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LRB-0254/00 P3

ARG:sac:jf

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A.M.

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, DOT is responsible for maintenance of the state trunk highway system. DOT may perform highway maintenance or it may contract with counties, municipalities, or private contractors to provide highway maintenance services on state trunk highways. General maintenance activities include snow and ice control, interim repair of highway surfaces, vegetation management, and other operations, activities, and processes required on a continuing basis for the preservation of state highways. Maintenance activities also include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems (specialized systems, such as roadway detector loops, closed circuit television, variable message signs, or ramp meters, used to improve efficiency or safety). Under current law, "highway improvements" include construction, reconstruction, and rehabilitation of highways and processes incidental to building or bettering highways, but do not include maintenance and specifically do not include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems unless incidental to a highway improvement project. Under current law, highway improvements and highway maintenance are generally funded from different DOT appropriations.

that provide

* ^{for} This bill creates new state, federal, and local appropriations dedicated to funding state highway maintenance activities that are performed by counties, municipalities, or private contractors under contract with DOT. Thus, the bill establishes separate funding for state highway maintenance performed by DOT and for state highway maintenance performed by counties, municipalities, or private contractors under contract with DOT.

(no P) The bill also makes changes with respect to which highway operations and activities are considered highway improvements and which are considered highway maintenance, which affects the source of funding for these operations and activities. Under this bill, highway maintenance activities no longer include, and highway improvements no longer exclude, the installation, replacement, or rehabilitation of traffic control signals and intelligent transportation systems, but maintenance of traffic control signals and intelligent transportation systems are still considered maintenance activities. The bill also specifies that the following highway operations or activities are considered highway improvements if they do not include activities described by statute as maintenance: 1) Operations or activities that restore or improve a highway and that add four or more years of useful life to the highway; 2) Operations or activities that are time sensitive and normally associated with emergency situations involving immediate safety risks or some degree of unacceptable mobility delays; and 3) Operations or activities that are life-cycle or investment driven and that are based on an asset management philosophy in which taking action prevents or delays deterioration of highway system functionality. The bill also eliminates statutory references to "general" maintenance activities and statutory references to and descriptions of "special" maintenance activities.

insert ANAL

Under current law, if DOT contracts with a county or municipality to perform maintenance on state trunk highways, DOT must pay the county or municipality the actual cost of performing the maintenance work based on the itemized and verified accounts submitted by the county or municipality to DOT for the work.

This bill allows DOT and the county or municipality to agree to a payment method and terms other than that required by current law, including payment according to a contract price for maintenance services rather than payment for the actual cost of the maintenance.

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) (aq) of the statutes is amended to read:
- 2 20.395 (3) (aq) *Southeast Wisconsin freeway megaprojects, state funds.* As a
- 3 continuing appropriation, the amounts in the schedule for southeast Wisconsin
- 4 freeway megaprojects under s. 84.0145 and for the purpose specified in s. 84.017 (3).

1 This paragraph does not apply to the installation, replacement, rehabilitation, or
2 maintenance of highway signs, ~~traffic control signals~~, highway lighting, or pavement
3 markings, or to the maintenance of traffic control signals or intelligent
4 transportation systems, unless incidental to a southeast Wisconsin freeway
5 megaproject.

6 SECTION 2. 20.395 (3) (ax) of the statutes is amended to read:

7 20.395 (3) (ax) *Southeast Wisconsin freeway megaprojects, federal funds.* All
8 moneys received from the federal government for southeast Wisconsin freeway
9 megaprojects under s. 84.0145 and for the purpose specified in s. 84.017 (3), for such
10 purposes. This paragraph does not apply to the installation, replacement,
11 rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway
12 lighting, or pavement markings, or to the maintenance of traffic control signals or
13 intelligent transportation systems, unless incidental to a southeast Wisconsin
14 freeway megaproject.

15 SECTION 3. 20.395 (3) (cq) of the statutes is amended to read:

16 20.395 (3) (cq) *State highway rehabilitation, state funds.* As a continuing
17 appropriation, the amounts in the schedule for improvement of existing state trunk
18 and connecting highways; for improvement of bridges on state trunk or connecting
19 highways and other bridges for which improvement is a state responsibility, for
20 necessary approach work for such bridges and for replacement of such bridges with
21 at-grade crossing improvements; for the construction and rehabilitation of the
22 national system of interstate and defense highways and bridges and related
23 appurtenances; for special maintenance activities under s. 84.04 on roadside
24 improvements; for bridges under s. 84.10; for the bridge project under s. 84.115; for
25 payment to a local unit of government for a jurisdictional transfer under s. 84.02 (8);

Plain
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1 for the disadvantaged business demonstration and training program under s.
2 84.076; for the purpose specified in s. 84.017 (3); for the transfers required under
3 1999 Wisconsin Act 9, section 9250 (1) and 2003 Wisconsin Act 33, section 9153 (4q);
4 and for the purposes described under 1999 Wisconsin Act 9, section 9150 (8g), 2001
5 Wisconsin Act 16, section 9152 (4e), and 2007 Wisconsin Act 20, section 9148 (9i) (b)
6 and (9x). This paragraph does not apply to any southeast Wisconsin freeway
7 megaprojects under s. 84.0145, to any southeast Wisconsin freeway rehabilitation
8 projects under s. 84.014 that also qualify as major highway projects under s. 84.013,
9 or to the installation, replacement, rehabilitation, or maintenance of highway signs,
10 ~~traffic control signals, highway lighting, or pavement markings, or to the~~
11 maintenance of traffic control signals or intelligent transportation systems, unless
12 incidental to the improvement of existing state trunk and connecting highways.

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

14 20.395 (3) (cr) *Southeast Wisconsin freeway rehabilitation, state funds.* As a
15 continuing appropriation, the amounts in the schedule for rehabilitation of
16 southeast Wisconsin freeways, including reconstruction and interim repair of the
17 Marquette interchange in Milwaukee County. This paragraph does not apply to the
18 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
19 ~~control signals, highway lighting, or pavement markings, or to the maintenance of~~
20 traffic control signals or intelligent transportation systems, unless incidental to
21 rehabilitation of southeast Wisconsin freeways. No moneys may be encumbered
22 from this appropriation account after June 30, 2011. Notwithstanding s. 20.001 (3)
23 (c), any unencumbered balance in this appropriation account on July 1, 2011, shall
24 be transferred to the appropriation account under par. (cq) except that the amount

1 specified in 2011 Wisconsin Act 32, section 9148 (7f) (a), shall be transferred to the
2 appropriation account under par. (aq).

3 SECTION 5. 20.395 (3) (cv) of the statutes is amended to read:

4 20.395 (3) (cv) *State highway rehabilitation, local funds.* All moneys received
5 from any local unit of government or other source for the specific information sign
6 program under s. 86.195; for improvement of existing state trunk and connecting
7 highways; for improvement of bridges on state trunk or connecting highways and
8 other bridges for which improvement is a state responsibility, for necessary approach
9 work for such bridges and for replacement of such bridges with at-grade crossing
10 improvements; for the construction and rehabilitation of the national system of
11 interstate and defense highways and bridges and related appurtenances; ~~for special~~
12 maintenance ~~activities under s. 84.04 on roadside improvements;~~ for the bridge
13 project under s. 84.115; for the railroad and utility alteration and relocation loan
14 program under s. 84.065; for the purpose specified in s. 84.017 (3); and for the
15 disadvantaged business demonstration and training program under s. 84.076, for
16 such purposes. This paragraph does not apply to any southeast Wisconsin freeway
17 megaprojects under s. 84.0145 or to any southeast Wisconsin freeway rehabilitation
18 projects under s. 84.014 that also qualify as major highway projects under s. 84.013.

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

20 20.395 (3) (cx) *State highway rehabilitation, federal funds.* All moneys
21 received from the federal government for improvement of existing state trunk and
22 connecting highways; for improvement of bridges on state trunk or connecting
23 highways and other bridges for which improvement is a state responsibility, for
24 necessary approach work for such bridges and for replacement of such bridges with
25 at-grade crossing improvements; for the construction and rehabilitation of the

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national system of interstate and defense highways and bridges and related
appurtenances; ~~for special maintenance activities under s. 84.04 on roadside~~
~~improvements;~~ for the bridge project under s. 84.115; for the purpose specified in s.
84.017 (3); and for the disadvantaged business demonstration and training program
under s. 84.076; and all moneys received under 2003 Wisconsin Act 33, section 9153
(4q); for such purposes. This paragraph does not apply to any southeast Wisconsin
freeway megaprojects under s. 84.0145 or to any southeast Wisconsin freeway
rehabilitation projects under s. 84.014 that also qualify as major highway projects
under s. 84.013.

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

20.395 (3) (cy) *Southeast Wisconsin freeway rehabilitation, federal funds.* All
moneys received from the federal government for rehabilitation of southeast
Wisconsin freeways, including reconstruction and interim repair of the Marquette
interchange in Milwaukee County, for such purposes. This paragraph does not apply
to the installation, replacement, rehabilitation, or maintenance of highway signs,
~~traffic control signals,~~ highway lighting, or pavement markings, or to the
maintenance of traffic control signals or intelligent transportation systems, unless
incidental to rehabilitation of southeast Wisconsin freeways. No moneys may be
encumbered from this appropriation account after June 30, 2011. Notwithstanding
s. 20.001 (3) (c), any unencumbered balance in this appropriation account on July 1,
2011, shall be transferred to the appropriation account under par. (cx) except that the
amount specified in 2011 Wisconsin Act 32, section 9148 (7f) (c), shall be transferred
to the appropriation account under par. (ax).

SECTION 8. 20.395 (3) (eq) of the statutes is amended to read:

1 20.395 (3) (eq) *Highway maintenance, repair, and traffic system management*
 2 and operations, state funds. As a continuing appropriation, the amounts in the
 3 schedule for the maintenance and repair of roadside improvements under s. 84.04,
 4 state trunk highways under s. 84.07, and bridges that are not on the state trunk
 5 highway system under s. 84.10; for permit issuance and other highway operations,
 6 including the installation, replacement, rehabilitation, or maintenance of highway
 7 signs, ~~traffic control signals,~~ highway lighting, and pavement markings, and the
 8 maintenance of traffic control signals and intelligent transportation systems, under
 9 ss. 84.04, 84.07, 84.10, and 348.25 to 348.27 and ch. 349; ~~for the grant under 2005~~
 10 ~~Wisconsin Act 25, section 9148 (3f);~~ and for the disadvantaged business
 11 demonstration and training program under s. 84.076. This paragraph does not apply
 12 to special routine maintenance activities under s. 84.04 on roadside improvements
 13 performed under contract with the department as provided in ss. 84.06 (2) (a) and
 14 84.07 (1).

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

15 SECTION 9. 20.395 (3) (es) of the statutes is created to read:

16 20.395 (3) (es) *Routine maintenance activities, state funds.* As a continuing
 17 appropriation, the amounts in the schedule for routine maintenance activities
 18 performed under contract with the department as provided in ss. 84.06 (2) (a) and
 19 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.

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

21 20.395 (3) (ev) *Highway maintenance, repair, and traffic system management*
 22 and operations, local funds. All moneys received from any local unit of government

1 or other sources for the maintenance and repair of roadside improvements under s.
 2 84.04, state trunk highways under s. 84.07, and bridges that are not on the state
 3 trunk highway system under s. 84.10; for signing under s. 86.195; for highway
 4 operations such as permit issuance, pavement marking, highway signing, traffic
 5 ~~signalization~~ signal maintenance, and highway lighting under ss. 84.04, 84.07,
 6 84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business
 7 demonstration and training program under s. 84.076; for such purposes. This
 8 paragraph does not apply to special routine maintenance activities under s. 84.04 on
 9 roadside improvements performed under contract with the department as provided
 10 in ~~§s. 84.06 (2) (a) and~~ 84.07 (1).

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

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

20.395 (3) (ew) *Routine maintenance activities, local funds.* All moneys received from any local unit of government or other sources for routine maintenance activities performed under contract with the department as provided in ss. 84.06 (2) (a) and 84.07 (1), 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.

SECTION 12. 20.395 (3) (ex) of the statutes is amended to read:

20.395 (3) (ex) *Highway maintenance, repair, and traffic system management and operations, federal funds.* All moneys received from the federal government for the maintenance and repair of roadside improvements under s. 84.04, state trunk highways under s. 84.07, and bridges that are not on the state trunk highway system under s. 84.10; for permit issuance and other highway operations, including the installation, replacement, rehabilitation, or maintenance of highway signs, traffic

1 ~~control signals, highway lighting, and pavement markings, and the maintenance of~~
 2 ~~traffic control signals and intelligent transportation systems, under ss. 84.04, 84.07,~~
 3 ~~84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business~~
 4 ~~demonstration and training program under s. 84.076; for such purposes. This~~
 5 ~~paragraph does not apply to special routine maintenance activities under s. 84.04 on~~
 6 ~~roadside improvements performed under contract with the department as provided~~
 7 ~~in ss. 84.06 (2) (a) and 84.07 (1).~~

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

8 SECTION 13. 20.395 (3) (ey) of the statutes is created to read:

9 20.395 (3) (ey) *Routine maintenance activities, federal funds.* All moneys
 10 received from the federal government for routine maintenance activities performed
 11 under contract with the department as provided in ss. 84.06 (2) (a) and 84.07 (1), for
 12 such purposes.

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

13 SECTION 14. 84.06 (1) of the statutes is renumbered 84.06 (1) (intro.) and
 14 amended to read:

15 84.06 (1) DEFINITIONS. (intro.) In this section,;

16 (a) Subject to par. (b), "improvement" or "highway improvement" includes
 17 construction, all of the following:

18 1. Construction, reconstruction, rehabilitation, and processes incidental to
 19 building, fabricating, or bettering a highway or street, but not maintenance. The
 20 terms do not include the,

21 (b) 2. The installation, replacement, rehabilitation, or maintenance of highway
 22 signs, ~~traffic control signals, highway lighting, or pavement markings, or the~~

1 maintenance of traffic control signals or intelligent transportation systems, unless
2 incidental to building, fabricating, or bettering a highway or street.

3 **SECTION 15.** 84.06 (1) (a) 2., 3. and 4. of the statutes are created to read:

4 84.06 (1) (a) 2. Highway operations or activities that restore or improve a
5 highway and that add 4 or more years of useful life to the highway.

6 3. Highway operations or activities that are time sensitive and normally
7 associated with emergency situations involving immediate safety risks or some
8 degree of unacceptable mobility delays.

9 4. Highway operations or activities that are life-cycle or investment driven and
10 that are based on an asset management philosophy in which taking action prevents
11 or delays deterioration of highway system functionality.

12 **SECTION 16.** 84.06 (1) (b) (intro.) and 1. of the statutes are created to read:

13 84.06 (1) (b) (intro.) “Improvement” or “highway improvement” does not
14 include any of the following:

15 1. Maintenance activities described in s. 84.07 (1).

16 **SECTION 17.** 84.07 (1) of the statutes is amended to read:

17 84.07 (1) ~~STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY~~ ROUTINE
18 MAINTENANCE. The state trunk highway system shall be maintained by the state at
19 state expense. The department shall prescribe by rule specifications for such
20 maintenance and may contract with any county highway committee or municipality
21 to have all or certain parts of the work of maintaining the state trunk highways
22 within or beyond the limits of the county or municipality, including interstate
23 bridges, performed by the county or municipality, and any county or municipality
24 may enter into such contract. ~~General maintenance~~ Maintenance activities include
25 the application of protective coatings, the removal and control of snow, the removal,

1 treatment and sanding of ice, interim repair of highway surfaces and adjacent
2 structures, and all other operations, activities and processes required on a regular,
3 continuing basis for the preservation of the highways on the state trunk system, and
4 including the care and protection of trees and other roadside vegetation and suitable
5 planting to prevent soil erosion or to beautify highways pursuant to s. 66.1037, and
6 all routine measures deemed necessary to provide adequate traffic service. ~~Special~~
7 ~~maintenance activities include the restoration, reinforcement, complete repair or~~
8 ~~other activities which the department deems are necessary on an individual basis for~~
9 ~~specified portions of the state trunk system.~~ Maintenance activities also include the
10 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
11 ~~control signals~~, highway lighting, and pavement markings, and the maintenance of
12 traffic control signals and intelligent transportation systems. The department may
13 contract with a private entity for services or materials or both associated with the
14 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
15 ~~control signals~~, highway lighting, and pavement markings, and the maintenance of
16 traffic control signals and intelligent transportation systems.

17 **SECTION 18.** 84.07 (2) of the statutes is renumbered 84.07 (2) (a) and amended
18 to read:

19 84.07 (2) (a) ~~When~~ Except as provided in par. (b), when any county or
20 municipality maintains the state trunk highways within or beyond the limits of the
21 county or municipality, including interstate bridges, in compliance with the
22 arrangement with the department, the department shall pay the actual cost of the
23 maintenance, including the allowance for materials and the use of county or
24 municipal machinery and overhead expenses agreed upon in advance. ~~The~~ Except
25 as provided in par. (b), the payments shall be made upon presentation by the county

1 highway committee or municipal clerk of a properly itemized and verified account.
2 ~~The~~ For payments made under this paragraph, the county highway committee or
3 municipal clerk shall present the itemized accounts for ~~general~~ maintenance work
4 no later than one month following the period during which the work is performed.

5 **SECTION 19.** 84.07 (2) (b) of the statutes is created to read:

6 84.07 (2) (b) When any county or municipality maintains the state trunk
7 highways within or beyond the limits of the county or municipality, including
8 interstate bridges, in compliance with the arrangement with the department, the
9 department and the county or municipality may agree to a payment method and
10 terms other than that specified in par. (a), including payment according to a contract
11 price for maintenance services rather than payment of the actual cost of the
12 maintenance.

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(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0254/P3ins
ARG:.....

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INSERT ANAL:

(no ¶) However, under the bill, some highway operations and activities, such as maintenance for roadside improvements and private contractor maintenance, can be funded from more than one appropriation.

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INSERT 7-13, 8-9, and 9-6:

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(no ¶) by county highway committees or municipalities

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Gary, Aaron

From: Hanaman, Cathlene
Sent: Monday, November 12, 2012 4:12 PM
To: Gary, Aaron
Subject: FW: Statutory Language Drafting Request - BB0240
Attachments: Maintenance and Sate Highway Rehab Def.pdf

From: Tyler.Byrnes@Wisconsin.gov [<mailto:Tyler.Byrnes@Wisconsin.gov>]
Sent: Monday, November 12, 2012 4:11 PM
To: Hanaman, Cathlene
Cc: Thornton, Scott - DOA; Frederick, Caitlin - DOA; Byrnes, Tyler - DOA
Subject: Statutory Language Drafting Request - BB0240

Biennial Budget: 2013-15

Topic: Highway Maintenance and State Highway Rehabilitation Program Definitions and Appropriation Changes

Tracking Code: BB0240

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: High

Intent:

Please prepare a draft that matches LRB 13-254, that makes changes to the definition of State Highway Maintenance and State Highway Rehabilitation. Please see attached drafting instructions for further information.

Attachments: True

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

Department of Transportation
2013-2015 Biennial Budget Request
STATUTORY MODIFICATIONS

DIN NUMBER 5305

TOPIC: Highway Maintenance and State Highway Rehabilitation Program Definitions and Appropriation Changes

DESCRIPTION OF CHANGE:

The Department requests revising the current definition of highway "improvement," changing the statutes relating to highway maintenance; modifying the statutes to facilitate changes in the delivery of highway maintenance activities; creating a continuing, SEG appropriation and parallel SEG-F and SEG-L appropriations, as follows:

1. Modify the definition of improvement in s. 84.06(1), Wis. Stats., to:
 - a. Remove the exclusion on traffic signals and intelligent transportation systems (ITS).
 - b. Include activities that restore or improve highways and add four or more years of life, are life-cycle or investment driven, and are based on an asset management philosophy;
 - c. Include activities that are time sensitive and normally associated with emergency situations involving immediate safety risks or some degree or unacceptable mobility delays; and
 - d. Include activities that are not routine maintenance as defined in s. 84.07(1), Wis. Stats.

2. Modify s. 84.07(1), Wis. Stats., to add the word "routine" and to remove reference to "special" and "general" maintenance, outdated terms.

3. Make changes that facilitate improved delivery of highway system maintenance:
 - a. Create continuing SEG Appropriation 368, 20.395(3)(es), Wis. Stats., to facilitate the reorganization of the Highway Maintenance program into two components. Beginning in FY14, the contracted delivery of routine state highway maintenance would be funded under this new appropriation, titled Routine Maintenance. Create parallel SEG-F Appropriation 380, s. 20.370(3)(ey), Wis. Stats., and SEG-L Appropriation 370, s. 20.370(3)(ew), Wis. Stats.
 - b. Appropriation 365, s. 20.395(3)(eq), Wis. Stats., would be renamed Highway System Management and Operations and would include other costs in the Bureau of Highway Maintenance, Traffic Operations and Structures. The parallel SEG-F Appropriation 385, s. 20.395(3)(ex), Wis. Stats., and SEG-L Appropriation 375, s. 20.395(3)(ev), Wis. Stats., would be similarly modified.
 - c. Modify s. 84.07(2), Wis. Stats., to allow the Department to reimburse counties or municipalities based on terms other than only on the basis of actual costs.

JUSTIFICATION:

On an ongoing basis, the Department has used available maintenance funding under Appropriation 365, 20.395(3)(eq), Wis. Stats., for activities to meet immediate needs and maintain the functionality of the highway system. Insufficient funding has been available to meet longer term highway system maintenance and operations needs. By creating an appropriation for routine maintenance and expanding the definition of improvement in s. 84.06(1), Wis. Stats., the Department will be able to more effectively

assign activities to the appropriate funding sources and more efficiently prioritize available funding to the greatest needs.



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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Converted to
budget draft

No changes

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

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, DOT is responsible for maintenance of the state trunk highway system. DOT may perform highway maintenance or it may contract with counties, municipalities, or private contractors to provide highway maintenance services on state trunk highways. General maintenance activities include snow and ice control, interim repair of highway surfaces, vegetation management, and other operations, activities, and processes required on a continuing basis for the preservation of state highways. Maintenance activities also include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems (specialized systems, such as roadway detector loops, closed circuit television, variable message signs, or ramp meters, used to improve efficiency or safety). Under current law, "highway improvements" include construction, reconstruction, and rehabilitation of highways and processes incidental to building or bettering highways, but do not include maintenance and specifically do not include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems unless incidental to a highway improvement project. Under current law, highway improvements and highway maintenance are generally funded from different DOT appropriations.

This bill creates new state, federal, and local appropriations that provide funding for state highway maintenance activities performed by counties, municipalities, or private contractors under contract with DOT. The bill also makes changes with respect to which highway operations and activities are considered highway improvements and which are considered highway maintenance, which affects the source of funding for these operations and activities. However, under the bill, some highway operations and activities, such as maintenance for roadside improvements and private contractor maintenance, can be funded from more than one appropriation. Under this bill, highway maintenance activities no longer include, and highway improvements no longer exclude, the installation, replacement, or rehabilitation of traffic control signals and intelligent transportation systems, but maintenance of traffic control signals and intelligent transportation systems are still considered maintenance activities. The bill also specifies that the following highway operations or activities are considered highway improvements if they do not include activities described by statute as maintenance: 1) Operations or activities that restore or improve a highway and that add four or more years of useful life to the highway; 2) Operations or activities that are time sensitive and normally associated with emergency situations involving immediate safety risks or some degree of unacceptable mobility delays; and 3) Operations or activities that are life-cycle or investment driven and that are based on an asset management philosophy in which taking action prevents or delays deterioration of highway system functionality. The bill also eliminates statutory references to “general” maintenance activities and statutory references to and descriptions of “special” maintenance activities.

Under current law, if DOT contracts with a county or municipality to perform maintenance on state trunk highways, DOT must pay the county or municipality the actual cost of performing the maintenance work based on the itemized and verified accounts submitted by the county or municipality to DOT for the work.

This bill allows DOT and the county or municipality to agree to a payment method and terms other than that required by current law, including payment according to a contract price for maintenance services rather than payment for the actual cost of the maintenance.

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) (aq) of the statutes is amended to read:
- 2 20.395 (3) (aq) *Southeast Wisconsin freeway megaprojects, state funds.* As a
- 3 continuing appropriation, the amounts in the schedule for southeast Wisconsin
- 4 freeway megaprojects under s. 84.0145 and for the purpose specified in s. 84.017 (3).

1 This paragraph does not apply to the installation, replacement, rehabilitation, or
2 maintenance of highway signs, ~~traffic control signals~~, highway lighting, or pavement
3 markings, or to the maintenance of traffic control signals or intelligent
4 transportation systems, unless incidental to a southeast Wisconsin freeway
5 megaproject.

6 **SECTION 2.** 20.395 (3) (ax) of the statutes is amended to read:

7 20.395 (3) (ax) *Southeast Wisconsin freeway megaprojects, federal funds.* All
8 moneys received from the federal government for southeast Wisconsin freeway
9 megaprojects under s. 84.0145 and for the purpose specified in s. 84.017 (3), for such
10 purposes. This paragraph does not apply to the installation, replacement,
11 rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway
12 lighting, or pavement markings, or to the maintenance of traffic control signals or
13 intelligent transportation systems, unless incidental to a southeast Wisconsin
14 freeway megaproject.

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

16 20.395 (3) (cq) *State highway rehabilitation, state funds.* As a continuing
17 appropriation, the amounts in the schedule for improvement of existing state trunk
18 and connecting highways; for improvement of bridges on state trunk or connecting
19 highways and other bridges for which improvement is a state responsibility, for
20 necessary approach work for such bridges and for replacement of such bridges with
21 at-grade crossing improvements; for the construction and rehabilitation of the
22 national system of interstate and defense highways and bridges and related
23 appurtenances; for ~~special maintenance~~ activities under s. 84.04 on roadside
24 improvements; for bridges under s. 84.10; for the bridge project under s. 84.115; for
25 payment to a local unit of government for a jurisdictional transfer under s. 84.02 (8);

1 for the disadvantaged business demonstration and training program under s.
2 84.076; for the purpose specified in s. 84.017 (3); for the transfers required under
3 1999 Wisconsin Act 9, section 9250 (1) and 2003 Wisconsin Act 33, section 9153 (4q);
4 and for the purposes described under 1999 Wisconsin Act 9, section 9150 (8g), 2001
5 Wisconsin Act 16, section 9152 (4e), and 2007 Wisconsin Act 20, section 9148 (9i) (b)
6 and (9x). This paragraph does not apply to any southeast Wisconsin freeway
7 megaprojects under s. 84.0145, to any southeast Wisconsin freeway rehabilitation
8 projects under s. 84.014 that also qualify as major highway projects under s. 84.013,
9 or to the installation, replacement, rehabilitation, or maintenance of highway signs,
10 ~~traffic control signals~~, highway lighting, or pavement markings, or to the
11 maintenance of traffic control signals or intelligent transportation systems, unless
12 incidental to the improvement of existing state trunk and connecting highways.

13 SECTION 4. 20.395 (3) (cr) of the statutes is amended to read:

14 20.395 (3) (cr) *Southeast Wisconsin freeway rehabilitation, state funds.* As a
15 continuing appropriation, the amounts in the schedule for rehabilitation of
16 southeast Wisconsin freeways, including reconstruction and interim repair of the
17 Marquette interchange in Milwaukee County. This paragraph does not apply to the
18 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
19 ~~control signals~~, highway lighting, or pavement markings, or to the maintenance of
20 traffic control signals or intelligent transportation systems, unless incidental to
21 rehabilitation of southeast Wisconsin freeways. No moneys may be encumbered
22 from this appropriation account after June 30, 2011. Notwithstanding s. 20.001 (3)
23 (c), any unencumbered balance in this appropriation account on July 1, 2011, shall
24 be transferred to the appropriation account under par. (cq) except that the amount

1 specified in 2011 Wisconsin Act 32, section 9148 (7f) (a), shall be transferred to the
2 appropriation account under par. (aq).

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

4 20.395 (3) (cv) *State highway rehabilitation, local funds.* All moneys received
5 from any local unit of government or other source for the specific information sign
6 program under s. 86.195; for improvement of existing state trunk and connecting
7 highways; for improvement of bridges on state trunk or connecting highways and
8 other bridges for which improvement is a state responsibility, for necessary approach
9 work for such bridges and for replacement of such bridges with at-grade crossing
10 improvements; for the construction and rehabilitation of the national system of
11 interstate and defense highways and bridges and related appurtenances; for special
12 maintenance activities under s. 84.04 on roadside improvements; for the bridge
13 project under s. 84.115; for the railroad and utility alteration and relocation loan
14 program under s. 84.065; for the purpose specified in s. 84.017 (3); and for the
15 disadvantaged business demonstration and training program under s. 84.076, for
16 such purposes. This paragraph does not apply to any southeast Wisconsin freeway
17 megaprojects under s. 84.0145 or to any southeast Wisconsin freeway rehabilitation
18 projects under s. 84.014 that also qualify as major highway projects under s. 84.013.

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

20 20.395 (3) (cx) *State highway rehabilitation, federal funds.* All moneys
21 received from the federal government for improvement of existing state trunk and
22 connecting highways; for improvement of bridges on state trunk or connecting
23 highways and other bridges for which improvement is a state responsibility, for
24 necessary approach work for such bridges and for replacement of such bridges with
25 at-grade crossing improvements; for the construction and rehabilitation of the

1 national system of interstate and defense highways and bridges and related
2 appurtenances; for ~~special maintenance~~ activities under s. 84.04 on roadside
3 improvements; for the bridge project under s. 84.115; for the purpose specified in s.
4 84.017 (3); and for the disadvantaged business demonstration and training program
5 under s. 84.076; and all moneys received under 2003 Wisconsin Act 33, section 9153
6 (4q); for such purposes. This paragraph does not apply to any southeast Wisconsin
7 freeway megaprojects under s. 84.0145 or to any southeast Wisconsin freeway
8 rehabilitation projects under s. 84.014 that also qualify as major highway projects
9 under s. 84.013.

10 SECTION 7. 20.395 (3) (cy) of the statutes is amended to read:

11 20.395 (3) (cy) *Southeast Wisconsin freeway rehabilitation, federal funds.* All
12 moneys received from the federal government for rehabilitation of southeast
13 Wisconsin freeways, including reconstruction and interim repair of the Marquette
14 interchange in Milwaukee County, for such purposes. This paragraph does not apply
15 to the installation, replacement, rehabilitation, or maintenance of highway signs,
16 ~~traffic control signals~~, highway lighting, or pavement markings, or to the
17 maintenance of traffic control signals or intelligent transportation systems, unless
18 incidental to rehabilitation of southeast Wisconsin freeways. No moneys may be
19 encumbered from this appropriation account after June 30, 2011. Notwithstanding
20 s. 20.001 (3) (c), any unencumbered balance in this appropriation account on July 1,
21 2011, shall be transferred to the appropriation account under par. (cx) except that the
22 amount specified in 2011 Wisconsin Act 32, section 9148 (7f) (c), shall be transferred
23 to the appropriation account under par. (ax).

24 SECTION 8. 20.395 (3) (eq) of the statutes is amended to read:

1 20.395 (3) (eq) *Highway maintenance, repair, and traffic system management*
2 and operations, state funds. As a continuing appropriation, the amounts in the
3 schedule for the maintenance and repair of roadside improvements under s. 84.04,
4 state trunk highways under s. 84.07, and bridges that are not on the state trunk
5 highway system under s. 84.10; for permit issuance and other highway operations,
6 including the installation, replacement, rehabilitation, or maintenance of highway
7 signs, ~~traffic control signals~~, highway lighting, and pavement markings, and the
8 maintenance of traffic control signals and intelligent transportation systems, under
9 ss. 84.04, 84.07, 84.10, and 348.25 to 348.27 and ch. 349; ~~for the grant under 2005~~
10 ~~Wisconsin Act 25, section 9148 (3f);~~ and for the disadvantaged business
11 demonstration and training program under s. 84.076. This paragraph does not apply
12 to ~~special routine maintenance activities under s. 84.04 on roadside improvements~~
13 performed by county highway committees or municipalities under contract with the
14 department as provided in s. 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.

15 **SECTION 9.** 20.395 (3) (es) of the statutes is created to read:

16 20.395 (3) (es) *Routine maintenance activities, state funds.* As a continuing
17 appropriation, the amounts in the schedule for routine maintenance activities
18 performed under contract with the department as provided in ss. 84.06 (2) (a) and
19 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.

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

21 20.395 (3) (ev) *Highway maintenance, repair, and traffic system management*
22 and operations, local funds. All moneys received from any local unit of government

1 or other sources for the maintenance and repair of roadside improvements under s.
2 84.04, state trunk highways under s. 84.07, and bridges that are not on the state
3 trunk highway system under s. 84.10; for signing under s. 86.195; for highway
4 operations such as permit issuance, pavement marking, highway signing, traffic
5 ~~signalization~~ signal maintenance, and highway lighting under ss. 84.04, 84.07,
6 84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business
7 demonstration and training program under s. 84.076; for such purposes. This
8 paragraph does not apply to ~~special~~ routine maintenance activities under s. 84.04 on
9 roadside improvements performed by county highway committees or municipalities
10 under contract with the department as provided in s. 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.

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

12 20.395 (3) (ew) *Routine maintenance activities, local funds.* All moneys
13 received from any local unit of government or other sources for routine maintenance
14 activities performed under contract with the department as provided in ss. 84.06 (2)
15 (a) and 84.07 (1), 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.

16 **SECTION 12.** 20.395 (3) (ex) of the statutes is amended to read:

17 20.395 (3) (ex) *Highway maintenance, repair, and traffic system management*
18 *and operations, federal funds.* All moneys received from the federal government for
19 the maintenance and repair of roadside improvements under s. 84.04, state trunk
20 highways under s. 84.07, and bridges that are not on the state trunk highway system
21 under s. 84.10; for permit issuance and other highway operations, including the
22 installation, replacement, rehabilitation, or maintenance of highway signs, traffic

1 ~~control signals, highway lighting, and pavement markings, and the maintenance of~~
2 ~~traffic control signals and~~ intelligent transportation systems, under ss. 84.04, 84.07,
3 84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business
4 demonstration and training program under s. 84.076; for such purposes. This
5 paragraph does not apply to ~~special~~ routine maintenance activities under s. 84.04 on
6 ~~roadside improvements performed by county highway committees or municipalities~~
7 under contract with the department as provided in s. 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.

8 SECTION 13. 20.395 (3) (ey) of the statutes is created to read:

9 20.395 (3) (ey) *Routine maintenance activities, federal funds.* All moneys
10 received from the federal government for routine maintenance activities performed
11 under contract with the department as provided in ss. 84.06 (2) (a) and 84.07 (1), for
12 such purposes.

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

13 SECTION 14. 84.06 (1) of the statutes is renumbered 84.06 (1) (intro.) and
14 amended to read:

15 84.06 (1) DEFINITIONS. (intro.) In this section;

16 (a) Subject to par. (b), "improvement" or "highway improvement" includes
17 construction, all of the following:

18 1. Construction, reconstruction, rehabilitation, and processes incidental to
19 building, fabricating, or bettering a highway or street, ~~but not maintenance.~~ The
20 terms do not include the

21 (b) 2. The installation, replacement, rehabilitation, or maintenance of highway
22 signs, ~~traffic control signals, highway lighting, or pavement markings, or the~~

1 maintenance of traffic control signals or intelligent transportation systems, unless
2 incidental to building, fabricating, or bettering a highway or street.

3 **SECTION 15.** 84.06 (1) (a) 2., 3. and 4. of the statutes are created to read:

4 84.06 (1) (a) 2. Highway operations or activities that restore or improve a
5 highway and that add 4 or more years of useful life to the highway.

6 3. Highway operations or activities that are time sensitive and normally
7 associated with emergency situations involving immediate safety risks or some
8 degree of unacceptable mobility delays.

9 4. Highway operations or activities that are life-cycle or investment driven and
10 that are based on an asset management philosophy in which taking action prevents
11 or delays deterioration of highway system functionality.

12 **SECTION 16.** 84.06 (1) (b) (intro.) and 1. of the statutes are created to read:

13 84.06 (1) (b) (intro.) “Improvement” or “highway improvement” does not
14 include any of the following:

15 1. Maintenance activities described in s. 84.07 (1).

16 **SECTION 17.** 84.07 (1) of the statutes is amended to read:

17 84.07 (1) ~~STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY~~ ROUTINE
18 MAINTENANCE. The state trunk highway system shall be maintained by the state at
19 state expense. The department shall prescribe by rule specifications for such
20 maintenance and may contract with any county highway committee or municipality
21 to have all or certain parts of the work of maintaining the state trunk highways
22 within or beyond the limits of the county or municipality, including interstate
23 bridges, performed by the county or municipality, and any county or municipality
24 may enter into such contract. ~~General maintenance~~ Maintenance activities include
25 the application of protective coatings, the removal and control of snow, the removal,

1 treatment and sanding of ice, interim repair of highway surfaces and adjacent
2 structures, and all other operations, activities and processes required on a regular,
3 continuing basis for the preservation of the highways on the state trunk system, and
4 including the care and protection of trees and other roadside vegetation and suitable
5 planting to prevent soil erosion or to beautify highways pursuant to s. 66.1037, and
6 all routine measures deemed necessary to provide adequate traffic service. ~~Special~~
7 ~~maintenance activities include the restoration, reinforcement, complete repair or~~
8 ~~other activities which the department deems are necessary on an individual basis for~~
9 ~~specified portions of the state trunk system.~~ Maintenance activities also include the
10 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
11 ~~control signals~~, highway lighting, and pavement markings, and the maintenance of
12 traffic control signals and intelligent transportation systems. The department may
13 contract with a private entity for services or materials or both associated with the
14 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
15 ~~control signals~~, highway lighting, and pavement markings, and the maintenance of
16 traffic control signals and intelligent transportation systems.

17 **SECTION 18.** 84.07 (2) of the statutes is renumbered 84.07 (2) (a) and amended
18 to read:

19 84.07 (2) (a) ~~When~~ Except as provided in par. (b), when any county or
20 municipality maintains the state trunk highways within or beyond the limits of the
21 county or municipality, including interstate bridges, in compliance with the
22 arrangement with the department, the department shall pay the actual cost of the
23 maintenance, including the allowance for materials and the use of county or
24 municipal machinery and overhead expenses agreed upon in advance. ~~The~~ Except
25 as provided in par. (b), the payments shall be made upon presentation by the county

1 highway committee or municipal clerk of a properly itemized and verified account.
2 The For payments made under this paragraph, the county highway committee or
3 municipal clerk shall present the itemized accounts for ~~general~~ maintenance work
4 no later than one month following the period during which the work is performed.

5 **SECTION 19.** 84.07 (2) (b) of the statutes is created to read:

6 84.07 (2) (b) When any county or municipality maintains the state trunk
7 highways within or beyond the limits of the county or municipality, including
8 interstate bridges, in compliance with the arrangement with the department, the
9 department and the county or municipality may agree to a payment method and
10 terms other than that specified in par. (a), including payment according to a contract
11 price for maintenance services rather than payment of the actual cost of the
12 maintenance.

13

(END)

Gary, Aaron

From: Byrnes, Tyler - DOA <Tyler.Byrnes@wisconsin.gov>
Sent: Wednesday, December 26, 2012 9:59 AM
To: Gary, Aaron
Subject: LRB-0254/1

Aaron,

I'd like to make a few changes to LRB-0254/1:

On page 8, please add the bolded phrase to the existing language of s. 20.395 (3) (ev): " Highway system management and operations, local funds. All moneys received from any local unit of government or other sources for the maintenance and repair of roadside improvements under s.84.04, state trunk highways under s. 84.07, and bridges that are not on the state trunk highway system under s. 84.10; for signing under s. 86.195; for highway operations such as permit issuance, pavement marking, highway signing, traffic signal **and intelligent transportation system** maintenance, and highway lighting under ss. 84.04, 84.07, 84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business demonstration and training program under s. 84.076; for such purposes. This paragraph does not apply to routine maintenance activities performed by county highway committees or municipalities under contract with the department as provided in s. 84.07 (1).

On page 10, Section 15: Strike s. 84.06(1)(a) 2. and 3

Page 10, Section 15: Modify s. 84.06(1)(a) 4 to read: " 4. Highway operations or activities that are life-cycle or investment driven and that are based on an asset management philosophy in which taking action adds service life by preventing or delaying deterioration of highway system functionality"

Thanks,

Tyler



in
1/3



LRB-0254/12
ARG:sac:ph

RMR

DOA:.....Byrnes, BB0240 - Change maintenance definition and add appropriation

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

do not gen

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

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, DOT is responsible for maintenance of the state trunk highway system. DOT may perform highway maintenance or it may contract with counties, municipalities, or private contractors to provide highway maintenance services on state trunk highways. General maintenance activities include snow and ice control, interim repair of highway surfaces, vegetation management, and other operations, activities, and processes required on a continuing basis for the preservation of state highways. Maintenance activities also include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems (specialized systems, such as roadway detector loops, closed circuit television, variable message signs, or ramp meters, used to improve efficiency or safety). Under current law, "highway improvements" include construction, reconstruction, and rehabilitation of highways and processes incidental to building or bettering highways, but do not include maintenance and specifically do not include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation

systems unless incidental to a highway improvement project. Under current law, highway improvements and highway maintenance are generally funded from different DOT appropriations.

This bill creates new state, federal, and local appropriations that provide funding for state highway maintenance activities performed by counties, municipalities, or private contractors under contract with DOT. The bill also makes changes with respect to which highway operations and activities are considered highway improvements and which are considered highway maintenance, which affects the source of funding for these operations and activities. However, under the bill, some highway operations and activities, such as maintenance for roadside improvements and private contractor maintenance, can be funded from more than one appropriation. Under this bill, highway maintenance activities no longer include, and highway improvements no longer exclude, the installation, replacement, or rehabilitation of traffic control signals and intelligent transportation systems, but maintenance of traffic control signals and intelligent transportation systems are still considered maintenance activities. The bill also

insert ANAL →

~~specifies that the following highway operations or activities are considered highway improvements if they do not include activities described by statute as maintenance: 1) Operations or activities that restore or improve a highway and that add four or more years of useful life to the highway; 2) Operations or activities that are time sensitive and normally associated with emergency situations involving immediate safety risks or some degree of unacceptable mobility delays; and 3) Operations or activities that are life-cycle or investment driven and that are based on an asset management philosophy in which taking action prevents or delays deterioration of highway system functionality.~~ The bill also eliminates statutory references to "general" maintenance activities and statutory references to and descriptions of "special" maintenance activities.

Under current law, if DOT contracts with a county or municipality to perform maintenance on state trunk highways, DOT must pay the county or municipality the actual cost of performing the maintenance work based on the itemized and verified accounts submitted by the county or municipality to DOT for the work.

This bill allows DOT and the county or municipality to agree to a payment method and terms other than that required by current law, including payment according to a contract price for maintenance services rather than payment for the actual cost of the maintenance.

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) (aq) of the statutes is amended to read:

1 20.395 (3) (aq) *Southeast Wisconsin freeway megaprojects, state funds.* As a
2 continuing appropriation, the amounts in the schedule for southeast Wisconsin
3 freeway megaprojects under s. 84.0145 and for the purpose specified in s. 84.017 (3).
4 This paragraph does not apply to the installation, replacement, rehabilitation, or
5 maintenance of highway signs, ~~traffic control signals~~, highway lighting, or pavement
6 markings, or to the maintenance of traffic control signals or intelligent
7 transportation systems, unless incidental to a southeast Wisconsin freeway
8 megaproject.

9 **SECTION 2.** 20.395 (3) (ax) of the statutes is amended to read:

10 20.395 (3) (ax) *Southeast Wisconsin freeway megaprojects, federal funds.* All
11 moneys received from the federal government for southeast Wisconsin freeway
12 megaprojects under s. 84.0145 and for the purpose specified in s. 84.017 (3), for such
13 purposes. This paragraph does not apply to the installation, replacement,
14 rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway
15 lighting, or pavement markings, or to the maintenance of traffic control signals or
16 intelligent transportation systems, unless incidental to a southeast Wisconsin
17 freeway megaproject.

18 **SECTION 3.** 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
21 and connecting highways; for improvement of bridges on state trunk or connecting
22 highways and other bridges for which improvement is a state responsibility, for
23 necessary approach work for such bridges and for replacement of such bridges with
24 at-grade crossing improvements; for the construction and rehabilitation of the
25 national system of interstate and defense highways and bridges and related

1 appurtenances; for ~~special maintenance~~ activities under s. 84.04 on roadside
2 improvements; for bridges under s. 84.10; for the bridge project under s. 84.115; for
3 payment to a local unit of government for a jurisdictional transfer under s. 84.02 (8);
4 for the disadvantaged business demonstration and training program under s.
5 84.076; for the purpose specified in s. 84.017 (3); for the transfers required under
6 1999 Wisconsin Act 9, section 9250 (1) and 2003 Wisconsin Act 33, section 9153 (4q);
7 and for the purposes described under 1999 Wisconsin Act 9, section 9150 (8g), 2001
8 Wisconsin Act 16, section 9152 (4e), and 2007 Wisconsin Act 20, section 9148 (9i) (b)
9 and (9x). This paragraph does not apply to any southeast Wisconsin freeway
10 megaprojects under s. 84.0145, to any southeast Wisconsin freeway rehabilitation
11 projects under s. 84.014 that also qualify as major highway projects under s. 84.013,
12 or to the installation, replacement, rehabilitation, or maintenance of highway signs,
13 ~~traffic control signals~~, highway lighting, or pavement markings, or to the
14 maintenance of traffic control signals or intelligent transportation systems, unless
15 incidental to the improvement of existing state trunk and connecting highways.

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

17 20.395 (3) (cr) *Southeast Wisconsin freeway rehabilitation, state funds.* As a
18 continuing appropriation, the amounts in the schedule for rehabilitation of
19 southeast Wisconsin freeways, including reconstruction and interim repair of the
20 Marquette interchange in Milwaukee County. This paragraph does not apply to the
21 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
22 ~~control signals~~, highway lighting, or pavement markings, or to the maintenance of
23 traffic control signals or intelligent transportation systems, unless incidental to
24 rehabilitation of southeast Wisconsin freeways. No moneys may be encumbered
25 from this appropriation account after June 30, 2011. Notwithstanding s. 20.001 (3)

1 (c), any unencumbered balance in this appropriation account on July 1, 2011, shall
2 be transferred to the appropriation account under par. (cq) except that the amount
3 specified in 2011 Wisconsin Act 32, section 9148 (7f) (a), shall be transferred to the
4 appropriation account under par. (aq).

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

6 20.395 (3) (cv) *State highway rehabilitation, local funds.* All moneys received
7 from any local unit of government or other source for the specific information sign
8 program under s. 86.195; for improvement of existing state trunk and connecting
9 highways; for improvement of bridges on state trunk or connecting highways and
10 other bridges for which improvement is a state responsibility, for necessary approach
11 work for such bridges and for replacement of such bridges with at-grade crossing
12 improvements; for the construction and rehabilitation of the national system of
13 interstate and defense highways and bridges and related appurtenances; for special
14 maintenance activities under s. 84.04 on roadside improvements; for the bridge
15 project under s. 84.115; for the railroad and utility alteration and relocation loan
16 program under s. 84.065; for the purpose specified in s. 84.017 (3); and for the
17 disadvantaged business demonstration and training program under s. 84.076, for
18 such purposes. This paragraph does not apply to any southeast Wisconsin freeway
19 megaprojects under s. 84.0145 or to any southeast Wisconsin freeway rehabilitation
20 projects under s. 84.014 that also qualify as major highway projects under s. 84.013.

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

22 20.395 (3) (cx) *State highway rehabilitation, federal funds.* All moneys
23 received from the federal government for improvement of existing state trunk and
24 connecting highways; for improvement of bridges on state trunk or connecting
25 highways and other bridges for which improvement is a state responsibility, for

1 necessary approach work for such bridges and for replacement of such bridges with
2 at-grade crossing improvements; for the construction and rehabilitation of the
3 national system of interstate and defense highways and bridges and related
4 appurtenances; for ~~special maintenance~~ activities under s. 84.04 on roadside
5 improvements; for the bridge project under s. 84.115; for the purpose specified in s.
6 84.017 (3); and for the disadvantaged business demonstration and training program
7 under s. 84.076; and all moneys received under 2003 Wisconsin Act 33, section 9153
8 (4q); for such purposes. This paragraph does not apply to any southeast Wisconsin
9 freeway megaprojects under s. 84.0145 or to any southeast Wisconsin freeway
10 rehabilitation projects under s. 84.014 that also qualify as major highway projects
11 under s. 84.013.

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

13 20.395 (3) (cy) *Southeast Wisconsin freeway rehabilitation, federal funds.* All
14 moneys received from the federal government for rehabilitation of southeast
15 Wisconsin freeways, including reconstruction and interim repair of the Marquette
16 interchange in Milwaukee County, for such purposes. This paragraph does not apply
17 to the installation, replacement, rehabilitation, or maintenance of highway signs,
18 ~~traffic control signals~~, highway lighting, or pavement markings, or to the
19 maintenance of traffic control signals or intelligent transportation systems, unless
20 incidental to rehabilitation of southeast Wisconsin freeways. No moneys may be
21 encumbered from this appropriation account after June 30, 2011. Notwithstanding
22 s. 20.001 (3) (c), any unencumbered balance in this appropriation account on July 1,
23 2011, shall be transferred to the appropriation account under par. (cx) except that the
24 amount specified in 2011 Wisconsin Act 32, section 9148 (7f) (c), shall be transferred
25 to the appropriation account under par. (ax).

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

2 20.395 (3) (eq) *Highway maintenance, repair, and traffic system management*
3 *and operations, state funds.* As a continuing appropriation, the amounts in the
4 schedule for the maintenance and repair of roadside improvements under s. 84.04,
5 state trunk highways under s. 84.07, and bridges that are not on the state trunk
6 highway system under s. 84.10; for permit issuance and other highway operations,
7 including the installation, replacement, rehabilitation, or maintenance of highway
8 signs, ~~traffic control signals~~, highway lighting, and pavement markings, and the
9 maintenance of traffic control signals and intelligent transportation systems, under
10 ss. 84.04, 84.07, 84.10, and 348.25 to 348.27 and ch. 349; ~~for the grant under 2005~~
11 ~~Wisconsin Act 25, section 9148 (3f)~~; and for the disadvantaged business
12 demonstration and training program under s. 84.076. This paragraph does not apply
13 to ~~special routine~~ maintenance activities ~~under s. 84.04 on roadside improvements~~
14 performed by county highway committees or municipalities under contract with the
15 department as provided in s. 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.

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

17 20.395 (3) (es) *Routine maintenance activities, state funds.* As a continuing
18 appropriation, the amounts in the schedule for routine maintenance activities
19 performed under contract with the department as provided in ss. 84.06 (2) (a) and
20 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.

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

and intelligent transportation system

1 20.395 (3) (ev) *Highway maintenance, repair, and traffic system management*
2 and operations, local funds. All moneys received from any local unit of government
3 or other sources for the maintenance and repair of roadside improvements under s.
4 84.04, state trunk highways under s. 84.07, and bridges that are not on the state
5 trunk highway system under s. 84.10; for signing under s. 86.195; for highway
6 operations such as permit issuance, pavement marking, highway signing, traffic
7 signalization signal maintenance, and highway lighting under ss. 84.04, 84.07,
8 84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business
9 demonstration and training program under s. 84.076; for such purposes. This
10 paragraph does not apply to special routine maintenance activities under s. 84.04 on
11 roadside improvements performed by county highway committees or municipalities
12 under contract with the department as provided in s. 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.

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

14 20.395 (3) (ew) *Routine maintenance activities, local funds.* All moneys
15 received from any local unit of government or other sources for routine maintenance
16 activities performed under contract with the department as provided in ss. 84.06 (2)
17 (a) and 84.07 (1), 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.

18 **SECTION 12.** 20.395 (3) (ex) of the statutes is amended to read:

19 20.395 (3) (ex) *Highway maintenance, repair, and traffic system management*
20 and operations, federal funds. All moneys received from the federal government for
21 the maintenance and repair of roadside improvements under s. 84.04, state trunk
22 highways under s. 84.07, and bridges that are not on the state trunk highway system

1 under s. 84.10; for permit issuance and other highway operations, including the
2 installation, replacement, rehabilitation, or maintenance of highway signs, traffic
3 ~~control signals, highway lighting, and pavement markings,~~ and the maintenance of
4 traffic control signals and intelligent transportation systems, under ss. 84.04, 84.07,
5 84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business
6 demonstration and training program under s. 84.076; for such purposes. This
7 paragraph does not apply to ~~special routine maintenance activities under s. 84.04 on~~
8 ~~roadside improvements performed by county highway committees or municipalities~~
9 under contract with the department as provided in s. 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.

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

11 20.395 (3) (ey) *Routine maintenance activities, federal funds.* All moneys
12 received from the federal government for routine maintenance activities performed
13 under contract with the department as provided in ss. 84.06 (2) (a) and 84.07 (1), for
14 such purposes.

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

15 **SECTION 14.** 84.06 (1) of the statutes is renumbered 84.06 (1) (intro.) and
16 amended to read:

17 84.06 (1) DEFINITIONS. (intro.) In this section:

18 (a) Subject to par. (b), "improvement" or "highway improvement" includes
19 construction, all of the following:

20 1. Construction, reconstruction, rehabilitation, and processes incidental to
21 building, fabricating, or bettering a highway or street, ~~but not maintenance.~~ The
22 ~~terms do not include the.~~

1 (b) 2. The installation, replacement, rehabilitation, or maintenance of highway
2 signs, ~~traffic control signals~~, highway lighting, or pavement markings, or the
3 maintenance of traffic control signals or intelligent transportation systems, unless
4 incidental to building, fabricating, or bettering a highway or street.

5 SECTION 15. 84.06 (1) (a) 2. 3. and 4. of the statutes ~~are~~ ^{is} created to read:

6 84.06 (1) (a) 2. Highway operations or activities that restore or improve a
7 highway and that add 4 or more years of useful life to the highway.

8 3. Highway operations or activities that are time sensitive and normally
9 associated with emergency situations involving immediate safety risks or some
10 degree of unacceptable mobility delays.

11 4. Highway operations or activities that are life-cycle or investment driven and
12 that are based on an asset management philosophy in which taking action ^{adds service life by} ~~preventing~~
13 or delay ^{ing} deterioration of highway system functionality.

14 SECTION 16. 84.06 (1) (b) (intro.) and 1. of the statutes are created to read:

15 84.06 (1) (b) (intro.) "Improvement" or "highway improvement" does not
16 include any of the following:

17 1. Maintenance activities described in s. 84.07 (1).

18 SECTION 17. 84.07 (1) of the statutes is amended to read:

19 84.07 (1) ~~STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY~~ ROUTINE
20 MAINTENANCE. The state trunk highway system shall be maintained by the state at
21 state expense. The department shall prescribe by rule specifications for such
22 maintenance and may contract with any county highway committee or municipality
23 to have all or certain parts of the work of maintaining the state trunk highways
24 within or beyond the limits of the county or municipality, including interstate
25 bridges, performed by the county or municipality, and any county or municipality

1 may enter into such contract. ~~General maintenance~~ Maintenance activities include
2 the application of protective coatings, the removal and control of snow, the removal,
3 treatment and sanding of ice, interim repair of highway surfaces and adjacent
4 structures, and all other operations, activities and processes required on a regular,
5 continuing basis for the preservation of the highways on the state trunk system, and
6 including the care and protection of trees and other roadside vegetation and suitable
7 planting to prevent soil erosion or to beautify highways pursuant to s. 66.1037, and
8 all routine measures deemed necessary to provide adequate traffic service. ~~Special~~
9 ~~maintenance activities include the restoration, reinforcement, complete repair or~~
10 ~~other activities which the department deems are necessary on an individual basis for~~
11 ~~specified portions of the state trunk system.~~ Maintenance activities also include the
12 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
13 ~~control signals~~, highway lighting, and pavement markings, and the maintenance of
14 traffic control signals and intelligent transportation systems. The department may
15 contract with a private entity for services or materials or both associated with the
16 installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic~~
17 ~~control signals~~, highway lighting, and pavement markings, and the maintenance of
18 traffic control signals and intelligent transportation systems.

19 **SECTION 18.** 84.07 (2) of the statutes is renumbered 84.07 (2) (a) and amended
20 to read:

21 84.07 (2) (a) ~~When~~ Except as provided in par. (b), when any county or
22 municipality maintains the state trunk highways within or beyond the limits of the
23 county or municipality, including interstate bridges, in compliance with the
24 arrangement with the department, the department shall pay the actual cost of the
25 maintenance, including the allowance for materials and the use of county or

1 municipal machinery and overhead expenses agreed upon in advance. ~~The Except~~
2 ~~as provided in par. (b), the~~ payments shall be made upon presentation by the county
3 highway committee or municipal clerk of a properly itemized and verified account.
4 ~~The For payments made under this paragraph, the~~ county highway committee or
5 municipal clerk shall present the itemized accounts for ~~general~~ maintenance work
6 no later than one month following the period during which the work is performed.

7 **SECTION 19.** 84.07 (2) (b) of the statutes is created to read:

8 84.07 (2) (b) When any county or municipality maintains the state trunk
9 highways within or beyond the limits of the county or municipality, including
10 interstate bridges, in compliance with the arrangement with the department, the
11 department and the county or municipality may agree to a payment method and
12 terms other than that specified in par. (a), including payment according to a contract
13 price for maintenance services rather than payment of the actual cost of the
14 maintenance.

15 (END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0254/2ins
ARG:.....

INSERT ANAL:

(no ~~¶~~) Under the bill, highway improvements include highway operations or activities that are life-cycle or investment driven and that are based on an asset management philosophy in which taking action adds service life by preventing or delaying deterioration of highway system functionality, unless these operations or activities are specifically described by statute as maintenance.

Gary, Aaron

From: Gary, Aaron
Sent: Friday, January 18, 2013 2:08 PM
To: Byrnes, Tyler - DOA
Subject: RE: LRB - 0254/2

To make sure I understand: if these things are "incidental" to an improvement project, they may be funded from the indicated appropriations but only up to a total of \$20 million, annually?

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: Friday, January 18, 2013 1:36 PM
To: Gary, Aaron
Subject: LRB - 0254/2

Aaron,

Could you modify this draft to include a \$20 million cap on annual expenditures for intelligent transportation systems, highway lighting, pavement marking, ect listed under s. 84.06(1)(b)2. from appropriations s. 20.395 (3) (aq), (ax), (cq),(cr), (cx) and (cy)?

Thanks,

Tyler

1/18 t/c w/ Tyler

- talking about installation of ITS/signals → those things no longer excluded from highway improvement
- wants limit for only state funds apps, not fed funds apps (see * above)

Gary, Aaron

From: Byrnes, Tyler - DOA <Tyler.Byrnes@wisconsin.gov>
Sent: Friday, January 18, 2013 3:24 PM
To: Gary, Aaron
Subject: RE: LRB - 0254/2

Aaron,

I think this language is almost what I'm looking for.

A cap on stand-alone installation, replacement or rehabilitation of signals and ITS from (3) (aq), (cq), (cr)) is the intent. The cap should not apply to installation, replacement or rehabilitation of signals and ITS that is incidental to a highway improvement.

Perhaps a change to the language that's something like this would do the trick:

Created: 84.06 (13) Certain expenditures limited. The department may not encumber or expend, from the appropriations under s. 20.395 (3) (aq), (cq), and (cr), more than a total of \$20,000,000 in any fiscal year for the installation, replacement, or rehabilitation, not incidental to another highway improvement, of traffic control signals and intelligent transportation systems.

Thanks,

Tyler

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Friday, January 18, 2013 3:19 PM
To: Byrnes, Tyler - DOA
Subject: RE: LRB - 0254/2

Tyler,

Here is the change I am making. Please let me know if this is not what you had in mind. Thanks. Aaron

Created: 84.06 (13) Certain expenditures limited. The department may not encumber or expend, from the appropriations under s. 20.395 (3) (aq), (cq), and (cr), more than a total of \$20,000,000 in any fiscal year for the installation, replacement, or rehabilitation of traffic control signals and intelligent transportation systems.

From: Gary, Aaron
Sent: Friday, January 18, 2013 3:12 PM
To: Byrnes, Tyler - DOA
Subject: RE: LRB - 0254/2

I see the source of confusion. Following up on our conversation, I reread the draft and think I understand the instructions now, but also note that the change in the draft is narrower than what appears in the email below.

Under the draft, the source of funding for the installation, replacement, or rehabilitation of *traffic control signals and intelligent transportation systems* (ITS) is changed – it is switched from maintenance funding to improvement funding. I

can put a cap on improvement funding (from (3) (aq), (cq), (cr)) for these two items. Of course, since they can no longer be funded as maintenance, the cap may limit not just the source of expenditure but also total funding for these.

Aaron

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

From: Gary, Aaron
Sent: Friday, January 18, 2013 2:08 PM
To: Byrnes, Tyler - DOA
Subject: RE: LRB - 0254/2

To make sure I understand: if these things are "incidental" to an improvement project, they may be funded from the indicated appropriations but only up to a total of \$20 million, annually?

Aaron

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

From: Byrnes, Tyler - DOA [<mailto:Tyler.Byrnes@wisconsin.gov>]
Sent: Friday, January 18, 2013 1:36 PM
To: Gary, Aaron
Subject: LRB - 0254/2

Aaron,

Could you modify this draft to include a \$20 million cap on annual expenditures for intelligent transportation systems, highway lighting, pavement marking, ect listed under s. 84.06(1)(b)2. from appropriations s. 20.395 (3) (aq), (ax), (cq),(cr), (cx) and (cy)?

Thanks,

Tyler