

1999 DRAFTING REQUEST

Bill

Received: **11/16/98**

Received By: **nilsepe**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Etzler**

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

Drafter: **nilsepe**

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Subject: **Transportation - mass transit**

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Topic:

DOA:.....Etzler - Urban mass transit aid--funding, tiers, formula

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nilsepe 11/19/98	chanaman 11/25/98		_____			S&L
/P1	nilsepe 01/29/99	ygeller 01/31/99	lpaasch 11/25/98	_____	lrb_docadmin 11/25/98		S&L
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/P1		<i>1 1/3 jlg</i>	lpaasch 11/25/98	_____	lrb_docadmin 11/25/98		
			<i>4/1/31</i>	<i>4/1/31</i>			

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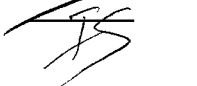
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Department of Transportation
1999-2001 Biennial Budget Request
STATUTORY MODIFICATIONS

DIN NUMBER: 5804

TOPIC: Urban Transit Aid—Funding, Tier Structure, and Formula Changes

DESCRIPTION OF CHANGES:

- ✓ 1) Amend s.85.20 (4m) (a) 6. b., 7. b., and 8. b. to provide that the CY amounts specified for 1999 and thereafter apply only for CY 1999.
- ✓ 2) Combine the current funding tiers B and C by amending the definition of Tier B at s.85.20 (4m) (a) 7. a. to provide that it shall fund "the uniform percentage for each eligible applicant not funded (or "specified") under s.85.20 (4m) (a) 6. a. [Tier A]." Provide that the treatment of this provision is effective for state aid contracts beginning January 1, 2000 or thereafter.
- 3) S.85.20 (4m) (a) 8. [the definition of Tier C] and s.20.395 (1) (hs) [the appropriation for Tier C] may be repealed on or after July 1, 2000. References to Tier C at s.85.20 (4m) (em) 1., s.85.20 (4s), and s.85.20 (7) (a) (intro) should also be amended to reflect the repeal, and the reference to "the urban mass transit system" in the first sentence of s.85.20 (7) (a) (intro) should be made plural, "systems."
- ✓ 4) Provide for a 3% increase in funding for Tier A, effective for CY 2000 and thereafter, by specifying that, for the purpose of making allocations under subd. 6. a., the amount for aids in CY 2000 and thereafter is \$65,012,900.
- ✓ 5) Provide a CY funding level for the redefined Tier B that reflects a 3% increase over the combined CY 1999 funding level for Tiers B and C, effective for 2000 and thereafter, by specifying that for the purpose of making allocations under subd. 7. a., the amount for aids in CY 2000 and thereafter is \$24,100,400.
- ✓ 6) X-ref Revise s.85.20 (4m) (a) (intro) as follows, to provide for the distribution of state aid under the section without reference to federal aid (unless one of the limits described below applies): "Except as provided under [references to the federal-state limits and local-share revision described below], the department shall allocate to each eligible applicant an amount equal to a uniform percentage, established by the department, of the projected operating expenses of each eligible applicant's urban mass transit system for the calendar year. The department shall make allocations as follows:"
- CL; 85.20(6)(c) 7) Create a new provision specifying the department may require notification from any eligible applicant of the amount of federal aid under the eligible applicant's discretion, if any, that the eligible applicant intends to apply to the operating expenses, including maintenance expenses, of its urban mass transit system for a calendar year corresponding with state aid allocations under s.85.20 (4m) (a). Create provisions limiting state aid allocations under s.85.20 (4m) (a) to the following maximum federal-state percentages:
 1. "The sum of state aid allocations under s.85.20 (4m) (a) 6. a. [Tier A] and federal aid for the projected operating expenses, including maintenance expenses, of an urban mass transit system with annual operating expenses in excess of \$20,000,000 may not exceed 50% of the projected operating expenses of the urban mass transit system, including maintenance expenses. This provision applies only to transit aid apportioned by federal law to the eligible applicant or to the urbanized area in which the eligible applicant's urban mass transit system operates. Federal aid made available to an eligible applicant by the department under the authority of other programs is excluded from this limitation.

85.22 (4m) (a) 7m. c.

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[Am.]

2. "In making state aid allocations under s.85.20 (4m) (a) 7. a. [the new Tier B], the department shall determine the amount of federal aid available for the operating expenses of each eligible applicant's urban mass transit system. If the department determines that federal aid is available for the operating expenses of an eligible applicant's urban mass transit system, the department may require the eligible applicant to accept that federal aid as a condition of receiving state aid under this section. Except as provided [reference to below provisions applicable only for CY 2000 and 2001], the sum of federal aid and state aid allocations under this section may not exceed 65% of the projected operating expenses of the eligible applicant's urban mass transit system."

3. Provisions applicable [to state aid allocations under s.85.20 (4m) (a) 7. a] for calendar years 2000 and 2001:

a) "For an eligible applicant (served by an ~~urban~~ mass transit system operating within an urban ~~area~~ area having a population as shown in the 1990 federal decennial census of at least 50,000) or eligible for only federal mass transit aid for such areas, the sum of federal aid and state aid allocations under this section for calendar years 2000 and 2001 may not exceed 60% of the projected operating expenses of the eligible applicant's urban mass transit system."

Tier B
85.20 (4m)
7. a.

b) "For an eligible applicant served by an urban mass transit system operating partly within an urbanized area having a population as shown in the 1990 federal decennial census of at least 50,000 or eligible for federal mass transit aid for such areas and also operating partly outside such areas and eligible for federal mass transit aid for such nonurbanized areas, the sum of federal aid and state aid allocations under this section for the portion of the projected operating expenses of the eligible applicant's urban mass transit system associated with service provided within the urbanized area or eligible for federal mass transit aid for such areas may not exceed 60% of the projected operating expenses of that service for calendar years 2000 and 2001."

8) Amend s.85.20 (4m) (b) 1. by changing the last part of the current definition of the minimum-local-match requirement from "at least 20% of state aid allocations to that eligible applicant under this section" to "at least 10% of the operating expenses of the eligible applicant's urban mass transit system." S.85.20 (4m) (em) 3., which currently limits state aid to five times whatever local match is provided, should be repealed as inconsistent with the new local share requirement. These changes should be made effective for state aid contracts beginning in CY 2000.

9) Amend s.85.20 (4m) (b) 2. to provide that although an eligible applicant served exclusively by a shared-ride taxicab system is not required to comply with the local contribution requirement of subdivision 1, for CY 2001 and thereafter no eligible applicant served exclusively by a shared-ride taxicab system shall be eligible to receive an increase over the amount of state aid allocated to that eligible applicant under s.85.20 for the previous calendar year, except to the extent it complies with the provisions of subdivision 1. Specify that this limitation does not apply to establishing the state aid amount for the initial year of service for an eligible applicant served exclusively by a shared-ride taxicab system.

10) Create a provision specifying that for CY 2000 no eligible applicant that also received aid in CY 1999 and is served exclusively by a shared-ride taxicab system shall be eligible to receive an increase over the amount of state aid allocated to that eligible applicant in CY 1999, unless it provides a local contribution, exclusive of user fees, toward the operating expenses of its urban mass transit system in an amount equal to at least 5% of those operating expenses. This provision is intended to provide a phase-in of the local-match provision for shared-ride taxi systems.

11) Modify s.85.20 (3) (cr) to provide that, if a management performance audit is required of all urban mass transit systems participating in the program, an eligible applicant served exclusively by a shared-ride taxicab system may be exempted from the requirement as long as the eligible applicant voluntarily complies with the provisions of s.85.20 (4m) (b).

JUSTIFICATION:

The state-aid amounts indicated for CY 2000 and thereafter are 3% increases over the amounts under current law for CY 1999 and thereafter. CY amounts are specified because state aid contracts are funded from two state fiscal years according to a particular statutory relationship.

Under current law, three different "tiers" define three different state aid levels, depending on the characteristics of the transit systems serving individual eligible applicants. Within each tier, state aid is distributed to equalize the percentage of costs covered by state and federal aid for each system within the tier, some of which do not receive federal aid.

Consolidation of current tiers B and C will improve WisDOT's ability to take full advantage of the current structure of federal aid and will provide greater predictability and stability of aid levels for the majority of transit systems in the state. Tier A can be retained, as currently defined, in recognition that the Milwaukee and Madison transit systems are significantly different from all others in the state, both in their characteristics and in the structure of the federal aid available to them.

Rationale for Retaining Tier A, Specifying 50% maximum

Milwaukee and Madison differ from other state transit systems because each receives its federal aid directly, and the Transportation Equity Act for the 21st Century (TEA 21) officially eliminated federal operating aid for each but authorized them to use capital funds for maintenance, previously considered an operating expense. In contrast, the state controls the two categories of federal aid for service outside the Milwaukee and Madison urbanized areas (one for service in smaller urbanized areas and one for service in nonurbanized areas). And TEA 21 authorized both of these federal-aid categories to be used essentially as "block grants" for any eligible capital or operating expense. (Prior to FFY 98, a limitation was imposed on the amount of the federal aid for smaller urbanized areas that could be used for operating expenses).

Eliminating the formal linkage of the distribution of state aid with the amount of federal aid available for operating assistance, and substituting instead a system of maximum combined aid levels will address some problems experienced with the current formula. The distribution of state aid between Madison and Milwaukee is problematic under the current system because the state does not control their decisions about how much federal funding to use for maintenance costs and how much to reserve for capital costs. In addition, Madison and Milwaukee pursued different policies in 1998 (expected to continue in 1999), with Madison choosing not to use federal funds for any maintenance costs. If state aid were strictly linked to federal aid, Madison would receive a double benefit from its policy—receiving additional state aid at the expense of Milwaukee, while reserving more of its federal funds for capital needs. WisDOT believed that result would be contrary to the intent of the current federal-state formula, which had been adopted assuming that each system would receive a known amount of federal operating aid, so it counted only traditional federal operating aid allocations in determining the allocations between these systems for 1998. TEA 21 eliminated this type of operating aid for these systems.

Under the proposed delinked system, at the proposed state funding level, state aid for Milwaukee and Madison will not be affected by each other's decisions about the amount of federal aid to use for maintenance costs. Each will have a certain amount of latitude to decide locally about whether to use federal capital funds for maintenance expenses.

At the same time, it is in the public interest that the federal flexibility not be treated at the local level as a short-term "windfall" to provide property tax relief at the expense of bus capital replacement needs. Consequently, WisDOT recommends that a statutory maximum of 50% of operating costs, including maintenance costs, be eligible for the combination of state and federal aid. Language is proposed that will help administer this limit, allowing WisDOT to require that Milwaukee and Madison notify it of the expenses they intend to capitalize, and specifying that maintenance costs are counted, but allocations under other programs are not (e.g., the Elderly and Disabled County Aid program under s.85.21, and discretionary grants under the Congestion Mitigation and Air Quality and Demand Management and Ridesharing grant programs).

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Importance of Federal-State Aid Caps, Single Tier For Rest of State

For other systems, if sufficient state or federal funding is available in a given year to fund the proposed maximum federal-state aid levels, the effect of the "delinked" formula will be similar to the current formula except that state aid available can "flow" across all the systems, regardless of their federal aid category, to balance out differences in the amount of each category of federal aid compared to systems eligible for it. The combination of a single tier, state aid, federal aid, and the federal-state aid caps will all work together to create much more predictable overall aid levels for all transit systems.

For the proposed "rest-of-the-state" Tier B, the statutory federal-state limits are essential to taking full advantage of federal funds. They address two problems with the current two-tier program structure: 1) There is not currently any statutory basis for determining what federal aid level should be made available for operating costs; and 2) There is currently a mismatch between the federal funding available in each federal category and the services eligible for each.

When the current-law formula was created, it was assumed that federal aid for small urbanized-area systems' operating costs would be a fixed amount each year. When all operating costs for these Tier B systems became eligible for FFY 98 capital funds, an administrative decision was needed on how much federal aid to use for operating costs instead of capital. WisDOT decided to use enough to cover, combined with state aid, 60% of operating costs. The decision, made in consultation with transit managers, was based in part on providing aid levels equivalent to more generous state aid some had anticipated in the state budget. However, long-term stability in both operating aid and capital investment will be better served if some benchmark operating aid level is established.

The 60% and 65% federal-state caps are not a "guarantee"; whether or not these aid levels can be provided will depend on the levels of federal and state funding appropriated and the levels of transit system operating costs that need to be funded each year. However, at the proposed levels, WisDOT expects that it will be possible to fund them. Assuming sufficient other federal funds are available to meet capital needs (through such programs as bus capital earmarks, the STP-Discretionary Grant Program, and the CMAQ Program), the flexibility to use transit formula funding for either operating or capital funding can be used to compensate for the traditional difficulty in predicting future year's transit operating costs in advance. If operating expenses turn out to be different than anticipated when the budget was developed, slightly more or less of the flexible federal aid can be used to fund the benchmark operating aid level, *provided it is established at a conservative level, somewhat below the maximum level the formula aid might be able to support.*

The 60% and 65% aid levels proposed are consistent with levels of federal aid expected to be available for 2000-2001, and also consistent with maintaining the share of costs that federal and state aid are expected to cover in 1999. A simpler 65% level for all systems should be possible after that due to growth in federal funding authorized under TEA 21. As a result, it is suggested that the limits be drafted in such a way that the 60% level for urbanized-area services, or parts of certain service qualifying for it, could be repealed after it is no longer required.

In addition to providing a benchmark aid level, the 60% cap for 2000 and 2001, in conjunction with a single aid tier for systems receiving federal aid for either urbanized areas or nonurbanized areas will help address an imbalance between the amount of federal aid available for both of these types of areas and the amount of each type of service requiring funding. Because of the large number of smaller communities in Wisconsin that have established shared-ride taxi services, since 1996 WisDOT has had to use all available federal nonurbanized area funds for operating costs. TEA 21 authorized a greater percentage increase in this nonurbanized category of federal aid than it did in the category for urbanized areas between 50,000 and 200,000 in population. However, the actual level of federal funding WisDOT anticipates being able to commit to nonurbanized areas in CY 1999 is slightly less than in CY 1998: WisDOT was able to use federal aid accumulated in prior years to sustain a higher aid level for 1996 through 1998 but those prior-year funds are now exhausted. This situation would only become more problematic in the 2000-2001 time frame as costs for systems in the current Tier C increase.

In contrast, after CY 1999, urbanized area federal funds are expected to be more than sufficient to maintain the current 60% aid level for systems qualifying for it. By making this aid level a statutory maximum and combining current tiers B and C, federal aid can be used to fund more of the 60%, freeing up state aid to cover the shortfall for nonurbanized areas. Someday the situation could be reversed—surplus funding for nonurbanized areas could be used to offset shortfalls for urbanized areas. A single tier with federal-state caps set at reasonable levels will allow the state to coordinate whatever aid is available to promote stability for all systems. This dynamic also demonstrates, however, an additional reason why it is appropriate for Madison and Milwaukee to continue in a separate tier: Otherwise, they would receive an unneeded benefit from an attempt to use the federal funding intended for other areas to stabilize aid levels for other systems, also considerably increasing the amount of federal or state aid required to maintain a benchmark aid level for other systems.

Importance of Changing Local Share Requirement and Extending to Taxi Systems

The proposed package of program changes, including combining Tiers B and C and substituting a system of statutory maximum federal-state aid percentages for the current formula's direct linkage of state and federal aid, will allow the funding level of the newly flexible federal aid for small urbanized areas to support stable federal-state aid levels for all systems, reducing the need for additional state aid. Since the current required local contribution is calculated as a percentage of the amount of state aid, there is some chance that local budget support for transit could be reduced as the amount of state aid declines relative to federal aid for some urbanized area systems. Substituting instead a minimum statutory percentage of operating costs that must be provided by a local government applying for state transit aid will have several important advantages:

- The minimum local share will promote stability in transit service and its funding because it will not change from year to year, and will not be dependent on the mix of federal and state aid that happens to be available in a particular year.
- Local governments will have a more direct stake in operating cost increases, promoting the efficiency and effectiveness of transit service even when significant federal and state aid is available.
- In budgeting and planning for the following year, local governments and transit managers will be able to predict their minimum local share requirement in advance, based on their own transit service plans and budgets, even if they do not know precisely what state aid level they will receive.

WisDOT has long believed that the benefits of a minimum local share requirement are important for all transit systems. It ensures a threshold level of local support for establishing transit service, and encourages local government involvement in overseeing the quality of the service. For these reasons, the current exemption of shared-ride taxi systems from the local share requirement is questionable public policy. While it has allowed, in the short run, some communities to take advantage of generous federal and state aid levels to establish public transit service at no cost to the local taxpayers, the lack of a local share requirement may have also contributed to the year-to-year instability of aid levels for these systems as their number has grown and their operating costs have increased faster than costs for other systems.

At the same time, WisDOT recognizes that extending a minimum local share requirement to shared-ride taxi systems has not been accepted by the Legislature in the past. An intermediate position is suggested, under which such systems would continue to be eligible for state aid even if they choose not to provide a local share; however, after initially receiving state aid, they would not be eligible for any increase in it unless they voluntarily provide a local match equivalent to that required of communities sponsoring bus service.

Similarly, because a local share requirement can serve as an incentive for local government involvement and promote effective and efficient transit service, WisDOT is proposing that its discretionary power [specified at s.85.20 (3) (cr)] "to conduct a management performance audit of all urban mass transit systems participating in the program at least once every 5 years," be clarified to provide that WisDOT may exempt from the requirement any community providing the specified level of local support for its shared-ride taxi system. (WisDOT is currently required by Trans 4.10 to conduct an audit of all systems at least once every 5 years). Given the smaller amount of

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federal and state investment, on average, in the operating costs of taxi systems, compared to bus systems, and given their expanding number, attempting to complete a management performance of all of them at least once every 5 years is no longer a priority given current administrative resources.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0887
PEN.....

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PI

DOA:.....Etzler - Urban mass transit aid—funding, tiers, formula

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

W.P.O.
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D-Note

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 20.395 (1) (hr) ✓ of the statutes is amended to read:

20.395 (1) (hr) *Tier B transit operating aids, state funds.* The amounts in the schedule for mass transit aids under s. 85.20 (4m) (a) 7. and 7m. ✓

****NOTE: This section is amended to allow payment of aids to eligible applicants under Tier B through 1999, then under the new combined tier (formerly tiers B and C) beginning with calendar year 2000. It is not necessary to repeal the appropriation for Tier C (s. 20.395 (1) (hs), stats.), because no moneys may be paid under that appropriation after 1999.

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

SECTION 2. 85.20 (1) (jm) of the statutes is created to read:

85.20 (1) (jm) “Shared-ride taxicab” means a taxicab that may legally and simultaneously transport passengers having different origins or destinations.

SECTION 3. 85.20 (3) (cr) of the statutes is amended to read:

85.20 (3) (cr) To conduct a management performance audit of all urban mass transit systems participating in the program at least once every 5 years. A shared-ride taxicab system that is the only urban mass transit system serving an eligible applicant may not be audited under this paragraph during any year in which the shared-ride taxicab system complies with the requirements under s. 85.20 (4m) (b).

****NOTE: The treatment of this section comes from the department of transportation’s 1999–2001 biennial budget request, DIN Number: 5804, section 11. Subsequent references to sections in that paper will be similar to, “DIN 5804, section 11”.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 4. 85.20 (4m) (a) (intro.) of the statutes is amended to read:

85.20 (4m) (a) (intro.) ~~An amount shall be allocated~~ Except as provided in s. 85.20 (4m) (b) 2., the department shall allocate to each eligible applicant to ensure that the sum of state and federal aids for the projected operating expenses of each eligible applicant’s urban mass transit system is an amount equal to a uniform percentage, established by the department, of the projected operating expenses of the each eligible applicant’s urban mass transit system for the calendar year. The department shall make allocations as follows:

****NOTE: DIN 5804, section 6.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 5. 85.20 (4m) (a) 1., 2., 3., 4. and 5. of the statutes are repealed.

****NOTE: These are obsolete Tiers 1 through 5.

SECTION 6. 85.20 (4m) (a) 6. b. of the statutes is amended to read:

85.20 (4m) (a) 6. b. For the purpose of making allocations under subd. 6. a., the amounts for aids are ~~\$60,984,900 in calendar year 1998~~ and ~~\$63,119,300 in calendar year 1999~~ and \$65,012,900 in calendar year 2000 and thereafter. These amounts, to the extent practicable, shall be used to determine the uniform percentage in the particular calendar year.

****NOTE: DIN 5804, sections 1, 4.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 7. 85.20 (4m) (a) 6. c. of the statutes is created to read:

85.20 (4m) (a) 6. c. The sum of state aids allocated under this section, and federal mass transit aids provided for the projected operating expenses and maintenance expenses of an urban mass transit system that has annual operating expenses in excess of \$20,000,000 may not exceed 50% of the sum of the projected operating costs and maintenance expenses of the urban mass transit system. Only federal mass transit aid that the federal government provides directly to the eligible applicant or to the urban area served by the mass transit system or that the department allocates under this section may be counted under this subd. 6. c.

****NOTE: DIN 5804, section 7)1. Please read this section closely. I am not sure this does what you want it to do. Is this the treatment of maintenance expenses you want? Nothing in this draft authorizes payment of maintenance expenses, so I am assuming that aid for such expenses will be paid directly by the federal government.

SECTION 8. 85.20 (4m) (a) 7. a. of the statutes is amended to read:

85.20 (4m) (a) 7. a. From the appropriation under s. 20.395 (1) (hr), the uniform percentage for each eligible applicant served by an urban mass transit system operating within an urban area having a population as shown in the 1990 federal decennial census of at least 50,000 or receiving federal mass transit aid for such area, and not specified in subd. 6. This subd. 7. a. does not apply after December 31, 1999.

****NOTE: DIN 5804, section 2.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 9. 85.20 (4m) (a) 7. b. of the statutes is amended to read:

85.20 (4m) (a) 7. b. For the purpose of making allocations under subd. 7. a., the amounts for aids are \$17,799,600 in calendar year 1998 and \$18,422,500 in calendar year 1999[✓] and thereafter[✓]. These amounts, to the extent practicable, shall be used to determine the uniform percentage in the particular calendar year.

***NOTE: DIN 5804, section 1.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 10. 85.20 (4m) (a) 7m. of the statutes is created to read:

85.20 (4m) (a) 7m. a. Beginning^{on} January 1, 2000, from the appropriation under s. 20.395[✓] (1) (hr)[✓], the uniform percentage determined by the department for each eligible applicant not described in subd. 6[✓] that is served by an urban mass transit system. In allocating state aid under this subdivision[✓], the department shall determine the amount of federal aid available for the operating expenses of each eligible applicant's urban mass transit system.

***NOTE: DIN 5804, sections 2, 7) 2.

b. For the purpose of making allocations under subd. 7m. a.[✓], the amounts for aids are \$24,100,400 in calendar year 2000[✓] and thereafter. These amounts, to the extent practicable, shall be used to determine the uniform percentage in the particular calendar year. Except as provided in subd. 7m. c.[✓], the sum of state aid and federal aid allocated under this section to an eligible applicant may not exceed 65%[✓] of an eligible applicant's projected operating expenses.

***NOTE: DIN 5804, sections 5, 7) 2.

c. For an eligible applicant served by a mass transit system operating within an urban area^{that has} having^{on} a population, as shown in the 1990 federal decennial census, of 50,000 or more or^{that is} eligible for only federal mass transit aid for such areas, the sum of state aid and federal aid allocated under this section[✓] for calendar years 2000 and

2001 may not exceed 60%[✓] of the projected operating expenses. For an eligible applicant served by a mass transit system ~~operating~~^{that operates both} partly within an urban area that has a population of 50,000[✓] or more, as shown in the 1990 federal decennial census, or that is eligible for federal mass transit aid for urban areas having that population,[✓] and ~~also operating~~^{is} partly in areas other than urban areas and ~~eligible~~^{that operates} for federal mass transit aid for providing service to those other areas, the sum of state aid and federal aid allocated under this [✓] section for the portion of the projected operating expenses of the eligible applicant's mass transit system associated with service within an urban area or eligible for federal mass transit aid for service within urban areas may not exceed 60% of the projected operating expenses of that service for calendar years 2000 and 2001. This ~~subdivision~~^{Subd. 7m. c.} does not apply after December 31, 2001.

***NOTE: DIN 5804, section 7) 3. a. and b.

SECTION 11. 85.20 (4m) (a) 8. a. of the statutes is amended to read:

85.20 (4m) (a) 8. a. From the appropriation under s. 20.395 (1) (hs), the uniform percentage for each eligible applicant served by an urban mass transit system operating within an area having a population as shown in the 1990 federal decennial census of less than 50,000 or receiving federal mass transit aid for such area. This subd. 8. a. does not apply after December 31, 1999.[✓]

***NOTE: DIN 5804, section 2.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 12. 85.20 (4m) (a) 8. b. of the statutes is amended to read:

85.20 (4m) (a) 8. b. For the purpose of making allocations under subd. 8. a., the amounts for aids are \$4,807,600 in calendar year 1998 and \$4,975,900 in calendar year 1999[✓] and thereafter. These amounts, to the extent practicable, shall be used to determine the uniform percentage in the particular calendar year.

****NOTE: DIN 5804, section 1.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 13. 85.20 (4m) (b) 1. of the statutes is amended to read:

85.20 (4m) (b) 1. Except as provided in subd. 2., each eligible applicant shall provide a local contribution, exclusive of user fees, toward operating expenses in an amount equal to at least ~~20% of state aid allocations to that eligible applicant under this section~~ 10% of the eligible applicant's operating expenses.

****NOTE: DIN 5804, section 8.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 14. 85.20 (4m) (b) 2. of the statutes is amended to read:

85.20 (4m) (b) 2. ~~Subdivision 1. does not apply to an~~ Except as provided in this subdivision, an eligible applicant that is served exclusively by a shared-ride taxicab system is not required to meet the requirements of subd. 1. For calendar year 2000, the department may not increase the amount of aid allocated under this section to an eligible applicant that is served exclusively by a shared-ride taxicab system beyond the amount allocated to that eligible applicant for calendar year 1999, unless the eligible applicant provides a local contribution, exclusive of user fees, toward operating expenses in an amount equal to at least 5% of the eligible applicant's operating expenses. Beginning with calendar year 2001, the department may not increase the amount of aid allocated under this section to an eligible applicant that is served exclusively by a shared-ride taxicab system beyond the amount allocated to that eligible applicant during the preceding calendar year, unless the eligible applicant complies with the requirements of subd. 1. This subdivision does not prohibit the department from allocating aid under this section to an eligible applicant served exclusively by a shared-ride taxicab system in its first year of service.

****NOTE: DIN 5804, sections 9, 10.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 15. 85.20 (4m) (em) 3. of the statutes is amended to read:

85.20 (4m) (em) 3. Five times the amount of an eligible applicant's required local contribution under par. (b) 1. This subdivision does not apply after December 31, 1999.

****NOTE: DIN 5804, section 8.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.

SECTION 16. 85.20 (6) (c) of the statutes is created to read:

85.20 (6) (c) Disclose to the department the amount of federal aid over which the eligible applicant has spending discretion and that the eligible applicant intends to apply towards operating expenses and maintenance expenses for a calendar year.

****NOTE: DIN 5804, section 7) (intro.).

SECTION 17. 85.20 (6) (d) of the statutes is created to read:

85.20 (6) (d) Accept federal aid that is payable directly to the eligible applicant, if directed by the department to accept that aid. This paragraph applies only to eligible applicants described in sub. (4m) (a) 7m.

SECTION 9350. Initial applicability; transportation.

(1) URBAN MASS TRANSIT OPERATING ASSISTANCE PROGRAM. The treatment of section 85.20 (4m) (a) (intro.) and (b) 1. of the statutes first applies to aid payable for urban mass transit system operating expenses for calendar year 2000.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

PI
LRB-0887/dn
PEN.....
cmj
+
jlg

November 19, 1998 } new date

Review s. 85.20 (4m) (b) 2. closely. Is this your intent? I do not know what is intended by the request, which asked to keep s. 85.20 (4m) (b) 1. inapplicable to an eligible applicant served exclusively by shared-ride taxicab, except that no increase in aid is allowed *except to the extent that the applicant complies with s. 85.20 (4m) (b) 1.* Does this mean that an eligible applicant served exclusively by shared-ride taxicab that contributes 1% towards its operating expenses may receive a 10% increase, since the eligible applicant complied with 10% of the requirement under s. 85.20 (4m) (b) 1.? What is intended by the requested "to the extent" language? I have made this an all-or-nothing provision; comply with s. 85.20 (4m) (b) 1., get an increase in aid. This seems consistent with the "phasing-in" of the cost-share requirement for calendar year 2000 under that same section. OK? (b)

I created a statutory definition of "shared-ride taxicab", based on ch. Trans 4.02, Wis. Adm. Code. Since only limited amounts of aid will be allocated to eligible applicants served only by "shared-ride taxicab" systems, this term should be defined to avoid any (expensive) misunderstandings. Is this definition OK?

Check proposed s. 85.20 (4m) (a) 7. b. closely. Should the 65% limit apply to the sum of aid provided under s. 85.20 and accepted under proposed s. 85.20 (6) (d), or just to aid provided under s. 85.20?

Check proposed s. 85.20 (4m) (a) 6. c. closely. Is this what you want?

Paul E. Nilsen
Legislative Attorney
261-6926

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

LRB-0887/P1dn
PEN:cmh&jlg:lp

November 25, 1998

Review s. 85.20 (4m) (b) 2. closely. Is this your intent? I do not know what is intended by the request, which asked to keep s. 85.20 (4m) (b) 1. inapplicable to an eligible applicant served exclusively by shared-ride taxicab, except that no increase in aid is allowed *except to the extent that the applicant complies with s. 85.20 (4m) (b) 1.* Does this mean that an eligible applicant served exclusively by shared-ride taxicab that contributes 1% towards its operating expenses may receive a 10% increase, since the eligible applicant complied with 10% of the requirement under s. 85.20 (4m) (b) 1.? What is intended by the requested "to the extent" language? I have made this an all-or-nothing provision; comply with s. 85.20 (4m) (b) 1., get an increase in aid. This seems consistent with the "phasing in" of the cost-share requirement for calendar year 2000 under that same section. OK?

I created a statutory definition of "shared-ride taxicab", based on ch. Trans 4.02, Wis. Adm. Code. Since only limited amounts of aid will be allocated to eligible applicants served only by "shared-ride taxicab" systems, this term should be defined to avoid any (expensive) misunderstandings. Is this definition OK?

Check proposed s. 85.20 (4m) (a) 7m. b. closely. Should the 65% limit apply to the sum of aid provided under s. 85.20 *and* accepted under proposed s. 85.20 (6) (d), or just to aid provided under s. 85.20?

Check proposed s. 85.20 (4m) (a) 6. c. closely. Is this what you want?

Paul E. Nilsen
Legislative Attorney
261-6926

CORRESPONDENCE MEMORANDUM

Wisconsin Department of Transportation
Office of Policy and Budget

Post-It Fax Note	7671	Date	1/25/99	# of pages	8
To	PAUL NILSEN	From	JOHN ETZLER		
Co./Dept.	LRB	Co.			
Phone #		Phone #	6-1037		
Fax #	6-5448	Fax #			

Subject: LRB 0887/P1, Relating to Transit Aid Tiers, Formula

Because of it's length, I am not attaching a copy of the draft we reviewed. The following memo contains additional explanations of how the statute relates to current and proposed program administration, as well as responses to the drafter's notes and questions. Key areas we request be addressed are summarized below:

- No. 1. As we commented on a separate DOT draft of the performance audit authority [see s.85.20 (3) (cr)] of in this draft: Please do not write this in such a way that it prohibits us from requiring a management performance audit; use, "the department may exempt; language.
- ✓ 2. Wherever "maintenance expenses" are referred to, make it clear these are "included" within the meaning of the term "operating expenses." We think the simplest way to do that would be to amend the existing definition at s.85.20 (1) (g).
- ✓ 3. Several instances of the word "urban" (in sections 7, and 10) should be changed to "urbanized." The term "urban area" has a special meaning in s.85.20 and these terms are not interchangeable.
- ✓ 4. If possible, the following concept should not be broken up across different parts of the statute: "In making state aid allocations under [Tier B] the department shall determine the amount of federal aid available for the operating expenses....If the department determines that federal aid is available, the department may require the eligible applicant to accept [it]."
5. Section 14, p.6, lines 9 and 15, please refer to "state aid," not merely "aid."
6. Section 17, please delete the words "that is payable directly to the eligible applicant."

Thank you for your attention to these changes.

CORRESPONDENCE/MEMORANDUM

Wisconsin Department of Transportation
Office of Policy & Budget

To: John Etzler
State Budget Office
Dept. of Administration

From: Mark Mansfield *Mark Mansfield*
Budget & Policy Analyst
Local Programs Lead

Date: January 14, 1999

Subject: LRB-0887/P1, Relating Transit Aid Funding, Tiers, Formula.

We realize this is a complicated set of changes, but several areas of the draft should be revised to accurately reflect our intent. We hope the effort will benefit from this additional explanation. Key requested changes are shown in underlined bold italics below.

Section 1. The Department's request was to accomplish the combination of current tiers B and C, effective with aid allocations for CY 2000, by amending the current definition of Tier B [which is specified at s.85.20 (4m) (a) 7. a. of current law] to encompass "the uniform percentage for each eligible applicant not specified under s.85.20 (4m) (a) 6. a [Tier A]." The Department's approach seems more direct and avoids the need to modify the appropriation language of s.20.395 (1) (hr). However, the drafter's approach of instead creating a new definition of Tier B at s.85.20 (4m) (a) 7m [Section 10 of the draft] and modifying the definition of the appropriation for Tier B as provided in Section 1 of this draft appears to be a workable alternative.

In response to the drafter's note regarding not repealing the appropriation for Tier C [s.20.395 (1) (hs)], it is true that the repeal is optional. However, the drafter's assumption that no moneys may be paid under that appropriation after 1999 depends under current law on whether any money is appropriated under that appropriation. The drafter has taken an alternative approach to repealing the appropriation by providing in Section 11 that the definition of the tier does not apply after December 31, 1999. That approach is acceptable, although, in general, we believe it is advisable to provide for the eventual repeal of an appropriation that would not be useable after that date (even if an appropriation is repealed, state accounting conventions permit funds appropriately encumbered prior to the effective date of the repeal to be expended).

*What's
your
point?*

Section 2. The drafter's cover note indicates he proposed to create a statutory definition of the term "shared-ride taxicab" modeled on Trans 4.02 of the administrative code, because, "Since only limited amounts of aid will be allocated to eligible applicants served only by 'shared-ride taxicab' systems, this term should be defined to avoid any (expensive) misunderstandings." We appreciate the suggestion, but in this case we believe it is unnecessary. The administrative code is the appropriate place for clarifying the term if clarification is necessary.

*that's funny,
under the circumstances...*

John Etzler
January 14, 1999
Re: LRB-0887/P1
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Actually, defining this particular term ("shared-ride taxicab") would address only part of the drafter's concern, because application of the proposed limit on state aid increases for applicants that do not provide a local match depends not on the definition of this type of vehicle or service, but rather on whether the eligible applicant "is served exclusively by a shared-ride taxicab system." The term is not a new concept; it is used in current law at s.85.20 (4m) (b) 2. to specify an exemption from the current local-share requirement. This has been on the books since the late 1980s without any misunderstanding of its applicability. An applicant served exclusively by a shared-ride taxicab system is distinguished from a bus system or a system that includes both bus service and shared-ride taxi service.

DOT already has full power to audit / not audit

Section 3. The power to conduct, at least once every 5 years, a management performance audit of all urban mass transit systems participating in the program [s.85.20 (3) (cr)] is discretionary; however, DOT currently imposes (via administrative rule) this requirement on all applicants. DOT requested that the statutory provision be modified using the following conditional language to indicate that in imposing this requirement DOT may distinguish between applicants served exclusively by a shared-ride taxicab system and other eligible applicants. We certainly do not want the statute to prohibit performing management performance audits of such systems. We request that this draft's proposed amendment of s.85.20 (3) (cr), reflected in Section 3 of the draft, simply be replaced with the following text (the same proposed in our budget request):

"If a management performance audit is required of all urban mass transit systems participating in the program, an eligible applicant served exclusively by a shared-ride taxicab system may be exempted from the requirement as long as the eligible applicant voluntarily complies with the provisions of s.85.20 (4m) (b)."

Section 4. The revision is consistent with our request except that the proposed "except as provided" clause does not include all the references that it should: S.85.20 (4m) (b) 2. as amended by this draft [Section 14] only addresses the local-contribution provisions. Including a reference to the proposed federal-state maximums (as described by the Department's budget request) would seem to be a useful clarification that, when sufficient federal aid is available, they over-ride the provision for a uniform state-aid percentage to be provided to every applicant in a tier. Similarly, the "except as provided" clause (or perhaps a list might be used) should refer to the circumstance (discussed under Sections 10 and 17 of this draft) in which DOT may require an eligible applicant to accept federal aid rather than some other amount of state aid. Since it may be more practical to provide additional federal aid to some systems than others, and since the new Tier B will include systems in different federal aid categories, not all systems will receive a uniform state-aid percentage when sufficient federal or state aid is available to fund the proposed maximum aid percentages.

Section 5. OK (repeals tiers I-V).

Section 6. OK (specifies funding level for 3% increase in CY 2000 for Tier A).

John Etzler
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Re: LRB-0887/P1
Page 3

Section 7. In general, providing for the 50% limit within s.85.20 (4m) (a) 6. is a workable approach, although you may wish to consider whether it would be preferable to list all the limits together, possibly at s.85.20 (4m) (en) in order to follow the other limits on state aid specified at s.85.20 (4m) (em).

The drafter's note says, "Nothing in this draft authorizes payment of maintenance expenses, so I am assuming that aid for such expenses will be paid directly by the federal government." The intent of the reference to maintenance expenses is to clarify that they are included within the definition of "operating expenses" for purposes of calculating the 50% limit for tier A. The Department's requested language makes this clear:

"The sum of state aid allocations to an eligible applicant under s.85.20 (4m) (a) 6. [Tier A] and federal aid for the projected operating expenses, including maintenance expenses, of the eligible applicant's urban mass transit system may not exceed 50% of the projected operating expenses, including maintenance expenses."

The issue of whether or not the aid is paid directly by the federal government really has nothing to do with the reference to maintenance expenses. However, it is true that the federal aid for Tier A systems is paid directly by the federal government. This would also be the case for the Waukesha systems in the Milwaukee urbanized area included within Tier B. Federal funding for the other systems in the proposed Tier B is controlled by the state. The only reason for the reference to maintenance expenses is to clarify the treatment for purposes of the state operating aid program, because the federal government recently allowed them to be funded from transit "capital" funds, a provision made permanent in TEA 21 (and causing some ambiguity about whether capital funds used for operating expenses are considered operating expenses under s.85.20).

We believe the approach we originally requested for defining the 50% limit (referring to maintenance expenses only by a parenthetical "including" clause") is preferable to that used in Section 7 of this draft. We request that it be redrafted to clarify that the term "operating expenses" "includes" maintenance expenses. However, perhaps a better approach to accomplish that would be to add that statement, to the definition of the term at s.85.20 (1) (g), "' Operating expenses' means costs accruing to an urban mass transit system by virtue of its operations, including costs to subsidize fares paid by disabled persons...and including maintenance expenses....."

Are you sure you want this? do you know what it does?

Section 7. (p.3, line 10 of this draft) also includes the first of several instances in the draft in which the term "urban area" is used rather than "urbanized area." If the drafter will review s.85.20, he will see that the term "urban area" is specially defined in that statute, so the term "urbanized area" is used to distinguish federally recognized areas with a population greater than 50,000. The federal transit aid program uses this term and the DOT-proposed limits correspond to federal aid categories. On line 10, please change word "urban" to "urbanized."

is an "urbanized area" under federal law ever not an "urban area" within meaning of state law? I don't think so... -AET

John Etzler
January 14, 1999
Re: LRB-0887/P1
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Section 8. Workable, though we think broadening this current Tier B definition to include any system not funded under Tier A would be a clearer approach than creating s.85.20 (4m) (a) 7m. a.

Section 9. OK, unless the approach mentioned above is taken to amend the current definition of Tier B rather than creating a new one.

Section 10. The words, "that is served by an urban mass transit system," are superfluous. All eligible s.85.20 applicants are served by such systems. The current-law tier definitions included that phrase only because the tiers were distinguished by whether the urban mass transit system operated within or outside of an urbanized area or received federal aid for such areas. That distinction is no longer relevant under the proposal to provide state aid for both types of areas from Tier B. (It remains relevant, however, for defining the proposed 60% federal-state limit.)

At the last sentence of s.85.20 (4m) (a) 7m. a. and at Section 17 [which proposes to create s.85.20 (6) (d)], the drafter has broken up a part of the Department's request that should remain together. The wording here, "In allocating state aid under this subdivision, the department shall determine the amount of federal aid available...." is true but insufficient to fully describe DOT's intent. *The draft should be revised to reflect the following wording from DOT's request:*

"In making state aid allocations under [reference to new definition of Tier B], the department shall determine the amount of federal aid available for the operating expenses of each eligible applicant's urban mass transit system. If the department determines that federal aid is available for the operating expenses of an eligible applicant's urban mass transit system, the department may require the eligible applicant to accept that federal aid as a condition of receiving state aid under this section."

The above language is integral to a key feature of the Department's proposal: the ability to use additional federal aid for urbanized areas that are at the 60% cap level for CY 2000 and CY 2001 in order to cause some of "their" state aid to "flow" to other systems not eligible for that federal aid (mainly nonurbanized area systems at the 65% level). The language was intended to indicate that the proposed maximum percentages (60% & 65%) for systems/service in Tier B may be funded with federal aid allocated by DOT, notwithstanding the provision that state aid allocations be made to cover a uniform percentage for each applicant. In effect, the intent was to say that DOT may require the eligible applicant to accept additional federal aid for its operating expenses in lieu of some portion of the state aid it would otherwise be allocated, if the projected operating expenses of the eligible applicant's urban mass transit system would permit it to use additional federal aid (federal law limits federal aid to a maximum of 50% of the operating deficit), and if the resulting total allocation from DOT is the same. Wording along those lines would be clearer were it not that Tier B also includes the Waukesha systems, whose federal aid is not controlled by the state. The Department's original wording better addresses both these circumstances.

John Etzler
January 14, 1999
Re: LRB-0887/P1
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I have no idea
what your "concept"
is since no one
ever told me what you
are trying to accomplish
- PEW

Section 10, p.4, line 17. The word "urban" should be changed to "urbanized." (Note also that to the extent the drafter thought it advisable to include some of the concept, the term "eligible applicant" is defined in s.85.20 as meaning a local public body in an urban area—according to the specialized definition of that term—which is served by an urban mass transit system.)

Section 10, p.4, line 22. The word "urban" should be changed to "urbanized."

Section 10, p.5, lines 1, 2, 6, and 7. The word "urban" should be changed to "urbanized" in each instance. Otherwise, the provision created at s.85.20 (4m) (a) 7m. a. appears to be consistent with our request, although it seems somewhat awkward to follow the two parts of the limit following the word, "both." You may wish to consider using the wording originally recommended by DOT:

"For an eligible applicant served by an urban mass transit system operating partly within an urbanized area having a population as shown in the 1990 federal decennial census of at least 50,000 or eligible for federal mass transit aid for such areas and also operating partly outside such areas and eligible for federal mass transit aid for such nonurbanized areas, the sum of federal and state aid allocations under this section for the portion of the projected operating expenses of the eligible applicant's urban mass transit system associated with service provided within the urbanized area or eligible for federal mass transit aid for such areas may not exceed 60% of the projected operating expenses of that service for calendar years 2000 and 2001."

Section 11. OK (Sunsets current Tier C definition after Dec. 31, 1999).

Section 12. OK (Provides that CY distribution amount for Tier C does not apply after 1999).

Section 13. Although the intent may be clear by this language, it sounds awkward because the 10% should apply to the operating expenses of the eligible applicant's urban mass transit system, not to the "eligible applicant's operating expenses." We would prefer the language we originally requested:

"...at least 10% of the operating expenses of the eligible applicant's urban mass transit system"

J. perf. l.s. see
definition ES.70
(1)(g), and comments
pg. 4, p. 3
of this
memo.

Section 14. This section is also the subject of most of the drafter's notes on the cover sheet. It actually looks pretty good. Originally, we suggested that eligible applicants served exclusively by a shared-ride taxi system be considered as still being technically exempt from the local-match requirement under s.85.20 (4m)(b) 2., but ineligible for an increase in state aid unless they voluntarily provided a local share. The approach used here to amend that current-law provision is probably clearer. There is only one significant issue: It is not clear that the references to "the amount of aid allocated under this section" on p.6, line 9, and line 15 refer only to the amount of state aid as we requested. It was not originally our intent to preclude eligible systems from receiving additional federal formula aid if available. Please use the term "state aid" here.

John Etzler
January 14, 1999
Re: LRB-0887/P1
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It would not be a problem if the reference to "aid" on p.6, line 19 were left as is, though in context, the statement would only be necessary because of the foregoing text and should perhaps also refer to "state aid."

To further respond to the drafter's cover notes, the requested "to the extent" language was ambiguous but addressed two circumstances: 1) The fact that an applicant might comply with the local-match requirement, and therefore be exempt from the audit requirement, in one year, but not in a subsequent year; and 2) The fact that the current local-share requirement can be applied proportionately (the rationale behind the 5 times the local share limitation that this draft would repeal in the following section). If the local share requirement were applied proportionately, the logic would not be, however, that an applicant contributing 1% of expenses would be eligible for a 10% increase. Rather, the applicant would be eligible for 1/10 the "full" increase to which it would otherwise be entitled. The full percentage increase would depend on the funding level. Despite these comments, however, we agree with the drafter's "all-or-nothing" approach as a simpler way to define and administer the local share requirement.

Section 15. OK. (Repeals limit of state aid to 5 times the local share; only applicable to bus systems under current law and inconsistent with new local share definition).

Section 16. There are two issues with this section. Of the two, the first is the most significant but it has already been addressed in other comments above: 1) The fact that it uses the term "maintenance expenses" as though they were a separate category of expenses, rather than a clarification that they are included within the existing term "operating expenses," as requested by DOT; 2) Whether the provision fits best in the portion of the statute where the drafter proposes to create it.

As explained on p.3 of this memo, discussing Section 7 of this draft, if the term "maintenance expenses" is used, it should be set off by a commas as we requested: "operating expenses, including maintenance expenses,..." This is not a question of style; to do otherwise would not reflect DOT's intent. However, as previously mentioned, *we now believe that a better approach to accomplish this would be to add that statement, to the definition of the term at s.85.20 (1) (g), " ' Operating expenses' means costs accruing to an urban mass transit system by virtue of its operations, including costs to subsidize fares paid by disabled persons...,and including maintenance expenses....."*

Second, the draft proposes to create this provision under s.85.20 (6) (c), which is a list titled "Planning Requirements." That is somewhat fitting, but the proposed explicit statement of DOT's discretionary authority to require notification about a local government's plans to use federal aid for operating costs is also somewhat different than the other types of planning activities listed in the provision under current law, which are routine (as opposed to things DOT

John Etzler
January 14, 1999
Re: LRB-0887/P1
Page 7

"may" or may not require. You may wish to consider whether it would also be appropriate to list the discretionary power "to require an eligible applicant to notify DOT of the amount of federal aid under the eligible applicant's discretion, if any, that the eligible applicant intends to apply to the operating expenses...." under the list of other such discretionary powers listed at s.85.20 (3).

Section 17. The most serious problem with this provision is the insertion of the word "directly." It is not clear what that is supposed to mean, because federal aid paid by DOT is payable "directly" to an applicant, but it could be meant to refer to other federal aid payable directly to the applicant and not administered by DOT. This ambiguity could really be problematic because, as discussed in our comments on Section 10 (p.5 of this memo) the intent originally had more to do accepting federal aid payable from DOT, but the language needs to cover both circumstances.

At a minimum, please delete the words, "that is payable directly to the eligible applicant." In addition, despite the requested "as a condition of state aid" language, this provision is even less consistent with the category of other "planning requirements" listed under s.85.20 (6). We re-iterate that we believe it would more clearly accomplish the intent to describe how state aid will be distributed if a separate provision is created to include all of the following:

"In making state aid allocations under [reference to new definition of Tier B], the department shall determine the amount of federal aid available for the operating expenses of each eligible applicant's urban mass transit system. If the department determines that federal aid is available for the operating expenses of an eligible applicant's urban mass transit system, the department may require the eligible applicant to accept that federal aid as a condition of receiving state aid under this section."

Section 9350. You may want to have the other changes also apply in CY 2000, not just have the treatment of s.85.20 (4m) (a) (intro.) and (b) 1. apply to transit system operating expenses for CY 2000. Initial applicability provisions for transit program changes in past biennial budgets have sometimes used the approach of referring to aid allocations and/or aid contracts for the first calendar year in which the formula change is desired (in this case, CY 2000).

Thank you very much for your attention to these comments and requested revisions.

CC: Sandy Beaupre, Patrick Riopelle, Tom Smith, Carol Buckmaster, Dick Martin, Linda Lovejoy

contains all the same draft notes. For example, in section 6, this draft incorporates the change the drafter asks about (deleting filings with the county clerk) and we agree with that. Below I address only those notes that pertain to areas we still want to get changed. Responses to the others are contained in my memo of 1-14-98. Thanks.

Section 4. The proposed text makes it appear that a local government can submit any sort of certified statement it desires. We had requested language that would make it clear that DOT may develop some standardized format for this: "may comply...by filing with the department a certification to that effect, in the form and manner prescribed by the department." **s. 85.16**

AUL, THIS
THE LANGUAGE
DOT IS
PROPOSING
THANKS.

The drafter makes a good point that current law contains an ambiguity between the general requirement that a local government submit not later than December 15 a certified plat showing the mileage under its jurisdiction that will be open as of the succeeding January 1, and the fact that they can avoid the requirement if no mileage has changed as of an earlier date. We don't think any local government would "reap a windfall of aids for closed roads." (And even if the time frames for these provisions were consistent, roads closed after January 1, would continue to be counted). However, if the drafter can tighten this up, we agree that would be appropriate. We recommend changing s.86.302 (1m) (a) 1. to read: "If a municipality or county anticipates that the highways under its jurisdiction to be open and used for travel as of the succeeding January 1 will reflect no change from the mileage reflected on its last preceding certified plat, its board or governing body may, in lieu of filing a certified plat under sub. (1g), file with the department a certification to that effect, in the form and manner prescribed by the department."

Section 7. On line 5, please change the phrase "verify the accuracy" to the phrase originally requested by the department, "assess the validity" or, at a minimum, change the word "verify" to "assess." The term "verify the accuracy" implies much a much more precise responsibility for the department than what was intended.

Post-It* Fax Note	7671	Date	1/26	# of pages	1
To	PAUL NICHSEN	From	JOHN ETZLER		
Co./Dept.		Co.			
Phone #		Phone #	6-1039		
Fax #	6-5648	Fax #			

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0887/1dn

PEN.....

January 26, 1999

At the request of Mark Mansfield of DOT, I amended "operating expenses" under s. 85.20 (1g) to include maintenance expenses. This change will increase the calculation of "operating deficit" under s. 85.20 (10 (f), which affects the number of "eligible applicants" under s. 85.20 (1) (b) and increases the eligible applicant's expenses under s. 85.20 (3) (b) 1. This change also affects the amount of aids payable under s. 85.20 (4m). I advised John Etzler of this on Monday, January 25, 1999.

Paul E. Nilsen
Legislative Attorney
261-6926

Nilsen, Paul

From: Etzler, John
Sent: Friday, January 29, 1999 5:06 PM
To: Nilsen, Paul
Subject: RE: LRB 0528

line 20-21. After ...by an instructor in that course. ...

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

From: Nilsen, Paul
Sent: Friday, January 29, 1999 5:09 PM
To: Etzler, John
Subject: RE: LRB 0528

What line number?--Paul

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

From: Etzler, John
Sent: Friday, January 29, 1999 5:01 PM
To: Nilsen, Paul
Subject: LRB 0528

Paul -- Section 6 (page 4) of draft 0528 is needs to be revised to include something along the following statement:

"The administration of a skills test under this paragraph is limited to persons under 18 years of age."

Thanks.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0887/22
PEN:cmh&jlg:lp

1

DOA:.....Etzler - Urban mass transit aid—funding, tiers, formula

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

WPO: suppress all ~~***~~ NOTES

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

Analysis by the Legislative Reference Bureau

✓
NSC
A

~~This is a preliminary draft. An analysis will be provided in a later version.
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:

W. Sen
1/22

2 SECTION 1. 20.395 (1) (hr) of the statutes is amended to read:

3 20.395 (1) (hr) *Tier B transit operating aids, state funds.* The amounts in the
4 schedule for mass transit aids under s. 85.20 (4m) (a) 7. and 7m.

****NOTE: This section is amended to allow payment of aids to eligible applicants under Tier B through 1999, then under the new combined tier (formerly tiers B and C) beginning with calendar year 2000. It is not necessary to repeal the appropriation for Tier C (s. 20.395 (1) (hr), stats.), because no moneys may be paid under that appropriation after 1999.

5 SECTION 2. 85.20 (1) (jm) of the statutes is created to read:

INS
2-2

1 85.20 (1) (jm) ~~"Shared-ride taxicab" means a taxicab that may legally and~~
2 ~~simultaneously transport passengers having different origins or destinations.~~

3 SECTION 3. 85.20 (3) (cr) of the statutes is amended to read:

4 85.20 (3) (cr) To conduct a management performance audit of all urban mass
5 transit systems participating in the program at least once every 5 years:

6 ~~shared-ride taxicab system that is the only urban mass transit system serving an~~
7 ~~eligible applicant may not be audited under this paragraph during any year in which~~
8 ~~the shared-ride taxicab system complies with the requirements under s. 85.20 (4m)~~

9 (b).

10 ~~***NOTE: The treatment of this section comes from the department of~~
11 ~~transportation's 1999-2001 biennial budget request, DIN Number: 5804, section 11.~~
12 ~~Subsequent references to sections in that paper will be similar to, "DIN 5804, section 11"~~

13 SECTION 4. 85.20 (4m) (a) (intro.) of the statutes is amended to read:

14 85.20 (4m) (a) (intro.) ~~An amount shall be allocated~~ Except as provided in s.
15 85.20 (4m) (b) 2., the department shall allocate to each eligible applicant to ensure
16 that the sum of state and federal aids for the projected operating expenses of each
17 eligible applicant's urban mass transit system is an amount equal to a uniform
percentage, established by the department, of the projected operating expenses of
the each eligible applicant's urban mass transit system for the calendar year. The
department shall make allocations as follows:

18 ~~***NOTE: DIN 5804, section 6.~~

19 SECTION 5. 85.20 (4m) (a) 1., 2., 3., 4. and 5. of the statutes are repealed.

20 ~~***NOTE: These are obsolete Tiers 1 through 5.~~

21 SECTION 6. 85.20 (4m) (a) 6. b. of the statutes is amended to read:

22 85.20 (4m) (a) 6. b. For the purpose of making allocations under subd. 6. a., the
amounts for aids are \$60,984,900 in calendar year 1998 and \$63,119,300 in calendar
year 1999 and \$65,012,900 in calendar year 2000 and thereafter. These amounts,

JPO-
ALL
SCORED

If a management performance audit is required of all urban mass transit systems participating in the program, an eligible applicant served exclusively by a shared-ride taxicab system may be exempted from an audit if the eligible applicant voluntarily complies with s. 85.20 (4m)(b)

1 to the extent practicable, shall be used to determine the uniform percentage in the
2 particular calendar year.

~~****NOTE: DIN 5804, sections 1, 4.~~

3 **SECTION 7.** 85.20 (4m) (a) 6. c. of the statutes is created to read:

4 85.20 (4m) (a) 6. c. The sum of state aids allocated under this section and
5 federal mass transit aids provided for the projected [✓]operating expenses ~~and~~
6 ~~maintenance expenses~~ of an urban mass transit system that has annual operating
7 expenses in excess of \$20,000,000 may not exceed 50% of the sum of the projected
8 operating ~~costs and maintenance~~ expenses of the urban mass transit system. Only
9 federal mass transit aid that the federal government provides directly to the eligible
10 applicant or to the ~~urban~~ ^{urbanized} area served by the mass transit system or that the
11 department allocates under this section may be counted under this subd. 6. c.

~~****NOTE: DIN 5804, section 7) 1. Please read this section closely. I am not sure this
does what you want it to do. Is this the treatment of maintenance expenses you want?
Nothing in this draft authorizes payment of maintenance expenses, so I am assuming
that aid for such expenses will be paid directly by the federal government.~~

12 **SECTION 8.** 85.20 (4m) (a) 7. a. of the statutes is amended to read:

13 85.20 (4m) (a) 7. a. From the appropriation under s. 20.395 (1) (hr), the uniform
14 percentage for each eligible applicant served by an urban mass transit system
15 operating within an urban area having a population as shown in the 1990 federal
16 decennial census of at least 50,000 or receiving federal mass transit aid for such area,
17 and not specified in subd. 6. This subd. 7. a. does not apply after December 31, 1999.

~~****NOTE: DIN 5804, section 2.~~

18 **SECTION 9.** 85.20 (4m) (a) 7. b. of the statutes is amended to read:

19 85.20 (4m) (a) 7. b. For the purpose of making allocations under subd. 7. a., the
20 amounts for aids are \$17,799,600 in calendar year 1998 and \$18,422,500 in calendar

1 year 1999 and thereafter. These amounts, to the extent practicable, shall be used to
2 determine the uniform percentage in the particular calendar year.

~~***NOTE: DIN 5804, section 1.~~

3 SECTION 10. 85.20 (4m) (a) 7m. of the statutes is created to read:

4 85.20 (4m) (a) 7m. a. Beginning on January 1, 2000, from the appropriation
5 under s. 20.395 (1) (hr), the uniform percentage determined by the department for
6 each eligible applicant not described in subd. 6. ~~What is served by an urban mass~~
7 ~~transit system.~~ In allocating state aid under this subdivision, the department shall
8 determine the amount of federal aid available for ~~the~~ operating expenses ~~of each~~
9 ~~eligible applicant's urban mass transit system.~~

Except as provided in subd. 7m. c.,
~~***NOTE: DIN 5804, sections 2, 7) 2.~~

If the department determines that federal aid is available for an eligible applicant's operating expenses, the department may require the eligible applicant to accept that federal aid as a condition of receiving state aid under this section.

10 b. For the purpose of making allocations under subd. 7m. a., the amounts for
11 aids are \$24,100,400 in calendar year 2000 and thereafter. These amounts, to the
12 extent practicable, shall be used to determine the uniform percentage in the
13 particular calendar year. Except as provided in subd. 7m. c., the sum of state aid and
14 federal aid allocated under this section to an eligible applicant may not exceed 65%
15 of an eligible applicant's projected operating expenses.

~~***NOTE: DIN 5804, sections 5, 7) 2.~~

16 c. For an eligible applicant served by a mass transit system operating within
17 an ~~urban~~ ^{urbanized} area that has a population, as shown in the 1990 federal decennial census,
18 of 50,000 or more or that is eligible for only federal mass transit aid for such areas,
19 the sum of state aid and federal aid allocated under this section for calendar years
20 2000 and 2001 may not exceed 60% of the projected operating expenses. For an
21 eligible applicant served by a mass transit system that operates both partly within

22 an ~~urban~~ ^{urbanized} area that has a population of 50,000 or more, as shown in the 1990 federal

1 decennial census, or that is eligible for federal mass transit aid for ~~urban~~ ^{urbanized} areas
2 having that population and that operates partly in areas other than ~~urban~~ ^{urbanized} areas and
3 is eligible for federal mass transit aid for providing service to those other areas, the
4 sum of state aid and federal aid allocated under this section for the portion of the
5 projected operating expenses of the eligible applicant's mass transit system
6 associated with service within an ~~urban~~ ^{urbanized} area or eligible for federal mass transit aid
7 for service within ~~urban~~ ^{urbanized} areas may not exceed 60% of the projected operating
8 expenses of that service for calendar years 2000 and 2001. This subd. 7m. c. does not
9 apply after December 31, 2001.

~~NOTE: DIN 5804, section 7) 3. a. and b.~~

10 **SECTION 11.** 85.20 (4m) (a) 8. a. of the statutes is amended to read:

11 85.20 (4m) (a) 8. a. From the appropriation under s. 20.395 (1) (hs), the uniform
12 percentage for each eligible applicant served by an urban mass transit system
13 operating within an area having a population as shown in the 1990 federal decennial
14 census of less than 50,000 or receiving federal mass transit aid for such area. This
15 subd. 8. a. does not apply after December 31, 1999.

~~***NOTE: DIN 5804, section 2.~~

16 **SECTION 12.** 85.20 (4m) (a) 8. b. of the statutes is amended to read:

17 85.20 (4m) (a) 8. b. For the purpose of making allocations under subd. 8. a., the
18 amounts for aids are \$4,807,600 in calendar year 1998 and \$4,975,900 in calendar
19 year 1999 ~~and thereafter~~. These amounts, to the extent practicable, shall be used to
20 determine the uniform percentage in the particular calendar year.

~~***NOTE: DIN 5804, section 1.~~

21 **SECTION 13.** 85.20 (4m) (b) 1. of the statutes is amended to read:

1 85.20 (4m) (b) 1. Except as provided in subd. 2., each eligible applicant shall
2 provide a local contribution, exclusive of user fees, toward operating expenses in an
3 amount equal to at least ~~20% of state aid allocations to that eligible applicant under~~
4 this section 10% of the eligible applicant's operating expenses.

~~***NOTE: DIN 5804, section 8.~~

5 **SECTION 14.** 85.20 (4m) (b) 2. of the statutes is amended to read:

6 85.20 (4m) (b) 2. ~~Subdivision 1. does not apply to an~~ Except as provided in this
7 subdivision, an eligible applicant that is served exclusively by a shared-ride taxicab
8 system is not required to meet the requirements of subd. 1. For calendar year 2000,
9 the department may not increase the amount of ^{STATE} aid allocated under this section to
10 an eligible applicant that is served exclusively by a shared-ride taxicab system
11 beyond the amount allocated to that eligible applicant for calendar year 1999, unless
12 the eligible applicant provides a local contribution, exclusive of user fees, toward
13 operating expenses in an amount equal to at least 5% of the eligible applicant's
14 operating expenses. Beginning with calendar year 2001, the department may not
15 increase the amount of ^{STATE} aid allocated under this section to an eligible applicant that
16 is served exclusively by a shared-ride taxicab system beyond the amount allocated
17 to that eligible applicant during the preceding calendar year, unless the eligible
18 applicant complies with the requirements of subd. 1. This subdivision does not
19 prohibit the department from allocating aid under this section to an eligible
20 applicant served exclusively by a shared-ride taxicab system in its first year of
21 service.

~~***NOTE: DIN 5804, sections 9, 10.~~

22 **SECTION 15.** 85.20 (4m) (em) 3. of the statutes is amended to read:

TRANSPORTATION ✓

TRANSPORTATION AIDS ✓

Under current law, the department of transportation (DOT) ✓ administers an urban mass transit operating assistance program, which provides state aid payments to local public bodies in urban areas served by mass transit systems (eligible applicants) to assist the eligible applicants with the expenses of operating those systems. An urban mass transit system is transportation by bus, shared-ride taxicab, rail, or other conveyance, either publicly or privately owned, that provides the public with general or special service on a regular and continuing basis. DOT makes state aid payments in amounts sufficient to ensure that the combination of state and federal aids contributed toward the operating expenses of an urban mass transit system equals the uniform percentage established by DOT ✓ for the class of mass transit system. The percentage varies for each of the three ✓ classes of mass transit systems, based on state appropriations and federal aid policy, but is uniform for all mass transit systems within a class. The three classes are: 1) mass transit systems serving urban areas having a population of less than 50,000; 2) mass transit systems serving urban areas having a population of more than 50,000 but having annual operating expenses of less than \$20,000,000; and 3) mass transit systems having annual operating expenses of more than \$20,000,000. 1)

This bill modifies the classes of mass transit systems and revises the amount of state aids payable to eligible applicants served by those systems. The bill creates ~~three~~ ^{two} classes of mass transit systems: ~~those having operating expenses of more than \$20,000,000 (Tier A) and those having operating expenses of \$20,000,000 or less (Tier B).~~ ¹⁾ Under the bill, the sum of state and federal aid provided to an eligible applicant served by a Tier A mass transit system may not exceed 50% ✓ of the mass transit system's projected operating expenses. The sum of state and federal aid provided to an eligible applicant served by a Tier B mass transit system may not exceed 65% of the mass transit system's projected operating expenses, except that the sum of aids provided to eligible applicants served by certain Tier B mass transit systems may not exceed 60% for calendar years 2000 and 2001. 2)

Current law requires a local public body that receives state aid under the urban mass transit operating assistance program to pay a local contribution towards the mass transit system's operating expenses in an amount equal to at least 20% of the amount of state aid received under the program. This local contribution does not apply to local public bodies served exclusively by a shared-ride taxicab system. This bill requires all recipients to pay at least 10% ✓ of the operating expenses, regardless of the amount of state aid received under the program, except that recipients served exclusively by a shared-ride taxicab system to pay at least 5% ✓ of the system's operating expenses.

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

(end insert)

insert
2-2

Section #. 85.20 (1) (g) of the statutes is amended to read:

85.20 (1) (g) "Operating expenses" mean costs accruing to an urban mass transit system by virtue of its operations, including costs to subsidize fares paid by disabled persons for transportation within the urban area of the eligible applicant. ^{and maintenance} For a publicly owned system, operating expenses do not include profit, return on investment or depreciation as costs. ^{plain} If a local public body contracts for the services of a privately owned system on the basis of competitive bids, operating expenses may include as costs depreciation on the facilities and equipment that the privately owned system acquired without benefit of public financial assistance, profit and return on investment. If a local public body contracts for the services of a privately owned system on the basis of negotiated procurement, operating expenses may include as costs depreciation on the facilities and equipment that the privately owned system acquired without benefit of public financial assistance. In an urban area which is served exclusively by shared-ride taxicab systems, operating expenses may include costs to subsidize reasonable fares paid by all users for transportation within the urban area of the eligible applicant.

~~History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11); 1981 c. 20 ss. 1202 to 1207, 1232 to 1233; Stats. 1981 s. 85.20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39, 239; 1993 a. 16, 279; 1995 a. 113, 201; 1997 a. 27.~~

(end insert)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0887/1
PEN:cmh&jlg:hmh

DOA:.....Etzler - Urban mass transit aid—funding, tiers, formula
FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TRANSPORTATION

TRANSPORTATION AIDS

Under current law, the department of transportation (DOT) administers an urban mass transit operating assistance program, which provides state aid payments to local public bodies in urban areas served by mass transit systems (eligible applicants) to assist the eligible applicants with the expenses of operating those systems. An urban mass transit system is transportation by bus, shared-ride taxicab, rail, or other conveyance, either publicly or privately owned, that provides the public with general or special service on a regular and continuing basis. DOT makes state aid payments in amounts sufficient to ensure that the combination of state and federal aids contributed toward the operating expenses of an urban mass transit system equals the uniform percentage established by DOT for the class of mass transit system. The percentage varies for each of the three classes of mass transit systems, based on state appropriations and federal aid policy, but is uniform for all mass transit systems within a class. The three classes are: 1) mass transit systems serving urban areas having a population of less than 50,000; 2) mass transit systems serving urban areas having a population of more than 50,000 but having annual operating expenses of less than \$20,000,000; and 3) mass transit systems having annual operating expenses of more than \$20,000,000.

This bill modifies the classes of mass transit systems and revises the amount of state aids payable to eligible applicants served by those systems. The bill creates

two classes of mass transit systems: 1) those having operating expenses of more than \$20,000,000 (Tier A); and 2) those having operating expenses of \$20,000,000 or less (Tier B). Under the bill, the sum of state and federal aid provided to an eligible applicant served by a Tier A mass transit system may not exceed 50% of the mass transit system's projected operating expenses. The sum of state and federal aid provided to an eligible applicant served by a Tier B mass transit system may not exceed 65% of the mass transit system's projected operating expenses, except that the sum of aids provided to eligible applicants served by certain Tier B mass transit systems may not exceed 60% for calendar years 2000 and 2001.

Current law requires a local public body that receives state aid under the urban mass transit operating assistance program to pay a local contribution towards the mass transit system's operating expenses in an amount equal to at least 20% of the amount of state aid received under the program. This local contribution does not apply to local public bodies served exclusively by a shared-ride taxicab system. This bill requires all recipients to pay at least 10% of the operating expenses, regardless of the amount of state aid received under the program, except that recipients served exclusively by a shared-ride taxicab system to pay at least 5% of the system's operating expenses.

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 (1) (hr) of the statutes is amended to read:

2 20.395 (1) (hr) *Tier B transit operating aids, state funds.* The amounts in the
3 schedule for mass transit aids under s. 85.20 (4m) (a) 7. and 7m.

4 **SECTION 2.** 85.20 (1) (g) of the statutes is amended to read:

5 85.20 (1) (g) "Operating expenses" mean costs accruing to an urban mass
6 transit system by virtue of its operations, including costs to subsidize fares paid by
7 disabled persons for transportation within the urban area of the eligible applicant,
8 and maintenance. For a publicly owned system, operating expenses do not include
9 profit, return on investment or depreciation as costs. If a local public body contracts
10 for the services of a privately owned system on the basis of competitive bids,
11 operating expenses may include as costs depreciation on the facilities and equipment

1 that the privately owned system acquired without benefit of public financial
2 assistance, profit and return on investment. If a local public body contracts for the
3 services of a privately owned system on the basis of negotiated procurement,
4 operating expenses may include as costs depreciation on the facilities and equipment
5 that the privately owned system acquired without benefit of public financial
6 assistance. In an urban area which is served exclusively by shared-ride taxicab
7 systems, operating expenses may include costs to subsidize reasonable fares paid by
8 all users for transportation within the urban area of the eligible applicant.

9 **SECTION 3.** 85.20 (3) (cr) of the statutes is amended to read:

10 85.20 (3) (cr) To conduct a management performance audit of all urban mass
11 transit systems participating in the program at least once every 5 years. If a
12 management performance audit is required of all urban mass transit systems
13 participating in the program, an eligible applicant served exclusively by a
14 shared-ride taxicab system may be exempted from an audit if the eligible applicant
15 voluntarily complies with s. 85.20 (4m) (b).

16 **SECTION 4.** 85.20 (4m) (a) (intro.) of the statutes is amended to read:

17 85.20 (4m) (a) (intro.) ~~An amount shall be allocated~~ Except as provided in s.
18 85.20 (4m) (b) 2., the department shall allocate to each eligible applicant ~~to ensure~~
19 ~~that the sum of state and federal aids for the projected operating expenses of each~~
20 ~~eligible applicant's urban mass transit system is~~ an amount equal to a uniform
21 percentage, established by the department, of the projected operating expenses of
22 the each eligible applicant's urban mass transit system for the calendar year. The
23 department shall make allocations as follows:

24 **SECTION 5.** 85.20 (4m) (a) 1., 2., 3., 4. and 5. of the statutes are repealed.

25 **SECTION 6.** 85.20 (4m) (a) 6. b. of the statutes is amended to read:

1 85.20 (4m) (a) 6. b. For the purpose of making allocations under subd. 6. a., the
2 amounts for aids are ~~\$60,984,900 in calendar year 1998 and \$63,119,300 in calendar~~
3 year 1999 and \$65,012,900 in calendar year 2000 and thereafter. These amounts,
4 to the extent practicable, shall be used to determine the uniform percentage in the
5 particular calendar year.

6 **SECTION 7.** 85.20 (4m) (a) 6. c. of the statutes is created to read:

7 85.20 (4m) (a) 6. c. The sum of state aids allocated under this section and
8 federal mass transit aids provided for the projected operating expenses of an urban
9 mass transit system that has annual operating expenses in excess of \$20,000,000
10 may not exceed 50% of the sum of the projected operating expenses of the urban mass
11 transit system. Only federal mass transit aid that the federal government provides
12 directly to the eligible applicant or to the urbanized area served by the mass transit
13 system or that the department allocates under this section may be counted under
14 this subd. 6. c.

15 **SECTION 8.** 85.20 (4m) (a) 7. a. of the statutes is amended to read:

16 85.20 (4m) (a) 7. a. From the appropriation under s. 20.395 (1) (hr), the uniform
17 percentage for each eligible applicant served by an urban mass transit system
18 operating within an urban area having a population as shown in the 1990 federal
19 decennial census of at least 50,000 or receiving federal mass transit aid for such area,
20 and not specified in subd. 6. This subd. 7. a. does not apply after December 31, 1999.

21 **SECTION 9.** 85.20 (4m) (a) 7. b. of the statutes is amended to read:

22 85.20 (4m) (a) 7. b. For the purpose of making allocations under subd. 7. a., the
23 amounts for aids are \$17,799,600 in calendar year 1998 and \$18,422,500 in calendar
24 year 1999 ~~and thereafter~~. These amounts, to the extent practicable, shall be used to
25 determine the uniform percentage in the particular calendar year.

1 **SECTION 10.** 85.20 (4m) (a) 7m. of the statutes is created to read:

2 85.20 (4m) (a) 7m. a. Beginning on January 1, 2000, from the appropriation
3 under s. 20.395 (1) (hr), the uniform percentage determined by the department for
4 each eligible applicant not described in subd. 6. In allocating state aid under this
5 subdivision, the department shall determine the amount of federal aid available for
6 operating expenses. If the department determines that federal aid is available for
7 an eligible applicant's operating expenses, the department may require the eligible
8 applicant to accept that federal aid as a condition of receiving state aid under this
9 section.

10 b. Except as provided in subd. 7m. c., for the purpose of making allocations
11 under subd. 7m. a., the amounts for aids are \$24,100,400 in calendar year 2000 and
12 thereafter. These amounts, to the extent practicable, shall be used to determine the
13 uniform percentage in the particular calendar year. Except as provided in subd. 7m.
14 c., the sum of state aid and federal aid allocated under this section to an eligible
15 applicant may not exceed 65% of an eligible applicant's projected operating expenses.

16 c. For an eligible applicant served by a mass transit system operating within
17 an urbanized area that has a population, as shown in the 1990 federal decennial
18 census, of 50,000 or more or that is eligible for only federal mass transit aid for such
19 areas, the sum of state aid and federal aid allocated under this section for calendar
20 years 2000 and 2001 may not exceed 60% of the projected operating expenses. For
21 an eligible applicant served by a mass transit system that operates both partly
22 within an urbanized area that has a population of 50,000 or more, as shown in the
23 1990 federal decennial census, or that is eligible for federal mass transit aid for
24 urbanized areas having that population and that operates partly in areas other than
25 urbanized areas and is eligible for federal mass transit aid for providing service to

1 those other areas, the sum of state aid and federal aid allocated under this section
2 for the portion of the projected operating expenses of the eligible applicant's mass
3 transit system associated with service within an urbanized area or eligible for
4 federal mass transit aid for service within urbanized areas may not exceed 60% of
5 the projected operating expenses of that service for calendar years 2000 and 2001.
6 This subd. 7m. c. does not apply after December 31, 2001.

7 **SECTION 11.** 85.20 (4m) (a) 8. a. of the statutes is amended to read:

8 85.20 (4m) (a) 8. a. From the appropriation under s. 20.395 (1) (hs), the uniform
9 percentage for each eligible applicant served by an urban mass transit system
10 operating within an area having a population as shown in the 1990 federal decennial
11 census of less than 50,000 or receiving federal mass transit aid for such area. This
12 subd. 8. a. does not apply after December 31, 1999.

13 **SECTION 12.** 85.20 (4m) (a) 8. b. of the statutes is amended to read:

14 85.20 (4m) (a) 8. b. For the purpose of making allocations under subd. 8. a., the
15 amounts for aids are \$4,807,600 in calendar year 1998 and \$4,975,900 in calendar
16 year 1999 ~~and thereafter~~. These amounts, to the extent practicable, shall be used to
17 determine the uniform percentage in the particular calendar year.

18 **SECTION 13.** 85.20 (4m) (b) 1. of the statutes is amended to read:

19 85.20 (4m) (b) 1. Except as provided in subd. 2., each eligible applicant shall
20 provide a local contribution, exclusive of user fees, toward operating expenses in an
21 amount equal to at least ~~20% of state aid allocations to that eligible applicant under~~
22 this section 10% of the eligible applicant's operating expenses.

23 **SECTION 14.** 85.20 (4m) (b) 2. of the statutes is amended to read:

24 85.20 (4m) (b) 2. ~~Subdivision 1. does not apply to an~~ Except as provided in this
25 subdivision, an eligible applicant that is served exclusively by a shared-ride taxicab

1 system is not required to meet the requirements of subd. 1. For calendar year 2000,
2 the department may not increase the amount of state aid allocated under this section
3 to an eligible applicant that is served exclusively by a shared-ride taxicab system
4 beyond the amount allocated to that eligible applicant for calendar year 1999, unless
5 the eligible applicant provides a local contribution, exclusive of user fees, toward
6 operating expenses in an amount equal to at least 5% of the eligible applicant's
7 operating expenses. Beginning with calendar year 2001, the department may not
8 increase the amount of state aid allocated under this section to an eligible applicant
9 that is served exclusively by a shared-ride taxicab system beyond the amount
10 allocated to that eligible applicant during the preceding calendar year, unless the
11 eligible applicant complies with the requirements of subd. 1. This subdivision does
12 not prohibit the department from allocating aid under this section to an eligible
13 applicant served exclusively by a shared-ride taxicab system in its first year of
14 service.

15 **SECTION 15.** 85.20 (4m) (em) 3. of the statutes is amended to read:

16 85.20 (4m) (em) 3. Five times the amount of an eligible applicant's required
17 local contribution under par. (b) 1. This subdivision does not apply after December
18 31, 1999.

19 **SECTION 16.** 85.20 (6) (c) of the statutes is created to read:

20 85.20 (6) (c) Disclose to the department the amount of federal aid over which
21 the eligible applicant has spending discretion and that the eligible applicant intends
22 to apply towards operating expenses for a calendar year.

23 **SECTION 17.** 85.20 (6) (d) of the statutes is created to read:

24 85.20 (6) (d) Accept federal aid, if directed by the department to accept that aid.
25 This paragraph applies only to eligible applicants described in sub. (4m) (a) 7m.

