typically done this. Are there obvious reasons you know of?

Thank you very much for your help on this.

Linda

Linda Merriman Hitchman

Budget and Policy Analyst

Office of Policy, Budget and Finance - Room 132-B

Wisconsin Department of Transportation

4802 Sheboygan Avenue - P.O. Box 7910

Madison, WI 53707-7910

linda.merrimanhitchman@dot.wi.gov **608-266-1585**

From: Richter, Anna - DOT

Sent: Monday, October 01, 2012 7:52 AM

To: Merriman Hitchman, Linda H - DOT

Subject: FW: Draft review: LRB -0161/P1 Topic: Appropriation and operational changes allowing sponsorship agreements

Sponsorship draft.

From: LRB.Legal [<mailto:LRB-LegalServices@legis.wisconsin.gov>]

Sent: Friday, September 28, 2012 2:24 PM

To: Richter, Anna - DOT

Subject: Draft review: LRB -0161/P1 Topic: Appropriation and operational changes allowing sponsorship agreements

Following is the PDF version of draft LRB -0161/P1 and drafter's note.

Gary, Aaron

From: Merriman Hitchman, Linda H - DOT <Linda.MerrimanHitchman@dot.wi.gov>
Sent: Wednesday, October 03, 2012 3:46 PM
To: Gary, Aaron
Cc: Richter, Anna - DOT
Subject: RE: Draft review: LRB -0161/P1 Topic: Appropriation and operational changes allowing sponsorship agreements

Aaron,

Thanks. Anna Richter and Paul Hammer talked to DOA and were told we need to draft the PR appropriation in the general fund. So we are going that way, even though it is theoretically possible to do it from the Transportation Fund. Thanks again.

Linda

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Wednesday, October 03, 2012 3:34 PM
To: Merriman Hitchman, Linda H - DOT
Subject: RE: Draft review: LRB -0161/P1 Topic: Appropriation and operational changes allowing sponsorship agreements

Hi Linda,

I will get back to you on your first set of questions.

On your last question, my understanding is that, until a few sessions ago, DOT did not realize that it could create a PR-type appropriation from the transportation fund. The advantage of doing this is that interest accrues to the transportation fund, not the general fund. In 2009 SB-307, I drafted both the original bill and the sub to include a PR-type appropriation from the transportation fund (see section 1 of the attached sub). At the last minute, LFB came in and proposed an amendment to make this a PR appropriation from the general fund. I was told at the time that there was a certain administrative convenience to having it be a PR appropriation from the general fund, though I wasn't told exactly why it was more convenient.

I have talked to Paul Nilsen in OGC about this issue in the past if you want to touch base with him.

Aaron

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

From: Merriman Hitchman, Linda H - DOT [<mailto:Linda.MerrimanHitchman@dot.wi.gov>]
Sent: Wednesday, October 03, 2012 10:17 AM
To: Gary, Aaron
Cc: Richter, Anna - DOT
Subject: FW: Draft review: LRB -0161/P1 Topic: Appropriation and operational changes allowing sponsorship agreements

Hi Aaron

Department of Transportation
2013-2015 Biennial Budget Request
STATUTORY MODIFICATIONS

DIN:

TOPIC: Creation of a Program Revenue Appropriation and Authority for Sponsorships and Public Private Partnerships

REQUEST:

The Department requests the creation of Appropriation XXX, s. 20.395(3)(xx) Wis. Stats., a continuing Program Revenue (PR) appropriation, and the authority to receive and expend revenue from private or governmental sponsorship and partnership agreements engaged in to accomplish the Department's responsibilities under s.84.04 relating to roadside improvements and s. 84.07 relating to maintenance of state trunk highways and traffic operations.

JUSTIFICATION:

The Department is seeking new ways to fund some of its highway maintenance and traffic operations responsibilities by partnering with private, quasi-governmental or other governmental entities in sponsorship and partnership agreements. Under these agreements, the partner would pay a fee or provide services in lieu of payment to the Department. The partner would receive recognition of its sponsorship through placement of signage on a state highway or roadside facility, placement of its logo on a state product, equipment or website, or through mutually agreed arrangements. All agreements would be subject to the limitations of state and federal law. Payments or services received would be used to supplement state segregated funding for maintenance and traffic operations. Examples of potential activities that would be funded or provided include roadside mowing, parking lot maintenance, traveler 511 information, freeway service teams, etc.

Funding appropriated to Appropriation 365, Highway Maintenance, Repair and Traffic Operations, s. 20.395 (3)(eq), Wis. Stats, has been insufficient to meet priority highway maintenance and traffic operations needs for several years and has been periodically supplemented through s. 13.10 requests to the Joint Committee on Finance. This program's responsibilities include activities such as winter snow removal, roadside vegetation management, rest stop and park-and-ride maintenance, bridge maintenance, as well as pavement crack filling and sealing, and highway traffic signage, signal system maintenance and traffic control communications .

In seeking alternative funding to accomplish its responsibilities the Department is working with local tourism bodies, visitor centers, private businesses and local governments to identify entities interested in entering into sponsorship or partnership agreements. The Department has received interest from several businesses and local governments in executing such agreements.

Under current law, the Department has no appropriate mechanism for receiving and spending these funds. The Department's Appropriation 423, Gifts and Grants, s. 20.395 (4)(ch), Wis. Stats, authorizes the expenditures of all moneys received from gifts, grants, donations, bequests and devices to carry out the purposes for which they are made. However, it is not clear that sponsorship and partnership agreements fit the intended meaning of this definition since they involve a contractual relationship and are not simply granted. Therefore the Department requests the creation of a PR appropriation and authority to execute agreements for this purpose.

Currently, interest in sponsorship agreements focuses on park-and -ride facilities, rest areas, freeway service teams, 511 traveler services sites and roadway segments. However, opportunities for sponsorship and partnerships for other activities or purposes could arise as the concept becomes more familiar and successful agreements are executed.



500n



LRB-0161/PZ
ARG:sac:se

in
10/18

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Editors: Please read
the d-note first
Thx. Aaron

D-Note

do not ~~gen~~ ← stet

and partnership

1 AN ACT . . . relating to: sponsorship agreements.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, DOT is responsible for maintenance of the state trunk highway system. Maintenance activities include snow and ice removal, interim repair of highway surfaces, vegetation control, and other operations required on a continuing basis to preserve state highways or to provide adequate traffic service.

Maintenance activities also include the installation, replacement, or maintenance of highway signs, traffic control signals, highway lighting, and pavement markings.

For purposes of DOT's maintenance activities, bikeways established by DOT are considered state trunk highways. Also under current law, DOT may construct and maintain certain roadside improvements along or close to state trunk highways, including rest areas, overlooks, turnouts, and windbreak hedges.

This bill allows DOT to enter into sponsorship agreements under which DOT displays advertising, promotional, or sponsorship material, or other information, associated with the sponsor at locations owned or controlled by DOT in exchange for the sponsor's payment of fees to DOT. The sponsor may be a public or private entity or an individual. All fees received by DOT under the agreement may be used by DOT ~~only for~~ state highway maintenance activities and maintenance activities for state highway roadside improvements.

insert ANAL-A *

insert ANAL-B

or partner

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:

SECTION 1. 20.395 (3) (eg) of the statutes is created to read:

~~20.395 (3) (eg) Maintenance activities supplement, state funds. From the general fund, all moneys received under s. 84.01 (36) (c) for maintenance activities authorized under ss. 84.04 (2) and 84.07 (1).~~

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

SECTION 2. 25.40 (1) (a) 30. of the statutes is created to read:

25.40 (1) (a) 30. Fees received under s. 84.01 (36) (d) that are deposited in the general fund and credited to the appropriation account under s. 20.395 (3) (eg).

SECTION 3. 84.01 (36) of the statutes is created to read:

84.01 (36) SPONSORSHIP AGREEMENTS. (a) In this subsection, "sponsor" means any person, whether public or private, that enters into an agreement with the department under ~~this subsection~~ ^{par. (b)}

(b) ~~The~~ department may enter into sponsorship agreements under which the department displays advertising, promotional, or sponsorship material, or other information, associated with the sponsor at locations owned or controlled by the department in exchange for the sponsor's payment of fees ^{of provision of services} to the department.

(d) All fees received under this subsection shall be deposited in the general fund and credited to the appropriation account under s. 20.395 (3) (eg).

(END)

insert 2-2

insert 2-4

cs and partnership

insert 2-9

insert 2-15

insert 2-18

D-note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0161/P2ins
ARG:.....

INSERT ANAL-A:

(no 4) or provision of services, including maintenance services, to DOT. The bill also allows DOT to enter into partnership agreements under which DOT authorizes a partner to engage in commercial activity at locations owned or controlled by the department in exchange for the partner's payment of fees or provision of services, including maintenance services, to DOT.

INSERT ANAL-B:

(no 4) for the following: 1) the maintenance and repair of state trunk highways, state highway roadside improvements, and certain bridges that are not on the state trunk highway system; 2) other highway operations relating to the maintenance of state trunk highways, state highway roadside improvements, and certain bridges that are not on the state trunk highway system; 3) maintenance activities carried out under contract with county highway committees or municipalities; 4) the issuance of oversize vehicle permits; and 5) DOT's disadvantaged business demonstration and training program.

INSERT 2-2:

20.395 (3) (eg) *Supplement from sponsorship and partnership agreements, state funds.* From the general fund, all moneys received under s. 84.01 (36) (d) for any purpose described in s. 20.395 (3) (eq) or (fq).

INSERT 2-4:

****NOTE: This provision depends on the enactment of s. 20.395 (3) (fq), created in LRB-0254, which is also a DOT agency budget draft. If LRB-0254 is not included in the budget, this provision will need to be revised. I should also note that s. 20.395 (3) (eq) is modified in LRB-0254, but the analysis in this bill does not reflect that modification.

INSERT 2-9:

1. "Partner" means any person, whether public or private, that enters into an agreement with the department under par. (c).[✓]

INSERT 2-12:

Notwithstanding s. 86.19 (1),[✓] the

INSERT 2-15:

(c) Notwithstanding s. 84.25 (11),[✓] the department may enter into partnership agreements under which the department authorizes a partner to engage in commercial activity at locations owned or controlled by the department in exchange for the partner's payment of fees or provision of services to the department.

INSERT 2-18:

SECTION 1. 84.07 (1) of the statutes is amended to read:

84.07 (1) STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY. The Subject to sub. (1r), the state trunk highway system shall be maintained by the state at state expense. The department shall prescribe by rule specifications for such maintenance and may contract with any county highway committee or municipality to have all or certain parts of the work of maintaining the state trunk highways within or beyond the limits of the county or municipality, including interstate bridges, performed by the county or municipality, and any county or municipality may enter into such contract. General maintenance activities include the application of protective coatings, the removal and control of snow, the removal, treatment and sanding of ice, interim repair of highway surfaces and adjacent structures, and all other operations, activities and processes required on a continuing basis for the preservation of the

highways on the state trunk system, and including the care and protection of trees and other roadside vegetation and suitable planting to prevent soil erosion or to beautify highways pursuant to s. 66.1037, and all measures deemed necessary to provide adequate traffic service. Special maintenance activities include the restoration, reinforcement, complete repair or other activities which the department deems are necessary on an individual basis for specified portions of the state trunk system. Maintenance activities also include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems. The department may contract with a private entity for services or materials or both associated with the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems.

History: 1971 c. 125; 1975 c. 39; 1975 c. 394 s. 27; 1975 c. 421; 1977 c. 29 ss. 933 to 935, 1654 (8) (a); 1977 c. 418; 1979 c. 161; 1985 a. 29; 1993 a. 246; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 33, 214; 2011 a. 32.

SECTION 2. 84.07 (1^m) of the statutes is amended to read:

84.07 (1r) SPONSORSHIP AND PARTNERSHIP AGREEMENTS. The department may enter into sponsorship and partnership agreements under s. 84.01 (36) that require the sponsor or partner to perform maintenance activities, in accordance with the department's standards, for the benefit of the department.

SECTION 3. 84.29 (5) of the statutes is amended to read:

84.29 (5) CONSTRUCTION OF GRADE SEPARATIONS AT INTERSECTIONS. In the furtherance of the public interest and general welfare of the state and the traveling

LPS: Div component

6.r
created

public in the development of the interstate system, the department is authorized and empowered to construct grade separations at intersections of any interstate highway with other public highways and railroads and to change and adjust the lines of public highways and if necessary combine or relocate the same to adjust traffic service to grade separation structures. The entire cost of grade separations and relocations and alterations of local roads as so determined by the department shall be a part of the construction of and financed as a part of the cost of the interstate highway. The department may by agreement with a county or municipality or by order summarily vacate or relocate any town, county, city or village highway as part of the construction of an interstate highway but shall pay any damage legally payable under existing law to any property owner directly injured by the vacation or relocation of such street or highway. The department is empowered to enter into agreement with the unit of government having jurisdiction over the local highway relocated or altered as a part of the interstate highway improvement with respect to maintenance thereof, and in the absence of mutual agreement to the contrary, such relocated or altered highway shall be maintained by the unit of government having jurisdiction thereof before it was so relocated or altered, except any parts thereof which the department determines to be useful in the operation of or for access to the interstate highway, which parts shall be maintained by the state, subject to s. 84.07 (1r), as a part of the interstate highway. The action by the department relative to vacation and relocation or combining a public highway under jurisdiction of any county, town, city or village shall be conclusive.

History: 1977 c. 29 ss. 944, 1654 (8) (a), (c); 1977 c. 43, 20[✓]; 1993 a. 490.

SECTION 4. 84.295 (6) of the statutes is amended to read:

84.295 (6) CONSTRUCTION OF GRADE SEPARATIONS AT INTERSECTIONS. In the furtherance of the public interest and general welfare of the state and the traveling public in the development of freeways or expressways, the department is authorized and empowered to construct grade separations at intersections of any freeway or expressway with other public highways and railroads and to change and adjust the lines of public highways and if necessary combine, relocate or extend the same to adjust traffic service to grade separation structures. The entire cost of grade separations and relocations, alterations or extensions of local roads as so determined by the department shall be a part of the construction of and financed as a part of the cost of the freeway or expressway. The department may by agreement with a county or municipality or by order summarily vacate or relocate any town, county, city or village highway as part of the construction of a freeway or expressway but shall pay any damage legally payable under existing law to any property owner directly injured by the vacation or relocation of such street or highway. The department is empowered to enter into agreement with the units of government having jurisdiction over a local highway relocated, altered or extended as a part of the freeway or expressway improvement with respect to maintenance thereof, and in the absence of mutual agreement to the contrary, such relocated, altered or extended highway shall be maintained by the unit of government having jurisdiction thereof before it was so relocated, altered or extended, except any parts thereof which the department determines to be useful in operation of or for access to the freeway or expressway, including structures over the freeway or expressway, which parts shall be maintained by the state, subject to s. 84.07 (1r), as a part of the freeway or expressway. The action by the department relative to vacation, relocation, extension

or combining of a public highway under jurisdiction of any county, town, city or village shall be conclusive.

History: 1971 c. 252; 1975 c. 425; 1977 c. 29 ss. 945, 1654 (3); (8) (a); 1983 a. 532 s. 36; 1993 a. 301, 490; 1999 a. 150 s. 672.

Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0161/P2dn

ARG:f:....

SAC

- date -

ATTN: Linda Merriman Hitchman

This draft has been prepared in tandem with LRB-0254, with the intent that both drafts will be included in the budget bill. This draft cross-references s. 20.395 (3) (fq), which will be created in LRB-0254, and s. 20.395 (3) (eq), which will be modified in LRB-0254. The analysis in the attached draft is based on s. 20.395 (3) (eq) in its current form, but also references s. 20.395 (3) (fq) as ~~created~~ ^{tr} in LRB-0254. When this draft is combined with LRB-0254, the analysis will need to be revised to reflect the changes to s. 20.395 (3) (eq).

Do you want to include a provision in this draft that the bidding and contracting requirements and exemptions specified in s. 84.06 (2) (a) also apply to sponsorship and partnership agreements under created s. 84.01 (36)? If not, do you want to specify any provisions of ch. 16 from which DOT is exempt in entering into these sponsorship and partnership agreements?

Has DOT entered into any "build-operate-lease" agreements for park-and-ride facilities under s. 84.01 (30)? If so, does DOT "own or control" these locations? I think that in this draft we should be careful not to interfere with any existing contract rights, but I am also not sure whether the draft fully meets your intent with respect to park-and-ride facilities built and operated by private contractors under s. 84.01 (30).

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-0161/P2dn

ARG:sac:ph

October 19, 2012

ATTN: Linda Merriman Hitchman

This draft has been prepared in tandem with LRB-0254, with the intent that both drafts will be included in the budget bill. This draft cross-references s. 20.395 (3) (fq), which will be created in LRB-0254, and s. 20.395 (3) (eq), which will be modified in LRB-0254. The analysis in the attached draft is based on s. 20.395 (3) (eq) in its current form, but also references s. 20.395 (3) (fq) as created in LRB-0254. When this draft is combined with LRB-0254, the analysis will need to be revised to reflect the changes to s. 20.395 (3) (eq).

Do you want to include a provision in this draft that the bidding and contracting requirements and exemptions specified in s. 84.06 (2) (a) also apply to sponsorship and partnership agreements under created s. 84.01 (36)? If not, do you want to specify any provisions of ch. 16 from which DOT is exempt in entering into these sponsorship and partnership agreements?

Has DOT entered into any "build-operate-lease" agreements for park-and-ride facilities under s. 84.01 (30)? If so, does DOT "own or control" these locations? I think that in this draft we should be careful not to interfere with any existing contract rights, but I am also not sure whether the draft fully meets your intent with respect to park-and-ride facilities built and operated by private contractors under s. 84.01 (30).

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-0161/P2dn
ARG:sac:ph

October 19, 2012

ARG
Notes

10/29 t/c w/ Kathy Chung-DOT

ATTN: Linda Merriman Hitchman

This draft has been prepared in tandem with LRB-0254, with the intent that both drafts will be included in the budget bill. This draft cross-references s. 20.395 (3) (fq), which will be created in LRB-0254, and s. 20.395 (3) (eq), which will be modified in LRB-0254. The analysis in the attached draft is based on s. 20.395 (3) (eq) in its current form, but also references s. 20.395 (3) (fq) as created in LRB-0254. When this draft is combined with LRB-0254, the analysis will need to be revised to reflect the changes to s. 20.395 (3) (eq).

Do you want to include a provision in this draft that the bidding and contracting requirements and exemptions specified in s. 84.06 (2) (a) also apply to sponsorship and partnership agreements under created s. 84.01 (36)? If not, do you want to specify any provisions of ch. 16 from which DOT is exempt in entering into these sponsorship and partnership agreements?

yes

Has DOT entered into any "build-operate-lease" agreements for park-and-ride facilities under s. 84.01 (30)? If so, does DOT "own or control" these locations? I think that in this draft we should be careful not to interfere with any existing contract rights, but I am also not sure whether the draft fully meets your intent with respect to park-and-ride facilities built and operated by private contractors under s. 84.01 (30).

no;
this
is
OK

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

Gary, Aaron

From: Chung, Kathleen - DOT <Kathleen.Chung@dot.wi.gov>
Sent: Monday, October 29, 2012 3:56 PM
To: Gary, Aaron
Cc: Richter, Anna - DOT; Merriman Hitchman, Linda H - DOT; Matheson, Todd - DOT
Subject: RE: Draft review: LRB -0254/P1 Topic: Change maintenance definition and add appropriation

Thanks Aaron.

As we discussed by phone:

Open items:

1. I think we're going to be ok w/bidding requirements residing in 84.06(2), just give me another day or two to confirm.
2. I'll ck the MAPS21 language, and see if we can fix or adjust "commercial activity," (p. 3, line 6).

We do not know of any build-operate-lease situations, and our program person reviewed your language and has concluded that it does not interfere w/any WisDOT intentions/situations.

Thanks also for the useful insights into drafting priorities/practices.

Kathy

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Monday, October 29, 2012 3:42 PM
To: Chung, Kathleen - DOT
Cc: Richter, Anna - DOT; Merriman Hitchman, Linda H - DOT
Subject: FW: Draft review: LRB -0254/P1 Topic: Change maintenance definition and add appropriation

Hi Kathy,

Here is LRB-0254, as you requested. As I indicated in the drafter's note to LRB-0161, these two drafts overlap. I have attached the most recent version of LRB-0254, but I will be making changes to it.

Aaron

From: LRB.Legal
Sent: Tuesday, October 23, 2012 10:31 AM
To: Gary, Aaron
Subject: Draft review: LRB -0254/P1 Topic: Change maintenance definition and add appropriation

Draft Requester: Transportation

Following is the PDF version of draft LRB -0254/P1 and drafter's note.

Gary, Aaron

From: Merriman Hitchman, Linda H - DOT <Linda.MerrimanHitchman@dot.wi.gov>
Sent: Tuesday, October 30, 2012 9:38 AM
To: Gary, Aaron
Subject: sponsorship draft

Hi Aaron

I met with Kathy Chung of OGC and she subsequently followed up with you on some specific questions. I am not sure if she communicated all the issues/questions that had been raised, so I am attaching the questions that Todd Matheson,



our program staff most involved with sponsorships had identified. Please let me know if there are remaining clarifications needed. Thank you!

Linda

Linda Merriman Hitchman

Budget and Policy Analyst

Office of Policy, Budget and Finance - Room 132-B

Wisconsin Department of Transportation

4802 Sheboygan Avenue - P.O. Box 7910

Madison, WI 53707-7910

linda.merrimanhitchman@dot.wi.gov **608-266-1585**

Comments on Preliminary Draft – Sponsorship and Partnership Agreements

- 1) The second sentence of the analysis could be revised to describe “snow and ice ~~removal-control,~~ vegetation ~~control-~~management”

- 2) Page 2 Line 12 “Sponsor” means any person, whether public or private,

I wonder if “person” is inclusive enough. Do we need to include business or entity?

- 3) Page 3 line 6. The term “commercial activity” is used. Historically FHWA has issue with the term “commercial activity” on Interstate Highways. Can we use a softer term? We have avoided the use of this term when drafting DOT policy.

Letter Responses:

Paragraph 2 – We should consider providing exemptions for sponsorship so it is not always required when we are getting a sponsor for a small display in a lesser used rest area for example.

Paragraph 3 – I’m unaware of any current “build-operate-lease” agreements.

Gary, Aaron

From: Merriman Hitchman, Linda H - DOT <Linda.MerrimanHitchman@dot.wi.gov>
Sent: Wednesday, November 07, 2012 12:02 PM
To: Gary, Aaron; Matheson, Todd - DOT; Chung, Kathleen - DOT; Knoche, Randy - DOT; Collier, Sonja L - DOT
Cc: Richter, Anna - DOT
Subject: RE: Sponsorship draft language

Hi Aaron,

I met with program, legal and purchasing/contracting staff to finalize requested changes to the sponsorship draft 0161/P2. In general, we think your suggestion for a new 84.01(36)(e) is the way to go. However, there is concern that requiring "competitive sealed proposals" may be too restrictive. Is there a specific reason for using this term?

Alternative language we discussed included "shall be awarded on the basis of competitive proposals in accordance with procedures established by the department." Or just "shall be awarded in accordance with competitive procedures established by the department."

One other question: on line 5 of the proposed addition it says "is determined by the department to be in excess of the estimated reasonable value to the department.....". I am not sure I understand this, since we are requesting them to propose paying us or offering services to us, wouldn't our concern be if the proposal was less than the estimated reasonable value? Or do you mean the value of what they want us to do is in excess of the estimated reasonable value, like they want us to put their logo on every state patrol vehicle, etc.

Thanks again for all your help on this. We are very close.

Linda

New 84.01 (36) (e)

(e) For each agreement under par. (b) or (c), the contract shall be awarded on the basis of competitive sealed proposals in accordance with procedures established by the department. Requests for proposals shall be advertised in the manner determined by the department. Each contract shall be awarded to the person submitting the most advantageous competitive sealed proposal as determined by the department. If the proposal of the person submitting the most advantageous competitive sealed proposal is determined by the department to be in excess of the estimated reasonable value to the department or not in the public interest, the department may reject all proposals. The secretary shall enter into each contract on behalf of the state. Every such contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but ss. 16.528, 16.752, 16.753, and 16.754 apply to the contract.

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]
Sent: Thursday, November 01, 2012 9:35 AM
To: Merriman Hitchman, Linda H - DOT; Matheson, Todd - DOT; Chung, Kathleen - DOT
Cc: Richter, Anna - DOT
Subject: RE: Sponsorship draft language

I think there are three options:

1. You could leave the draft "blank" on the topic of bidding requirements, as the /P2 draft is. The result is that the general state procurement statutes will apply. In other words, in entering into these contracts, DOT will have to meet the same general state requirements that it has to meet when contracting on matters unrelated to highway construction and engineering.
2. You could include in the draft only exemptions from the general state procurement requirements, without requiring by statute an RFP process.
3. You could include in the draft both an RFP process and an exemption from the general state procurement requirements. If you want to do item 3., then I have drafted some possible language that I copied below. If you want to do item 2., then you could use only the last sentence of the language below.

New 84.01 (36) (e)

(e) For each agreement under par. (b) or (c), the contract shall be awarded on the basis of competitive sealed proposals in accordance with procedures established by the department. Requests for proposals shall be advertised in the manner determined by the department. Each contract shall be awarded to the person submitting the most advantageous competitive sealed proposal as determined by the department. If the proposal of the person submitting the most advantageous competitive sealed proposal is determined by the department to be in excess of the estimated reasonable value to the department or not in the public interest, the department may reject all proposals. The secretary shall enter into each contract on behalf of the state. Every such contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but ss. 16.528, 16.752, 16.753, and 16.754 apply to the contract.

Please let me know how you want to proceed.

Aaron

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

From: Merriman Hitchman, Linda H - DOT [<mailto:Linda.MerrimanHitchman@dot.wi.gov>]
Sent: Thursday, November 01, 2012 8:50 AM
To: Matheson, Todd - DOT; Chung, Kathleen - DOT; Gary, Aaron
Cc: Richter, Anna - DOT
Subject: RE: Sponsorship draft language

Aaron,

Todd has a good point. Do you have a suggestion, based on earlier conversations with Kathleen, as to how we should approach this?

Linda

From: Matheson, Todd - DOT
Sent: Thursday, November 01, 2012 8:48 AM
To: Merriman Hitchman, Linda H - DOT; Chung, Kathleen - DOT
Cc: Richter, Anna - DOT
Subject: RE: Sponsorship draft language

One possible concern over using the bidding requirements in 84.06 is that describes awarding the contract to the "lowest responsible bidder". In sponsorship agreements we are doing the opposite by awarding the agreement to the highest bidder or whoever would offer the most money for a sponsorship activity/opportunity.

From: Merriman Hitchman, Linda H - DOT
Sent: Thursday, November 01, 2012 7:50 AM
To: Chung, Kathleen - DOT; Matheson, Todd - DOT
Cc: Gary, Aaron - LEGIS; Richter, Anna - DOT
Subject: RE: Sponsorship draft language

Todd and Kathleen

We need to try and wrap this up, so unless Todd has a problem with Kathleen's suggestions, below, I suggest we let Aaron know we are OK with this so it can be finalized.

From: Chung, Kathleen - DOT
Sent: Wednesday, October 31, 2012 4:51 PM
To: Chung, Kathleen - DOT; Matheson, Todd - DOT
Cc: Merriman Hitchman, Linda H - DOT; Gary, Aaron - LEGIS
Subject: RE: Sponsorship draft language

Todd,

Also, in reviewing what Linda sent me, Rest Areas (Section 1539), it appears that the authors of this guide use the term "commercial activities" fairly liberally.

Does that affect your view of whether that term may be used in the LRB analysis or statutory language?

I'm going into mediation for next two days, so will be out of office.

If you need an answer before I come back: I'll defer to you and Linda, but I am comfortable with 1) using bidding requirements that we apply to most contracts (from 84.06), and 2) using the term "commercial activity" and "commercial activities."

You can probably reach me at 608-658-7017, or I will call you back during breaks (there will be many).

Thanks,

Kathy

From: Chung, Kathleen - DOT

Sent: Wednesday, October 31, 2012 2:58 PM

To: Matheson, Todd - DOT

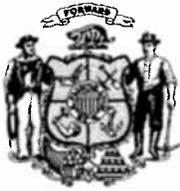
Cc: Merriman Hitchman, Linda H - DOT

Subject: Sponsorship draft language

Todd,

Do you have a minute to discuss the bidding question from LRB. I think I'm ready to respond in writing to Linda, but would like to talk to you first.

At your convenience, 266-8752. Thanks, Kathy



wanted
by
11/9



LRB-0161/ P3
ARG:sac: [signature]

RMA

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

agency draft

do not gen

1 AN ACT ...; relating to: sponsorship and partnership agreements.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, DOT is responsible for maintenance of the state trunk highway system. Maintenance activities include snow and ice removal, vegetation ~~control~~, and other operations required on a continuing basis to preserve state highways or to provide adequate traffic service. For purposes of DOT's maintenance activities, bikeways established by DOT are considered state trunk highways. Also under current law, DOT may construct and maintain certain roadside improvements along or close to state trunk highways, including rest areas, overlooks, turnouts, and windbreak hedges.

This bill allows DOT to enter into sponsorship agreements under which DOT displays advertising, promotional, or sponsorship material, or other information, associated with the sponsor at locations owned or controlled by DOT in exchange for the sponsor's payment of fees or provision of services, including maintenance services, to DOT. The bill also allows DOT to enter into partnership agreements under which DOT authorizes a partner to engage in commercial activity at locations owned or controlled by DOT in exchange for the partner's payment of fees or provision of services, including maintenance services, to DOT. A sponsor or partner may be a public or private entity or an individual. All fees received by DOT under the agreement may be used by DOT for the following: 1) the maintenance and repair of state trunk highways, state highway roadside improvements, and certain bridges

management

control

* *

that are not on the state trunk highway system; 2) other highway operations relating to the maintenance of state trunk highways, state highway roadside improvements, and certain bridges that are not on the state trunk highway system; 3) maintenance activities carried out under contract with county highway committees or municipalities; 4) the issuance of oversize vehicle permits; and 5) DOT's disadvantaged business demonstration and training program.

Insert ANAL

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.** 20.395 (3) (eg) of the statutes is created to read:
2 20.395 (3) (eg) *Supplement from sponsorship and partnership agreements,*
3 *state funds.* From the general fund, all moneys received under s. 84.01 (36) (d) for
4 any purpose described in s. 20.395 (3) (eq) or (f). ^{es ✓}

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

****NOTE: This provision depends on the enactment of s. 20.395 (3) (f), created in LRB-0254, which is also a DOT agency budget draft. If LRB-0254 is not included in the budget, this provision will need to be revised. I should also note that s. 20.395 (3) (eq) is modified in LRB-0254, but the analysis in this bill does not reflect that modification.

5 **SECTION 2.** 25.40 (1) (a) 30. of the statutes is created to read:
6 25.40 (1) (a) 30. Fees received under s. 84.01 (36) (d) that are deposited in the
7 general fund and credited to the appropriation account under s. 20.395 (3) (eg).

8 **SECTION 3.** 84.01 (36) of the statutes is created to read:
9 84.01 (36) SPONSORSHIP AND PARTNERSHIP AGREEMENTS. (a) In this subsection:

10 1. "Partner" means any person, whether public or private, that enters into an
11 agreement with the department under par. (c).

12 2. "Sponsor" means any person, whether public or private, that enters into an
13 agreement with the department under par. (b).

14 (b) Notwithstanding s. 86.19 (1), the department may enter into sponsorship
15 agreements under which the department displays advertising, promotional, or

1 sponsorship material, or other information, associated with the sponsor at locations
2 owned or controlled by the department in exchange for the sponsor's payment of fees
3 or provision of services to the department.

4 (c) Notwithstanding s. 84.25 (11), the department may enter into partnership
5 agreements under which the department authorizes a partner to engage in
6 commercial activity at locations owned or controlled by the department in exchange
7 for the partner's payment of fees or provision of services to the department.

8 (d) All fees received under this subsection shall be deposited in the general fund
9 and credited to the appropriation account under s. 20.395 (3) (eg).

10 **SECTION 4.** 84.07 (1) of the statutes is amended to read:

11 84.07 (1) STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY. The Subject
12 to sub. (1r), the state trunk highway system shall be maintained by the state at state
13 expense. The department shall prescribe by rule specifications for such maintenance
14 and may contract with any county highway committee or municipality to have all or
15 certain parts of the work of maintaining the state trunk highways within or beyond
16 the limits of the county or municipality, including interstate bridges, performed by
17 the county or municipality, and any county or municipality may enter into such
18 contract. General maintenance activities include the application of protective
19 coatings, the removal and control of snow, the removal, treatment and sanding of ice,
20 interim repair of highway surfaces and adjacent structures, and all other operations,
21 activities and processes required on a continuing basis for the preservation of the
22 highways on the state trunk system, and including the care and protection of trees
23 and other roadside vegetation and suitable planting to prevent soil erosion or to
24 beautify highways pursuant to s. 66.1037, and all measures deemed necessary to
25 provide adequate traffic service. Special maintenance activities include the

Insert
3-9 →

1 restoration, reinforcement, complete repair or other activities which the department
2 deems are necessary on an individual basis for specified portions of the state trunk
3 system. Maintenance activities also include the installation, replacement,
4 rehabilitation, or maintenance of highway signs, traffic control signals, highway
5 lighting, pavement markings, and intelligent transportation systems. The
6 department may contract with a private entity for services or materials or both
7 associated with the installation, replacement, rehabilitation, or maintenance of
8 highway signs, traffic control signals, highway lighting, pavement markings, and
9 intelligent transportation systems.

10 **SECTION 5.** 84.07 (1r) of the statutes is created to read:

11 **84.07 (1r) SPONSORSHIP AND PARTNERSHIP AGREEMENTS.** The department may
12 enter into sponsorship and partnership agreements under s. 84.01 (36) that require
13 the sponsor or partner to perform maintenance activities, in accordance with the
14 department's standards, for the benefit of the department.

15 **SECTION 6.** 84.29 (5) of the statutes is amended to read:

16 **84.29 (5) CONSTRUCTION OF GRADE SEPARATIONS AT INTERSECTIONS.** In the
17 furtherance of the public interest and general welfare of the state and the traveling
18 public in the development of the interstate system, the department is authorized and
19 empowered to construct grade separations at intersections of any interstate highway
20 with other public highways and railroads and to change and adjust the lines of public
21 highways and if necessary combine or relocate the same to adjust traffic service to
22 grade separation structures. The entire cost of grade separations and relocations
23 and alterations of local roads as so determined by the department shall be a part of
24 the construction of and financed as a part of the cost of the interstate highway. The
25 department may by agreement with a county or municipality or by order summarily

1 vacate or relocate any town, county, city or village highway as part of the construction
2 of an interstate highway but shall pay any damage legally payable under existing
3 law to any property owner directly injured by the vacation or relocation of such street
4 or highway. The department is empowered to enter into agreement with the unit of
5 government having jurisdiction over the local highway relocated or altered as a part
6 of the interstate highway improvement with respect to maintenance thereof, and in
7 the absence of mutual agreement to the contrary, such relocated or altered highway
8 shall be maintained by the unit of government having jurisdiction thereof before it
9 was so relocated or altered, except any parts thereof which the department
10 determines to be useful in the operation of or for access to the interstate highway,
11 which parts shall be maintained by the state, subject to s. 84.07 (1r), as a part of the
12 interstate highway. The action by the department relative to vacation and relocation
13 or combining a public highway under jurisdiction of any county, town, city or village
14 shall be conclusive.

15 **SECTION 7.** 84.295 (6) of the statutes is amended to read:

16 84.295 (6) CONSTRUCTION OF GRADE SEPARATIONS AT INTERSECTIONS. In the
17 furtherance of the public interest and general welfare of the state and the traveling
18 public in the development of freeways or expressways, the department is authorized
19 and empowered to construct grade separations at intersections of any freeway or
20 expressway with other public highways and railroads and to change and adjust the
21 lines of public highways and if necessary combine, relocate or extend the same to
22 adjust traffic service to grade separation structures. The entire cost of grade
23 separations and relocations, alterations or extensions of local roads as so determined
24 by the department shall be a part of the construction of and financed as a part of the
25 cost of the freeway or expressway. The department may by agreement with a county

1 or municipality or by order summarily vacate or relocate any town, county, city or
2 village highway as part of the construction of a freeway or expressway but shall pay
3 any damage legally payable under existing law to any property owner directly
4 injured by the vacation or relocation of such street or highway. The department is
5 empowered to enter into agreement with the units of government having jurisdiction
6 over a local highway relocated, altered or extended as a part of the freeway or
7 expressway improvement with respect to maintenance thereof, and in the absence
8 of mutual agreement to the contrary, such relocated, altered or extended highway
9 shall be maintained by the unit of government having jurisdiction thereof before it
10 was so relocated, altered or extended, except any parts thereof which the department
11 determines to be useful in operation of or for access to the freeway or expressway,
12 including structures over the freeway or expressway, which parts shall be
13 maintained by the state, subject to s. 84.07 (1r), as a part of the freeway or
14 expressway. The action by the department relative to vacation, relocation, extension
15 or combining of a public highway under jurisdiction of any county, town, city or
16 village shall be conclusive.

17 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0161/P3ins
ARG:.....

1

2 **INSERT ANAL:**

(no (4)) The contract for any sponsorship agreement or partnership agreement entered into by DOT must be awarded on the basis of competitive proposals to the person submitting the most advantageous competitive proposal, as determined by DOT.

3

4 **INSERT 3-9:**

5 (e) For each agreement under par. (b) or (c), the contract shall be awarded on
6 the basis of competitive proposals in accordance with procedures established by the
7 department. Requests for proposals shall be advertised in the manner determined
8 by the department. Each contract shall be awarded to the person submitting the
9 most advantageous competitive proposal as determined by the department. If the
10 proposal of the person submitting the most advantageous competitive proposal is
11 determined by the department to be less than the estimated reasonable value to the
12 department or not in the public interest, the department may reject all proposals.
13 The secretary shall enter into each contract on behalf of the state. Every such
14 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
15 ss. 16.528, 16.752, 16.753, and 16.754 apply to the contract.

16

17

18

Gary, Aaron

From: Hanaman, Cathlene
Sent: Monday, November 12, 2012 3:23 PM
To: Gary, Aaron
Subject: FW: Statutory Language Drafting Request - BB0235

From: Tyler.Byrnes@Wisconsin.gov [<mailto:Tyler.Byrnes@Wisconsin.gov>]
Sent: Monday, November 12, 2012 3:06 PM
To: Hanaman, Cathlene
Cc: Frederick, Caitlin - DOA; Byrnes, Tyler - DOA; Thornton, Scott - DOA
Subject: Statutory Language Drafting Request - BB0235

Biennial Budget: 2013-15

DOA Tracking Code: BB0235

Topic: Program Revenue Appropriation for Sponsorships and Partnerships

SBO Team: TLGED

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

Agency Acronym: WisDOT

Agency Number: 395

Priority: Medium

Intent:

Please prepare a draft creating a Program Revenue Appropriation for sponsorships and partnerships between private businesses, non-profit organizations, other governments and the Department of Transportation. This draft should match LRB 13-0161, which has been prepared in consultation with the Department of Transportation.

Attachments: False

Please send completed drafts to statlanguage@wisapps.wi.gov