Legislative Fiscal Bureau

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May 19, 2009 Joint Committee on Finance Paper #777

Major Highway Development (DOT -- State Highway Program)
Transportation Revenue Bond Authorization (DOT -- Transportation Finance)

[LFB 2009-11 Budget Summary: Page 625, #2; Page 603, #10]

CURRENT LAW

The Department of Transportation's (DOT) major highway development program is responsible for the expansion of existing state highways and the construction of new highways, except for expansion and construction projects on the southeast Wisconsin freeway system. Major highway development projects, which must be enumerated in the statutes prior to construction, are defined as projects that have an estimated cost exceeding $5,000,000 in current dollars and consist of at least one of the following: (a) construction of a new highway 2.5 miles or more in length; (b) relocation of 2.5 miles or more of existing roadway; (c) the addition of one or more lanes at least five miles in length; or (d) the improvement of ten miles or more of an existing divided highway to freeway standards. Base funding for the program is $322,806,100, which includes $76,435,500 SEG, $78,975,000 FED, and $167,395,600 SEG-S (revenue bonds).

GOVERNOR

Provide an increase of $76,000,000 FED in 2009-10 from federal stimulus funds and delete $30,000,000 SEG-S in 2009-10 for the major highway development program.

Increase revenue bonding authority by $301,443,200 for major highway development projects and administrative facilities.

DISCUSSION POINTS

1. The bill would allocate a portion of the state's federal economic stimulus funding for

highways to the major highway development program in 2009-10, an increase that would be partially offset by a decrease in the use of transportation revenue bonds in that year, producing a net increase of $46,000,000. No increases would be provided for the program in 2010-11, but two separate items would reduce funding for the program in both years. First, funding would be reduced by $3,714,200 SEG in 2009-10 and $3,420,100 SEG in 2010-11 as part of an initiative to reduce funding for engineering consultants for highway projects. Second, funding would be reduced by $764,400 SEG and $1,674,000 SEG-S annually under an item that would reduce funding for most non-federal appropriations in state government by 1%.

2. Although the bill would provide federal economic stimulus funding for the program in 2009-10, two factors have reduced the total amount of stimulus funding available in 2009-10, relative to the total amount reflected in the bill. First, the actual amount received by the state ($529.1 million) is $34.6 million less than had been assumed at the time the transportation provisions of the bill were developed. Second, whereas DOA had assumed that 50% of the stimulus funding would be spent in 2008-09, leaving the rest for 2009-10, an estimated 64% of the total actually received will be spent in 2008-09 (including $32.3 million for major highway development), leaving a smaller proportion available for 2009-10. Furthermore, the bill would not allocate enough stimulus funding to satisfy commitments for local projects, meaning that some funding that is reflected in appropriations for state highway programs will have to be reallocated to local programs. In total, the bill would provide $247.1 million for state highway programs, but after making adjustments for the amount actually received, the amount allocated to projects in 2008-09, and the amount committed to local projects, only $55.9 million will remain for those programs. Consequently, to accurately reflect the amount of stimulus funds available for state highway programs in 2009-10, the Committee must reduce the amount allocated to state highway program appropriations by a total of $191.2 million, a reduction of 77.4%.

3. If the Committee decides to make the necessary reductions to the federal economic stimulus allocations on a proportionate basis among all state highway programs, the 2009-10 allocation to the major highway development program would be reduced from $76,000,000 to $17,193,800 [Alternative #A2]. In this case, there would be a net reduction in funding for the program, including the separate items discussed above, of $19.0 million in 2009-10 and $5.9 million in 2010-11. The reduction in 2010-11 would reduce the ongoing base for the program by 1.8%.

4. Although the bill, as adjusted to account for less carry-over stimulus funds, would result in a net reduction in funding for the program, funding in 2008-09 would be higher than the amount budgeted under the 2007-09 budget act. In addition to the $32.3 million in stimulus funding provided in 2008-09 for major highway development projects, the program received more funding in 2008-09 than anticipated under the regular federal highway aid program. Under the Department's plan to allocate this additional funding, the major highway development program was increased by $27.5 million, including both the amount of formula aid allocated to the program ($20.0 million) and funding for federally-earmarked major highway development projects ($7.5 million). With these increases, funding over the three-year period from 2008-09 through 2010-11 would exceed the 2008-09 base tripled by $35.0 million, or 3.6%.

5. The selection process for major highway development projects begins with the Transportation Projects Commission (TPC), which is chaired by the Governor, and is composed of five members from each house of the Legislature, three public members appointed by the Governor, and the DOT Secretary, as a nonvoting member. The TPC considers potential projects recommended by DOT, and then makes recommendations to the Governor and Legislature for statutory enumeration, which is required before DOT may proceed with construction.

6. In response to concerns over the large number of enumerated projects and the delay between the time of enumeration and completion, the Legislature enacted a provision in the 1997-99 biennial budget that prohibits the TPC from recommending a project for enumeration unless the level of funding for the major highway development program at the time of consideration is sufficient to begin construction on the project, as well as all currently enumerated projects, within six years, provided the same real (inflation-adjusted) level of funding is maintained throughout that period. In 2002, the TPC considered four projects, but ultimately decided against recommending them for enumeration because it was determined that they could not be started within six years. However, the Legislature enumerated these four projects in the 2003 session without TPC recommendation, prompting another change, enacted later in the 2003 session, that prohibits the Legislature from enumerating a project unless it is recommended for enumeration by the TPC.

7. The TPC has not met to consider new projects since 2002, and no new projects have been enumerated since 2003, which has allowed the number of enumerated but incomplete projects to be reduced. However, the total cost to complete all remaining projects has not declined substantially since 2005 because inflation and project revisions have added to the cost of those projects that are incomplete. To illustrate, in February, 2005, the first time that the Department was required to submit a semi-annual financial report on all projects, there were 25 projects with at least $5 million in costs remaining and an estimated total remaining cost of $2,410.8 million. Four years later, in February, 2009, the Department had completed eight projects, reducing the remaining number to 17, with an estimated total remaining cost of $2,311.4, million. During those four years, the Department spent a total of $1.02 billion on projects, but the cost to complete the remaining projects had declined by just $99.4 million. The cost to complete all remaining projects has declined by a relatively small amount in relation to the amount spent because the cost of many of those remaining projects has increased by 40% to 50% between 2005 and 2009.

8. The attachment to this memorandum shows the 17 projects that have at least $5.0 million of costs remaining, in order by the amount of remaining cost. Of these, four (marked with an asterisk) are substantially complete, but have minor auxiliary projects or related local street work remaining, leaving 13 that have substantial work remaining. For each project, the remaining cost is shown, as well as the final year for which a contract with an estimated cost of at least $5.0 million is scheduled. It should be noted that this year does not necessarily represent the year of completion, since some construction work may take place in the year following the year that the final contract is awarded. This schedule is based on the assumption that the same real level of funding will be provided in each future year as was provided during the current year.

9. LFB Issue Paper #754 provides a discussion of the issues related to the overall level

of transportation bonding and transportation fund debt service, but since more bonds are used in the major highway development program than in any other single transportation program, the Committee's decisions regarding the use of transportation bonding may need to be considered within the context of funding for the major highway development program. The bill would reduce bonding for the program by $30,000,000 in 2009-10, which, over the long term, would reduce annual debt service payments by $2.4 million, relative to the debt service payments that would accrue if the base level of bonding were maintained. However, the reduction in the use of bonds would only apply to the first year of the biennium, meaning that the ongoing level of bonding would be substantially maintained at the base level (it would only be affected by the 1% across-the-board reduction). This one-time reduction and the relatively small reduction in ongoing bonding will have only a minor impact on long-term debt service. If the Committee determines that it would be prudent to significantly reduce the share of transportation fund revenues needed for debt service over the long term, it may be necessary to more substantially reduce the ongoing use of bonds in the major highway development program.

10. Although the Committee could decide to reduce the use of bonds to avoid the longer-term impacts of increasing debt service, such a course presents several difficulties. Various proponents of different transportation programs argue that current funding levels are too low, making it difficult to use current revenues to replace bonding in the program. This is particularly the case at a time when revenues generated by transportation taxes and fees are falling or are growing only slowly. On the other hand, reducing the use of bonds without a corresponding increase in SEG or FED funds would affect the schedule of current projects. For this reason, some may take the position that any strategy to substantially reduce the use of ongoing bonds needs to be done on a long-term basis, without substantially impacting the schedule for currently-enumerated projects.

11. Based on figures in the attachment to this paper, 12 out of the 17 current projects, representing 88% of the remaining cost, will be substantially complete after 2013-14. Under DOT's current schedule, expenditures on currently-enumerated projects will fall from $266.4 million in 2013-14 to $114.5 million in 2014-15, or about 35% of the current funding base for the program. Normally, this would mean that the TPC could recommend additional projects for enumeration, since they could be added to the schedule beginning in that year, based upon the assumption that current funding levels, including SEG, FED, and bond funds, will continue. As part of a strategy to reduce or eliminate the ongoing use of bonds in the program, the Committee could modify the statutory provision related to TPC project recommendations to specify that only SEG and FED funding may be considered after 2013-14 when determining if construction on a potential project can be begun in six years. This would not commit a future Legislature to reducing the use of bonds after 2013-14, but would establish the current Legislature's statement of intent that the program should be funded on a "pay-as-you-go" basis in the future, and may create conditions that would limit new projects to only those that can be funded without the use of bonds [Alternative #B1].

12. Under current law, if the TPC determines that a project may not be started within six years given current funding levels, it may still recommend the project for enumeration if it also recommends a funding proposal that would be sufficient to allow the project to be begun within six

years. In order to maintain the goal of eliminating or limiting the use of bonds after 2013-14, the alternative described in the previous point could specify that any recommendation made by the Commission must be limited to SEG or FED funding increases.

13. If the Committee decides to reduce ongoing bonding for the 2009-11 biennium, the 2010-11 SEG-S appropriation could be reduced. A reduction of $10,000,000 SEG-S in 2010-11 would reduce revenue bond debt service by an estimated $525,100 in 2010-11. In addition, revenue bond authority could be reduced by $10,000,000. This alternative could be provided either in combination with a corresponding SEG increase [Alternative #A3a] or without replacing the bonds, which would reduce the funding for the program [Alternative #A3b].

14. A total of $32.3 million in economic stimulus funding was allocated to major highway development projects by 2009 Act 2 in 2008-09, an allocation equal to 10.0% of the 2008-09 base level of funding. Some may argue that due to this funding, an additional increase for the 2009-11 biennium is unnecessary and that in a time when funding for many state programs is being reduced, the state should emphasize preservation of the existing highway system over additional capacity expansion. Others may argue, however, that one of the purposes of the federal economic stimulus act is to increase spending for transportation projects that improve mobility and economic development opportunities, and that major highway development projects have these benefits. In this case, restoring base level bonding or providing additional increases may be viewed as being desirable.

15. If the Committee determines that maintaining or increasing the current funding level for the major highway development program outweighs concerns over long-term transportation fund debt service, one alternative would be to restore the base level of bonding for the program. To restore both the one-time reduction in 2009-10 and the 1% annual reductions would require increases of $31,674,000 SEG-S in 2009-10 and $1,674,000 SEG-S in 2010-11. Under this alternative, estimated revenue bond debt service would increase by $1,663,300 in 2009-10 and $2,696,000 in 2010-11, and the bonding authorization for the program would have to be increased by $33,348,000 [Alternative #A4a].

16. At the time of the introduction of the bill, the biennium-ending transportation fund balance was estimated at $32,324,800. Based on revised revenue estimates and the Committee's earlier actions, the biennium-ending balance is now estimated at $4,543,400. This relatively small balance means that without significant modifications to revenues or the reallocation of transportation fund resources, such as a reduction in the amount provided for general fund programs, it would be difficult to substantially change the SEG funding for the major highway development program. However, if such changes allow the Committee to provide additional funding for the program, one alternative would be to restore funding for highway engineering (under LFB Issue Paper #779).

17. If additional revenues are available, the Committee could decide to provide more funding for the program. An additional $764,400 SEG annually would restore the 1% SEG reduction [Alternative #A4b], while a 1% annual increase on the entire SEG, FED, and SEG-S

program base (excluding state-funded salary and fringe benefits) would require an additional $3,219,300 in 2009-10 and $6,470,900 in 2010-11 [Alternative #A4c]. If the Committee decides to either limit the use of transportation fund revenues to assist the general fund or to replace this use with general fund-supported borrowing, as has been done in past biennia, additional increases could be provided (see LFB Issue Paper #753 for a discussion of this issue).

ALTERNATIVES

A. Major Highway Development Funding Level

1. Approve the Governor's recommendation to provide an increase of $76,000,000 FED in 2009-10 from federal stimulus funds and delete $30,000,000 SEG-S in 2009-10 for the major highway development program, and increase revenue bonding authority by $301,443,200.

2. Modify the Governor's recommendation by reducing the allocation of federal stimulus funds by $58,806,200 FED in 2009-10, to reduce the allocation of such funds among all state highway programs on a proportionate basis to match the amount that is actually available for those programs in 2009-10.

ALT A2	Change to Bill Funding
FED	- $58,806,200

3. Adopt one of the following alternatives related to ongoing bond usage in the major highway development program [The amounts in these alternatives are illustrative and could be changed]:

a. Reduce funding by $10,000,000 SEG-S in 2010-11 and provide a corresponding increase of $10,000,000 SEG in 2010-11 to reduce the ongoing use of bonds for the program. Increase estimated transportation fund revenues by $525,100 in 2010-11 to reflect lower debt service payments in the biennium and reduce the authorization of transportation revenue bonds by $10,000,000.

ALT A3a	Change to Bill Revenue	 Funding
SEG	$525,100	$10,000,000
SEG-S	--	- 10,000,000
Total	$525,100	$0
BR	- $10,000,000	

b. Reduce funding by $10,000,000 SEG-S in 2010-11 for the program. Increase estimated transportation fund revenues by $525,100 in 2010-11 to reflect lower debt service payments in the biennium and reduce the authorization of transportation revenue bonds by $10,000,000.

ALT A3b	Change to Bill	
	Revenue	Funding
SEG	$525,100	$0
SEG-S	--	- 10,000,000
Total	$525,100	- $10,000,000
BR	- $10,000,000	

4. Adopt one or more of the following alternatives related to restoring or increasing funding for the major highway development program:

a. Provide $31,674,000 SEG-S in 2009-10 and $1,674,000 SEG-S in 2010-11 to restore base level bonding for the program. Decrease estimated transportation fund revenues by $1,663,300 in 2009-10 and $2,696,000 in 2010-11 to reflect increased debt service payments. Increase revenue bond authorization by $33,348,000.

ALT A4a	Change to Bill	
	Revenue	Funding
SEG	- $4,359,300	$0
SEG-S	--	33,348,000
Total	- $4,359,300	$33,348,000
BR	$33,348,000	

b. Provide $764,400 SEG annually for the program to restore the funding reduction made under the 1% across-the-board reduction item.

ALT A4b	Change to Bill
	Funding
SEG	$1,528,800

c. Provide $3,219,300 SEG in 2009-10 and $6,470,900 SEG in 2010-11 to provide a 1% annual increase for the program. [Some or all of the increase could be provided with federal highway formula funds, depending upon the relative availability of each fund source at the time of the Committee's action.]

ALT A4c	Change to Bill
	Funding
SEG	$9,690,200

B. Transportation Projects Commission Recommendation Policy

1. Modify a current law provision that prohibits the Transportation Projects Commission from recommending a highway project to the Legislature and Governor for statutory enumeration as a major highway development project unless construction on the project and all currently-enumerated projects can begin within six years of enumeration, to specify that in determining whether the potential project and currently-enumerated projects can be started, the Commission shall assume that the total, real level of funding provided at the time of the recommendation will continue through the end of 2013-14, but that only the real level of SEG or FED funding at the time of the recommendation may be considered for 2014-15 and beyond. Specify that any funding proposal included with the Commission's recommendation of a project may only include SEG or FED increases. [This alternative would preclude the TPC's consideration of bonding for the program after 2013-14.]

2. Maintain current law.

Prepared by: Jon Dyck

ATTACHMENT

Currently Enumerated Major Highway Development Projects, With Remaining Estimated Cost as of February, 2009, and Projected Final Contract Year
($ in Millions)

Highway	Segment	Remaining Cost	Final Contract Year
USH 41	De Pere to Suamico	$524.1	2013-14
USH 41	STH 26 to Breezewood Lane	412.1	2013-14
STH 26	Janesville to Watertown	383.9	2013-14
USH 10	Marshfield to Stevens Point	205.4	2011-12
USH 12	Lake Delton to Sauk City	166.4	2015-16**
USH 53	La Crosse Corridor	138.4	2017-18
STH 23	STH 67 to USH 41	124.7	2014-15
USH 41	Oconto to Peshtigo	85.1	2010-11
USH 14	Viroqua to Westby	65.8	2016-17**
STH 11	Burlington Bypass	60.4	2009-10
I-39/USH 51	Wausau Corridor	35.5	2010-11
USH 53	Eau Claire Bypass*	27.1	2011-12
USH 18	Prairie du Chien to STH 60	27.0	2013-14**
STH 57	Dyckesville to Sturgeon Bay*	19.8	2008-09
STH 81/STH 213	Beloit Bypass	9.6	2017-18
USH 151	Fond du Lac Bypass*	8.2	2009-10
STH 16	Oconomowoc Bypass*	5.2	2009-10
	Other Projects	12.7	
	Total	$2,311.4	

* These projects are substantially complete and open to traffic, but certain auxiliary projects or related local street work remains.

** Expenditures for these projects are scheduled in two phases. The year shown is the final contract year of the second phase.