

2003 DRAFTING REQUEST

Bill

Received: **01/28/2004**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**

By/Representing: **Pam Shannon (LC)**

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

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to: **Pam.Shannon@legis.state.wi.us**
Don.Bezruki@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Changes regarding major highway projects enumeration and transportation projects commission following audit bureau report

Instructions:

See Attached

Drafting History:

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/2	agary 02/10/2004	wjackson 02/11/2004	pgreensl 02/11/2004	_____	sbasford 02/11/2004		State
/3	agary 02/18/2004	wjackson 02/19/2004	jfrantze 02/19/2004	_____	mbarman 02/19/2004	mbarman 02/19/2004	

FE Sent For: 02/11/2004, 02/19/2004.

(1/2) (1/3)

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Handwritten signatures and dates:
2/11/04
2/19/04

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1/3 Wlj 2/19

FE Sent For:

<END>

02-11-2004

("1/2")

Requested By
Pam Shannon
(Leg. Council)

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Handwritten notes:
2/10/04 sell

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1 Wlj 2/9

*2/9
P8*

*2/9
P8/H*

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/P1	agary 02/04/2004	lrb_editor					
		<i>[Signature]</i> /pl WLj 2/6					

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/?	agary			_____			

<END>

FE Sent For:



STATE OF WISCONSIN
LEGISLATIVE AUDIT BUREAU

DON BEZRUKI
PROGRAM EVALUATION DIRECTOR

22 E. MIFFLIN STREET, SUITE 500
MADISON, WI 53703-2512
(608) 266-2818
(608) 267-0410 FAX

don.bezruki@legis.state.wi.us

Mtg. w/
Don + Pam Shannon (LC)

1/28/04

EIS - FHWA sign ~~approval~~ sign off on EIS
BY - FHWA approval: only one that
actually signs now

1. Cost Categories

- Table 7

- see p. 24

p. 24

- start w/ a baseline & stick w/ the
baseline → update original & compare

- idea of original, cumulative, &
update since last report

#, timing?

- want public hearing Feb. 11 →
two weeks from today

- really never an env. assessment on a major project

→ find for EA would be ~~NOT~~ at the end

4. goes into effect right away

1. start sooner - Feb. 1, 2005

2. ~~start~~ can start now → but 3 has to be tied to new enumeration process

2. & 3. → tied together; could start w/ projects entering the pipeline now

Reviewed at 1/28 meeting w/ Pam & Don

1/27/04

Key Elements for Bill Draft on Transportation Projects Commission

Procedural:

- Introduced by Senator Carol A. Roessler (Senate Bill)
- Introduced by Representative Suzanne Jeskewitz (Assembly Companion Bill)

Background:

In response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (report 03-13), and reflective of testimony offered before the Joint Legislative Audit Committee in a public hearing on January 26, 2004, the co-chairpersons of the Joint Legislative Audit Committee wish to draft legislation that would increase Legislative involvement and oversight in managing major highway program expenditures by making procedural and process changes to the operations of the Transportation Projects Commission.

Key Elements for Proposed Legislation:

The composition, duties, and responsibilities of the Transportation Projects Commission are identified in s. 13.489 Wis. Stats. The proposed legislation would modify these responsibilities as follows:

1. Semi-annual reporting to the Transportation Projects Commission. On February 1 and August 1 of each year, the Department of Transportation will prepare and submit to the Transportation Projects Commission a formal report summarizing the current status of each major highway project enumerated and the current status of each potential major highway project approved by the Commission for preparation of an environmental impact statement or an environmental assessment. The report will identify project costs as of the reporting date by major cost categories, include specific detail to describe the most current design of the project, and explain any project design modifications made since the Department's last report to the Commission.
2. A major highway project may not be enumerated by the Transportation Projects Commission until it has received and reviewed the final environmental impact statement or environmental assessment. Section 13.489 (4)(d), Wis. Stats., requires the Commission to notify the Department of those potential major highway projects that the Commission has approved for preparation of an environmental impact statement or an environmental assessment. The Commission must have received and reviewed the final environmental impact statement or environmental assessment before the Commission may enumerate the project.
3. Post-enumeration review of project costs by the Transportation Projects Commission. If, at any time after the Transportation Projects Commission has enumerated a major highway project, total project costs increase by more than ten percent (10%) of the total project costs approved by the Commission when the project was enumerated, the Department of Transportation must report and justify the cost increases to the Transportation Projects Commission within 60 days.
4. Only the Transportation Projects Commission shall have statutory authority to enumerate a major highway project. The Legislature may not independently enumerate a major highway project. No major highway project shall be enumerated without the approval of the Transportation Projects Commission.

these really apply to what is enumerated, not EIS study part

try to explain any change in total estimated cost

keep this for non-designing (every 15 min)

proposals or design changes → change order → changes occur during the design phase → justify before event or before numbering → make it focus on design

starts Feb. 2005

these dates are good

maybe fit with 3

changes

if 10% w/in report period on total

→ giving gov. lots of authority

now TPC approves concept; after
this, TPC approves project / design



require pre-approval for design changes totalling
over 10% ; need to give TPC authority
to approve or not approve

- if after enactment Dept. proposes to change
scope or design of project that increases
costs more than 10%, need approval from TPC
before making bids

Report 03-13
November 2003

An Evaluation

Major Highway Program

Department of Transportation

DOT had not anticipated these projects, which are expected to cost \$828.0 million, in its program schedule and budget. As a result, construction of these recently enumerated projects may not begin for eight to ten years, or the completion of previously enumerated projects will be delayed. In addition, DOT may not recommend additional projects to the Transportation Projects Commission for enumeration in 2004.

Program Expenditures

Major highway program expenditures totaled \$284.2 million in FY 2002-03.

As shown in Table 7, major highway program expenditures totaled \$284.2 million in FY 2002-03 and increased 69.5 percent from FY 1993-94 expenditure levels. Program expenditures differ from amounts appropriated because of encumbrances and federal earmarked funds, which are provided throughout the State's fiscal year. Construction contracts, which accounted for nearly three-quarters of FY 2002-03 expenditures, increased 67.9 percent in the ten years shown. Real estate expenditures nearly quadrupled during the same period and were the second-largest expenditure category in FY 2002-03.

Table 7

Major Highway Program Expenditures, by Type

	FY 1993-94	FY 2002-03	Percentage Change	Percentage Change in Constant Dollars
X Construction Contracts	\$120,921,000	\$203,035,000	67.9%	35.3%
* Real Estate	11,763,000	43,772,000	272.1	199.9
Engineering Services	20,404,000	24,511,000	20.1	(3.2)
Salaries and Fringe Benefits	8,981,000	10,242,000	14.0	(8.1)
Prorated Costs	3,871,000	1,303,000	(66.3)	(72.9)
Fleet Charges and Other Administration	599,000	598,000	(0.2)	(19.5)
Maintenance and Materials	700,000	475,000	(32.1)	(45.3)
Travel and Training	378,000	242,000	(36.0)	(48.4)
Total	\$167,617,000	\$284,178,000	69.5	36.6

Design Engineering
 Construction Engineering
 Contract ~~Contract~~ change orders
 Other: maintenance, travel, admin. overhead (catch-all)
 LETS: construction contract - bid

*Needed
by 2/6
[Signature]*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

GEN

1 AN ACT ...; relating to: major highway projects and the transportation projects
2 commission.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) administers a major highway projects program. With limited exceptions, a major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes five miles or more in length to the highway; or improvement of an existing multilane, divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, must generally receive the approval of the Transportation Projects Commission (TPC) and the legislature (generally referred to as "enumeration") before the project may be constructed.

Under current law, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without the approval of the TPC and the legislature, the legislature may enumerate and approve the construction of major highway projects without approval by the TPC. The TPC may not recommend approval of a major highway project unless the TPC determines that there is sufficient funding to begin construction of the project within six years.

This bill prohibits the TPC from recommending approval of any major highway project prior to the completion by DOT, and review by the TPC, of a final EIS or EA

approved by the Federal Highway Administration. The bill also prohibits the legislature from enumerating any major highway project unless the TPC has recommended approval of the project. The bill further requires prior TPC approval for certain project design changes proposed by DOT after the project's enumeration.

The bill also requires DOT to submit a report to the TPC, beginning on February 1, 2005, and every six months thereafter, that does all of the following:

✓ 1. Summarizes the current status of each potential major highway project for which the TPC has approved preparation of an EIS or EA and of each enumerated major highway project.

✓ 2. For each project identified in Item 1., above, identifies all actual and estimated project costs, itemized by major cost categories.

✓ 3. For each enumerated major highway project on which the project design or scope changed after enumeration, explains the change, the reason for the change, and the estimated project cost attributable to implementing the change.

4. For each enumerated major highway project on which the total actual or estimated project costs increase to an amount that exceeds ten percent of the total estimated project costs specified in DOT's final EIS or EA, identifies and explains the cost increases, except that if estimated cost increases attributable to proposed project design changes alone exceed ten percent, DOT must obtain approval of the TPC before implementing the proposed design changes.

The bill requires all project information in the report to be reported on both a cumulative basis from the inception of the project and on an updated basis for the period since DOT's last report.

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

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

1 SECTION 1. 13.489 (1) ✓ of the statutes is renumbered 13.489 (1g) ✓.

2 SECTION 2. 13.489 (1m) (a) ✓ of the statutes is renumbered 13.489 (1c) ✓, and
3 13.489 (1c) (intro.), as renumbered, is amended to read:

4 (1c) (intro.) In this subsection section:

5 History: 1983 a. 27; 1985 a. 2; 1985 a. 29 ss. 27 to 29, 3202 (51) ✓ 1987 a. 27; 1993 a. 16; 1997 a. 27, 86; 1999 a. 9.
6 SECTION 3. 13.489 (2m) ✓ of the statutes is created to read:

7 13.489 (2m) ✓ APPROVAL OF CERTAIN PROJECT DESIGN CHANGES. The commission
8 shall review any report submitted as provided in sub. (6) (b) ✓ and, within 60 days of
submission of the report, notify the department of transportation of those proposed

1 project design changes that the commission approves or approves with modifications
2 or shall notify the department that it does not approve any of the proposed project
3 design changes. The department of transportation may not implement any proposed
4 project design changes required to be submitted to the commission under sub. (6) (b)
5 unless the commission notifies the department under this ^{subsection} ~~paragraph~~ that the
6 proposed project design changes, with or without modifications, are approved.

7 SECTION 4. 13.489 (4) (a) 1. a. and b. of the statutes are amended to read:

8 13.489 (4) (a) 1. a. The commission determines that, within 6 years after the
9 first July 1 after the date on which the commission recommends approval of the
10 project, construction will be commenced on all projects enumerated under s. 84.013
11 (3) and on the project recommended for approval and the commission has received
12 and reviewed a final environmental impact statement or environmental assessment
13 for the project approved by the federal highway administration.

14 b. The report recommending approval of the project is accompanied by a
15 financing proposal that, if implemented, would provide funding in an amount
16 sufficient to ensure that construction will commence on all projects enumerated
17 under s. 84.013 (3) and on the project within 6 years after the first July 1 after the
18 date on which the commission recommends approval of the project and the
19 commission has received and reviewed a final environmental impact statement or
20 environmental assessment for the project approved by the federal highway
21 administration.

22 History: 1983 a. 27; 1985 a. 2; 1985 a. 29 ss. 27 to 29, 3202 (51); 1987 a. 27; 1993 a. 16; 1997 a. 27, 86; 1999 a. 9.

SECTION 5. 13.489 (4) (c) of the statutes is created to read:

23 13.489 (4) (c) No project may be enumerated under s. 84.013 (3) or approved
24 under s. 84.013 (6) unless the commission recommends approval, with or without

CS Department to report project status and costs

1 modifications, of the project under par. (a) or, with respect to a project under s. 84.013
2 (6m), designates the project under par. (b).

3 SECTION 6. 13.489 (5) and (6) of the statutes are created to read:

4 (5) (a) By February 1, 2005, and every 6 months thereafter, the department of
5 transportation shall submit a report to the commission that does all of the following:

6 1. Summarizes the current status of each project approved by the commission
7 under sub. (1m) (d) and of each project enumerated under ^{s. 84.013} sub. (3) or approved under
8 ^{s. 84.013} sub. (6).

9 2. For each project specified under subd. 1., identifies all actual and estimated
10 project costs, as of the date of preparation of the report, itemized by the following
11 major cost categories:

12 a. Construction contracts.

13 b. Real estate.

14 c. Design engineering.

15 d. Contract change orders.

16 e. Other costs.

17 3. Subject to sub. (6) (b), for each project enumerated under s. 84.013 (3) or
18 approved under s. 84.013 (6) on which the project design or scope changed after
19 enumeration or approval, explains the change, the reason for the change, and the
20 estimated project cost attributable to implementing the change.

21 4. Includes any information required under sub. (6).

22 (b) All project information included in any report required under this
23 subsection shall be reported on both a cumulative basis from the inception of the
24 project and on an updated basis for the period since the department's last report
25 under this subsection.

(CS) Project cost overruns

1 (6) If at any time after a project is enumerated under s. 84.013 (3) or approved
 2 under s. 84.013 (6) the total actual or estimated project costs for the project increase
 3 to an amount that exceeds 10 percent of the total estimated project costs specified in
 4 the final environmental impact statement or environmental assessment for the
 5 project reviewed by the commission under sub. (4) (a) 1., the department of
 6 transportation shall do all of the following:

7 (a) Subject to par. (b), in its next report under sub. (5), identify and explain,
 8 including providing any reason for, all such increases in actual or estimated project
 9 costs.

10 (b) If proposed project design changes alone cause the total estimated project
 11 costs to increase by the amount specified in this subsection, the department shall,
 12 prior to implementing the proposed project design changes, report the proposed
 13 project design changes, any reason for these design changes, and the estimated
 14 project cost attributable to these design changes, to the commission for review and
 15 approval under sub. (2m).

16 SECTION 7. Initial applicability.

17 (1) The treatment of section 13.489 (4) (a) 1. a. and b. and (c) and (5) (a) 1. and
 18 2. of the statutes first applies to projects being considered by the transportation
 19 projects commission under section 13.489 of the statutes on the effective date of this
 20 subsection.

21 (2) The treatment of section 13.489 (2m), (5) (a) 1. to 3., and (6) of the statutes
 22 first applies to projects enumerated under section 84.013 (3) of the statutes or
 23 approved under section 84.013 (6) of the statutes on the effective date of this
 24 subsection.

25 (END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4144/P1dn

ARG.:|:...

WLj

ATTN: Pam Shannon

13.489
Created s. 13.489 (4) (c) purports to restrict the legislature's authority by prohibiting the legislature from enumerating a major highway project without a prior recommendation of approval by the transportation projects commission. This limitation on the legislature's authority may not be enforceable if challenged in a court. The limitation may also be circumvented by future legislation by simply inserting "notwithstanding s. ~~13.489~~ (4) (c)" in any future enumeration.

percent
Created s. 13.489 (6) imposes a reporting requirement on DOT when the "10% trigger" is reached. What occurs after this report is submitted? I don't believe the bill provides for any further reporting required of DOT if, thereafter, project costs escalate to 30% percent, 50% percent, or beyond. Do you want to impose incremental reporting requirements or an ongoing reporting requirement until total estimated project costs decrease to below the 10% level?

Please review the attached draft carefully to ensure that it is consistent with your intent. As requested, the attached draft was prepared on an expedited basis and, while the draft is complete, it may need to be reworked to some extent to meet your intent. The subject matter of the draft is complex, and, given the significance of the program at issue, I would recommend a thorough review by DOT and/or the Fiscal Bureau as well as the Audit Bureau.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4144/P1dn
ARG:wlj:jf

February 6, 2004

ATTN: Pam Shannon

Created s. 13.489 (4) (c) purports to restrict the legislature's authority by prohibiting the legislature from enumerating a major highway project without a prior recommendation of approval by the Transportation Projects Commission. This limitation on the legislature's authority may not be enforceable if challenged in a court. The limitation may also be circumvented by future legislation by simply inserting "notwithstanding s. 13.489 (4) (c)" in any future enumeration.

Created s. 13.489 (6) imposes a reporting requirement on DOT when the "10% trigger" is reached. What occurs after this report is submitted? I don't believe the bill provides for any further reporting required of DOT if, thereafter, project costs escalate to 30 percent, 50 percent, or beyond. Do you want to impose incremental reporting requirements or an ongoing reporting requirement until total estimated project costs decrease to below the 10 percent level?

Please review the attached draft carefully to ensure that it is consistent with your intent. As requested, the attached draft was prepared on an expedited basis and, while the draft is complete, it may need to be reworked to some extent to meet your intent. The subject matter of the draft is complex, and, given the significance of the program at issue, I would recommend a thorough review by DOT and/or the Fiscal Bureau as well as the Audit Bureau.

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

Gary, Aaron

From: Gary, Aaron
Sent: Friday, February 06, 2004 4:46 PM
To: Bezruki, Don
Cc: Shannon, Pam
Subject: LRB-4144

Don,

As we discussed, with regard to the middle paragraph of the drafter's note, one solution would be along the following lines:

on p. 5, the existing text would be renumbered, so line 5 would be "(6) Project cost overruns. (a) If at any time ...", par. (a) on line 11 would become 1., and par (b) on line 14 would become 2.

Then we could create a new par. (b) along the following lines: "(b) If at any time the department is required to report to the commission under par. (a) 1. or 2., the total project costs, including the identified increase, reported to the commission under par. (a) 1. or 2. shall thereafter be used in lieu of the total estimated project costs specified in the final environmental impact statement or environmental assessment for purposes of determining whether, at any time subsequent to the report under par. (a) 1. or 2., any additional increase in projects costs requires a new report to the commission under par. (a)."

Something along these lines, which, as you recommended, is intended basically start a new baseline for purposes of whether another 10% increase is triggered.

Have a good weekend. Aaron

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

Meets w/ Pam & Don 2/9/04

• change to p. 4, line 17

• add this

• add Don to e-mail circulation

otherwise looks good



TODAY

R M R

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT **REGEN** to renumber 13.489 (1); to renumber and amend 13.489 (1m) (a); to
2 amend 13.489 (4) (a) 1. a. and b.; and to create 13.489 (2m), 13.489 (4) (c) and
3 13.489 (5) and (6) of the statutes; relating to: major highway projects and the
4 transportation projects commission.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) administers a major highway projects program. With limited exceptions, a major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes five miles or more in length to the highway; or improvement of an existing multilane, divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, must generally receive the approval of the Transportation Projects Commission (TPC) and the legislature (generally referred to as "enumeration") before the project may be constructed.

Under current law, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without the approval of the TPC and the legislature, the legislature may enumerate and approve the

construction of major highway projects without approval by the TPC. The TPC may not recommend approval of a major highway project unless the TPC determines that there is sufficient funding to begin construction of the project within six years.

This bill prohibits the TPC from recommending approval of any major highway project prior to the completion by DOT, and review by the TPC, of a final EIS or EA approved by the Federal Highway Administration. The bill also prohibits the legislature from enumerating any major highway project unless the TPC has recommended approval of the project. The bill further requires prior TPC approval for certain project design changes proposed by DOT after the project's enumeration.

The bill also requires DOT to submit a report to the TPC, beginning on February 1, 2005, and every six months thereafter, that does all of the following:

1. Summarizes the current status of each potential major highway project for which the TPC has approved preparation of an EIS or EA and of each enumerated major highway project.

2. For each project identified in item 1., above, identifies all actual and estimated project costs, itemized by major cost categories.

3. For each enumerated major highway project on which the project design or scope changed after enumeration, explains the change, the reason for the change, and the estimated project cost attributable to implementing the change.

4. For each enumerated major highway project on which the total actual or estimated project costs increase to an amount that exceeds 10 percent of the total estimated project costs specified in DOT's final EIS or EA, identifies and explains the cost increases, except that if estimated cost increases attributable to proposed project design changes alone exceed 10 percent, DOT must obtain approval of the TPC before implementing the proposed design changes.

The bill requires all project information in the report to be reported on both a cumulative basis from the inception of the project and on an updated basis for the period since DOT's last report.

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

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

1 **SECTION 1.** 13.489 (1) of the statutes is renumbered 13.489 (1g).

2 **SECTION 2.** 13.489 (1m) (a) of the statutes is renumbered 13.489 (1c), and
3 13.489 (1c) (intro.), as renumbered, is amended to read:

4 13.489 (1c) (intro.) In this subsection section:

5 **SECTION 3.** 13.489 (2m) of the statutes is created to read:

IDENT
ANAL

1 13.489 (2m) APPROVAL OF CERTAIN PROJECT DESIGN CHANGES. The commission
2 shall review any report submitted as provided in sub. (6) ^{(a) 20} and, within 60 days of
3 submission of the report, notify the department of transportation of those proposed
4 project design changes that the commission approves or approves with modifications
5 or shall notify the department that it does not approve any of the proposed project
6 design changes. The department of transportation may not implement any proposed
7 project design changes required to be submitted to the commission under sub. (6) ^{(a) 20}
8 unless the commission notifies the department under this subsection that the
9 proposed project design changes, with or without modifications, are approved.

10 **SECTION 4.** 13.489 (4) (a) 1. a. and b. of the statutes are amended to read:

11 13.489 (4) (a) 1. a. The commission determines that, within 6 years after the
12 first July 1 after the date on which the commission recommends approval of the
13 project, construction will be commenced on all projects enumerated under s. 84.013
14 (3) and on the project recommended for approval and the commission has received
15 and reviewed a final environmental impact statement or environmental assessment
16 for the project approved by the federal highway administration.

17 b. The report recommending approval of the project is accompanied by a
18 financing proposal that, if implemented, would provide funding in an amount
19 sufficient to ensure that construction will commence on all projects enumerated
20 under s. 84.013 (3) and on the project within 6 years after the first July 1 after the
21 date on which the commission recommends approval of the project and the
22 commission has received and reviewed a final environmental impact statement or
23 environmental assessment for the project approved by the federal highway
24 administration.

25 **SECTION 5.** 13.489 (4) (c) of the statutes is created to read:

1 13.489 (4) (c) No project may be enumerated under s. 84.013 (3) or approved
 2 under s. 84.013 (6) unless the commission recommends approval, with or without
 3 modifications, of the project under par. (a) or, with respect to a project under s. 84.013
 4 (6m), designates the project under par. (b).

5 **SECTION 6.** 13.489 (5) and (6) of the statutes are created to read:

6 13.489 (5) DEPARTMENT TO REPORT PROJECT STATUS AND COSTS. (a) By February
 7 1, 2005, and every 6 months thereafter, the department of transportation shall
 8 submit a report to the commission that does all of the following:

9 1. Summarizes the current status of each project approved by the commission
 10 under sub. (1m) (d) and of each project enumerated under s. 84.013 (3) or approved
 11 under s. 84.013 (6).

12 2. For each project specified under subd. 1., identifies all actual and estimated
 13 project costs, as of the date of preparation of the report, itemized by the following
 14 major cost categories:

15 a. Construction contracts.

16 b. Real estate.

17 c. Design engineering.

do Construction engineering

18 *e* ~~do~~ Contract change orders.

19 *f* ~~do~~ Other costs.

20 3. Subject to sub. (6) ^{(a) 20} ~~(6)~~, for each project enumerated under s. 84.013 (3) or
 21 approved under s. 84.013 (6) on which the project design or scope changed after
 22 enumeration or approval, explains the change, the reason for the change, and the
 23 estimated project cost attributable to implementing the change.

24 4. Includes any information required under sub. (6).

1 (b) All project information included in any report required under this
2 subsection shall be reported on both a cumulative basis from the inception of the
3 project and on an updated basis for the period since the department's last report
4 under this subsection.

5 (6) PROJECT COST OVERRUNS. ^(a) If at any time after a project is enumerated under
6 s. 84.013 (3) or approved under s. 84.013 (6) the total actual or estimated project costs
7 for the project increase to an amount that exceeds 10 percent of the total estimated
8 project costs specified in the final environmental impact statement or environmental
9 assessment for the project reviewed by the commission under sub. (4) (a) 1., the
10 department of transportation shall do all of the following:

11 ^{Subd 20} ~~10(a)~~ Subject to ~~sub. (5)~~, in its next report under sub. (5), identify and explain,
12 including providing any reason for, all such increases in actual or estimated project
13 costs.

14 ^{20(a)} If proposed project design changes alone cause the total estimated project
15 costs to increase by the amount specified in this subsection, the department shall,
16 prior to implementing the proposed project design changes, report the proposed
17 project design changes, any reason for these design changes, and the estimated
18 project cost attributable to these design changes, to the commission for review and
19 approval under sub. (2m).

20 **SECTION 7. Initial applicability.**

21 (1) The treatment of section 13.489 (4) (a) 1. a. and b. [✓] and (c) [✓] and (5) (a) 1. and
22 2. [✓] of the statutes first applies to projects being considered by the transportation
23 projects commission under section 13.489 [✓] of the statutes on the effective date of this
24 subsection.

insert
5-19

1 (2) The treatment of section 13.489 (2m)[✓], (5) (a) 1. to 3.[✓], and (6)[✓] of the statutes
2 first applies to projects enumerated under section 84.013 (3)[✓] of the statutes or
3 approved under section 84.013 (6)[✓] of the statutes on the effective date of this
4 subsection.

5

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4144/lins
ARG:.....

INSERT ANAL:

(no P) If such a report is required, the increased project costs specified in the report become the baseline for determining whether subsequent project cost increases require another report.

INSERT 5-19:

(b) If at any time the department is required to report to the commission under par. (a) 1. or 2.,[✓] the total project costs, including the identified increase, reported to the commission under par. (a) 1. or 2.,[✓] shall thereafter be used in lieu of the total estimated project costs specified in the final environmental impact statement or environmental assessment for purposes of determining whether, at any time subsequent to the report under par. (a) 1. or 2.,[✓] any additional increase in project costs requires a new report to the commission under par. (a).[✓]

Meet w/ Pam Shannon

2/10

- change TPC composition:

5 sen. & 5 rep. → 6

- 4 instead of 3 from
maj. party

- need sen

- change both 4/44 & 4/45

Gary, Aaron

From: Shannon, Pam
Sent: Tuesday, February 10, 2004 4:13 PM
To: Gary, Aaron
Cc: Bezruki, Don
Subject: RE: change to major highways bill - LRB-4144 and LRB-4145

Hi Aaron-
Sen. Roessler says she would like the change to take effect immediately.
Thanks.
Pam

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

From: Gary, Aaron
Sent: Tuesday, February 10, 2004 3:19 PM
To: Shannon, Pam
Subject: change to major highways bill - LRB-4144 and LRB-4145

Pam,

This is drafted but I wanted to double check something before I put it into editing. As drafted, the change in TPC composition would take effect immediately. Thus, if signed by the governor and published on March 1, a new senator and new representative could be added the next day. Is this okay? Or do you want the effective date delayed to the commencement of the next legislative biennium (roughly Jan. 20 something '05)? Or something else? Thanks.
Aaron

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



State of Wisconsin
2003 - 2004 LEGISLATURE

Needed
by 2/11
end of day

LRB-4144/2

ARG:wlj:pg

R M R

2003 BILL

REGEN

1 AN ACT *to renumber* 13.489 (1); *to renumber and amend* 13.489 (1m) (a); *to*
2 *amend* 13.489 (4) (a) 1. a. and b.; and *to create* 13.489 (2m), 13.489 (4) (c) and
3 13.489 (5) and (6) of the statutes; **relating to:** major highway projects and the
4 transportation projects commission.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) administers a major highway projects program. With limited exceptions, a major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes five miles or more in length to the highway; or improvement of an existing multilane, divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, must generally receive the approval of the Transportation Projects Commission (TPC) and the legislature (generally referred to as "enumeration") before the project may be constructed.

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BILL

construction of major highway projects without approval by the TPC. The TPC may not recommend approval of a major highway project unless the TPC determines that there is sufficient funding to begin construction of the project within six years.

This bill prohibits the TPC from recommending approval of any major highway project prior to the completion by DOT, and review by the TPC, of a final EIS or EA approved by the Federal Highway Administration. The bill also prohibits the legislature from enumerating any major highway project unless the TPC has recommended approval of the project. The bill further requires prior TPC approval for certain project design changes proposed by DOT after the project's enumeration.

The bill also requires DOT to submit a report to the TPC, beginning on February 1, 2005, and every six months thereafter, that does all of the following:

1. Summarizes the current status of each potential major highway project for which the TPC has approved preparation of an EIS or EA and of each enumerated major highway project.

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3. For each enumerated major highway project on which the project design or scope changed after enumeration, explains the change, the reason for the change, and the estimated project cost attributable to implementing the change.

4. For each enumerated major highway project on which the total actual or estimated project costs increase to an amount that exceeds 10 percent of the total estimated project costs specified in DOT's final EIS or EA, identifies and explains the cost increases, except that if estimated cost increases attributable to proposed project design changes alone exceed 10 percent, DOT must obtain approval of the TPC before implementing the proposed design changes. If such a report is required, the increased project costs specified in the report become the baseline for determining whether subsequent project cost increases require another report.

The bill requires all project information in the report to be reported on both a cumulative basis from the inception of the project and on an updated basis for the period since DOT's last report.

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

Insert ANAL ✓

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

~~SECTION 1. 13.489 (1) of the statutes is renumbered 13.489 (1g).~~

SECTION 2. 13.489 (1m) (a) of the statutes is renumbered 13.489 (1c), and 13.489 (1c) (intro.), as renumbered, is amended to read:

13.489 (1c) (intro.) In this subsection section:

SECTION 3. 13.489 (2m) of the statutes is created to read:

Insert 2-1 ✓

2
3
4
5

BILL

1 13.489 (2m) APPROVAL OF CERTAIN PROJECT DESIGN CHANGES. The commission
2 shall review any report submitted as provided in sub. (6) (a) 2. and, within 60 days
3 of submission of the report, notify the department of transportation of those proposed
4 project design changes that the commission approves or approves with modifications
5 or shall notify the department that it does not approve any of the proposed project
6 design changes. The department of transportation may not implement any proposed
7 project design changes required to be submitted to the commission under sub. (6) (a)
8 2. unless the commission notifies the department under this subsection that the
9 proposed project design changes, with or without modifications, are approved.

10 **SECTION 4.** 13.489 (4) (a) 1. a. and b. of the statutes are amended to read:

11 13.489 (4) (a) 1. a. The commission determines that, within 6 years after the
12 first July 1 after the date on which the commission recommends approval of the
13 project, construction will be commenced on all projects enumerated under s. 84.013
14 (3) and on the project recommended for approval and the commission has received
15 and reviewed a final environmental impact statement or environmental assessment
16 for the project approved by the federal highway administration.

17 b. The report recommending approval of the project is accompanied by a
18 financing proposal that, if implemented, would provide funding in an amount
19 sufficient to ensure that construction will commence on all projects enumerated
20 under s. 84.013 (3) and on the project within 6 years after the first July 1 after the
21 date on which the commission recommends approval of the project and the
22 commission has received and reviewed a final environmental impact statement or
23 environmental assessment for the project approved by the federal highway
24 administration.

25 **SECTION 5.** 13.489 (4) (c) of the statutes is created to read:

BILL

1 13.489 (4) (c) No project may be enumerated under s. 84.013 (3) or approved
2 under s. 84.013 (6) unless the commission recommends approval, with or without
3 modifications, of the project under par. (a) or, with respect to a project under s. 84.013
4 (6m), designates the project under par. (b).

5 **SECTION 6.** 13.489 (5) and (6) of the statutes are created to read:

6 13.489 (5) DEPARTMENT TO REPORT PROJECT STATUS AND COSTS. (a) By February
7 1, 2005, and every 6 months thereafter, the department of transportation shall
8 submit a report to the commission that does all of the following:

9 1. Summarizes the current status of each project approved by the commission
10 under sub. (1m) (d) and of each project enumerated under s. 84.013 (3) or approved
11 under s. 84.013 (6).

12 2. For each project specified under subd. 1., identifies all actual and estimated
13 project costs, as of the date of preparation of the report, itemized by the following
14 major cost categories:

15 a. Construction contracts.

16 b. Real estate.

17 c. Design engineering.

18 d. Construction engineering.

19 e. Contract change orders.

20 f. Other costs.

21 3. Subject to sub. (6) (a) 2., for each project enumerated under s. 84.013 (3) or
22 approved under s. 84.013 (6) on which the project design or scope changed after
23 enumeration or approval, explains the change, the reason for the change, and the
24 estimated project cost attributable to implementing the change.

25 4. Includes any information required under sub. (6).

BILL

1 (b) All project information included in any report required under this
2 subsection shall be reported on both a cumulative basis from the inception of the
3 project and on an updated basis for the period since the department's last report
4 under this subsection.

5 (6) PROJECT COST OVERRUNS. (a) If at any time after a project is enumerated
6 under s. 84.013 (3) or approved under s. 84.013 (6) the total actual or estimated
7 project costs for the project increase to an amount that exceeds 10 percent of the total
8 estimated project costs specified in the final environmental impact statement or
9 environmental assessment for the project reviewed by the commission under sub. (4)
10 (a) 1., the department of transportation shall do all of the following:

11 1. Subject to subd. 2., in its next report under sub. (5), identify and explain,
12 including providing any reason for, all such increases in actual or estimated project
13 costs.

14 2. If proposed project design changes alone cause the total estimated project
15 costs to increase by the amount specified in this subsection, the department shall,
16 prior to implementing the proposed project design changes, report the proposed
17 project design changes, any reason for these design changes, and the estimated
18 project cost attributable to these design changes, to the commission for review and
19 approval under sub. (2m).

20 (b) If at any time the department is required to report to the commission under
21 par. (a) 1. or 2., the total project costs, including the identified increase, reported to
22 the commission under par. (a) 1. or 2. shall thereafter be used in lieu of the total
23 estimated project costs specified in the final environmental impact statement or
24 environmental assessment for purposes of determining whether, at any time

BILL

1 subsequent to the report under par. (a) 1. or 2., any additional increase in project
2 costs requires a new report to the commission under par. (a).

3 **SECTION 7. Initial applicability.**

4 (1) The treatment of section 13.489 (4) (a) 1. a. and b. and (c) and (5) (a) 1. and
5 2. of the statutes first applies to projects being considered by the transportation
6 projects commission under section 13.489 of the statutes on the effective date of this
7 subsection.

8 (2) The treatment of section 13.489 (2m), (5) (a) 1. to 3., and (6) of the statutes
9 first applies to projects enumerated under section 84.013 (3) of the statutes or
10 approved under section 84.013 (6) of the statutes on the effective date of this
11 subsection.

12 (END)

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4144/2ins
ARG:.....

INSERT ANAL:

Under current law, membership of the TPC consists of the governor, three citizens appointed by the governor, and five senators and five representatives to the assembly. The secretary of transportation also serves as a nonvoting member. Three of the five senators and three of the five representatives are chosen from the majority party, and two senators and two representatives are chosen from the minority party. This bill increases the membership of the TPC by adding two additional members. Under the bill, the TPC includes six senators and six representatives, rather than five of each. Of these six senators and six representatives, four of each are chosen from the majority party and two of each are chosen from the minority party.

INSERT 2-1:

SECTION ~~14~~[#] 13.489 (1) of the statutes is renumbered 13.489 (1g) and amended to read:

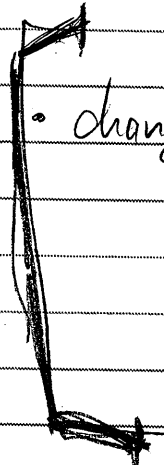
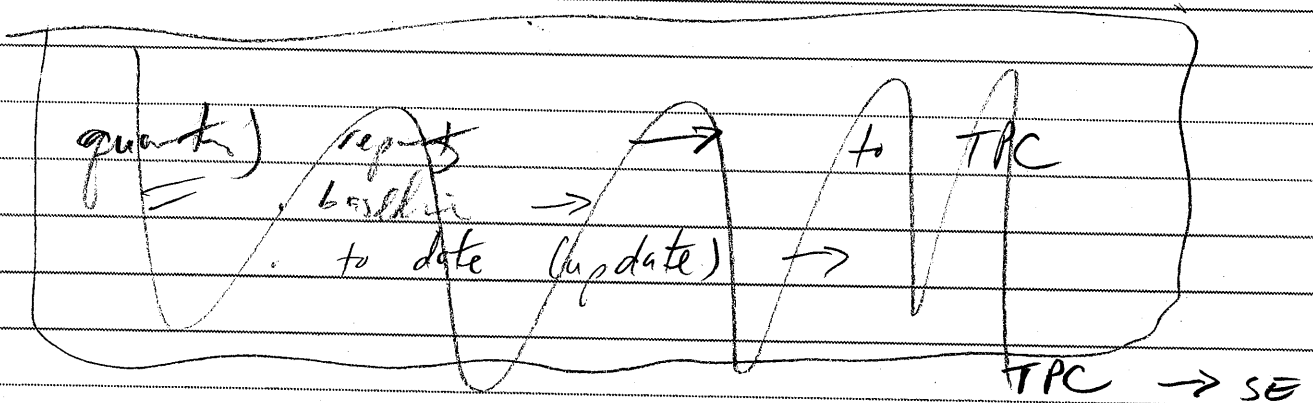
13.489 (1g) CREATION. There is created a transportation projects commission consisting of the governor, 3 citizen members appointed by the governor to serve at his or her pleasure, and ~~5~~ 6 senators and ~~5~~ 6 representatives to the assembly appointed as are the members of standing committees in their respective houses. Of the members from each house, ~~3~~ 4 shall be chosen from the majority party and 2 shall be chosen from the minority party. The secretary of transportation shall serve as a nonvoting member. The governor shall serve as chairperson. Citizen members of the commission shall be reimbursed for their actual and necessary expenses incurred as members of the commission from the appropriation under s. 20.395 (4) (aq).

History: 1983 a. 27; 1985 a. 2; 1985 a. 29 ss. 27 to 29, 3202 (51); 1987 a. 27; 1993 a. 16; 1997 a. 27, 86; 1999 a. 9.

MF n/ Don

2/17/04

done



- change management system : ~~fund~~ fiscal oversight of all projects funded by majors & SE

- now reporting is not just majors

- oversight → staff, not just computer program

2/26

Gary, Aaron

From: Bezruki, Don
Sent: Tuesday, February 17, 2004 2:54 PM
To: Gary, Aaron
Subject: RE: majors redraft

Yes, Aaron, you are right--all funding sources will need to be mentioned if we go that way. It would be nice if there was an easier way of defining the majors program and the southeast. What if we defined "majors" by using the meaning in s 84.012, and defined southeast using the meaning in 84.014(1)(e). S. 84.014(2) identified those larger projects were are concerned with, not some patching job on those routes. The problem is, DOT says the work undertaken at the Marquette Interchange does not meet the definition in (2), claiming they are not adding lane miles.

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

From: Gary, Aaron
Sent: Tuesday, February 17, 2004 2:32 PM
To: Bezruki, Don
Cc: Shannon, Pam
Subject: majors redraft

Don,

Before I forget, I double checked the bond funding issue I mentioned at our meeting. The state (transportation fund) appropriations for majors is 20.395 (3) (bq) and the state appropriation for SE WI freeway rehab is 20.395 (3) (cr). (The fed apprns for these are 20.395 (3) (bx) and (cy).) What I recalled generally at the mtg but couldn't recall the specifics of is that most of state funding for this biennium (and all of it for this fiscal year) for these programs is actually not coming out of these state SEG apprns. The governor vetoed state funding for the majors programs and SE WI program out of these SEG apprns. for fiscal year 2003-04, so the schedule amts for this year is actually 0. Instead he's funding the state portion of these programs with bonding proceeds. The state share of SE WI funding for FY 03-04 will be paid from GO bonding under 20.866 (2) (uum) (see s. 84.014 (2)) and the majors will be paid from some combination of revenue bonding and GO bonding under s. 20.395 (4) (jq) and 20.866 (2) (ur) to (uum). So if we limit the draft in scope to projects funded from 20.395 (3) (bq) and (cr), DOT has a "loophole" in years like this fiscal year. For this reason, I mentioned and think that if the report requirement is tied to source of funding that all funding sources need to be mentioned in the bill, including bond proceeds.

Please let me know if this is OK. Hopefully I'll be able to get something worked through on the /3 in a couple days.
Aaron

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

Gary, Aaron

From: Bezruki, Don
Sent: Wednesday, February 18, 2004 2:56 PM
To: Gary, Aaron; Shannon, Pam
Subject: RE: LRB-4144 redraft - majors program

2/18 the w/ Pam Shannon
looks good; need 1/3
soon

Seems right to me.

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

From: Gary, Aaron
Sent: Wednesday, February 18, 2004 2:46 PM
To: Shannon, Pam
Cc: Bezruki, Don
Subject: LRB-4144 redraft - majors program

Pam,

I have the redraft finished but wasn't entirely sure it is exactly what you want. Rather than sending it out and maybe having to do a "1/4" right away, I thought I would run the main points by you so that you can comment on them now and we can make the changes now and reduce the likelihood of having to redraft it again to a "1/4". The main changes are:

Delete bill section 3 (p. 3, lines 15-24 of LRB-4144/2)
Delete p. 5, part of line 5 to line 17, and lines 22-25.
Delete p. 6. lines 1 to 18.

As far as changes within the draft, they are pretty limited:

On p. 4, line 22, 6 months is changed to 3 months

On p. 5, line 3, I add "and of each southeast Wisconsin freeway rehabilitation project under s. 84.014" (This is the same language used in s. 84.013 (1) (a) in creating the exception for the SE WI rehab projects under the major highways program) - No additional changes adding SE WI projects are required to p. 5, lines 4-5 and lines 18-21 because these provisions key off 1. and therefore fall in line automatically

Finally, I created s. 85.052 (placed near 85.05 re major highway project evaluation) that reads as follows:
85.052 Change management system for major highway projects and southeast Wisconsin freeway rehabilitation projects. The department shall develop and implement a change management system for providing fiscal and management oversight for all major highway projects funded from any appropriation specified in s. 84.013 (2) (a) and all southeast Wisconsin freeway rehabilitation projects funded from any appropriation specified in s. 84.014 (2).

(I originally wanted to just say "projects funded from any appropriation specified in s. 84.014 (2) (a) or 84.014 (2)," but with the changes in the budget bill to 84.555, it is possible that the 3-R program could be funded from 20.866 (2) (uum), so this doesn't work. And while "southeast Wisconsin freeway rehabilitation project" is almost defined in s. 84.014, it is not quite. So this language may be slightly redundant, but I think it is best, and I think it should be in ch. 85 and not in s. 13.489.)

Let me know if you want any changes to this. If not, let me know and I'll get the "1/3" draft into editing so you'll have it soon. Aaron

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



State of Wisconsin
2003 - 2004 LEGISLATURE

Needed
by 2/19
end of day

LRB-4144/3

ARG:wlj:pg

RMR

2003 BILL

↗ southeast Wisconsin freeway
rehabilitation projects

1 AN ACT ^{Regen} ~~to renumber and amend~~ 13.489 (1) and 13.489 (1m) (a); **to amend**
 2 13.489 (4) (a) 1. a. and b.; and **to create** 13.489 (2m), 13.489 (4) (c) and 13.489
 3 (5) and (6) of the statutes; **relating to:** major highway projects and the
 4 transportation projects commission.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Transportation (DOT) administers a major highway projects program. With limited exceptions, a major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes five miles or more in length to the highway; or improvement of an existing multilane, divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, must generally receive the approval of the Transportation Projects Commission (TPC) and the legislature (generally referred to as "enumeration") before the project may be constructed.

Under current law, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without the approval of the TPC and the legislature, the legislature may enumerate and approve the

BILL

construction of major highway projects without approval by the TPC. The TPC may not recommend approval of a major highway project unless the TPC determines that there is sufficient funding to begin construction of the project within six years.

insert ANAL-A

This bill prohibits the TPC from recommending approval of any major highway project prior to the completion by DOT, and review by the TPC, of a final EIS or EA approved by the Federal Highway Administration. The bill also prohibits the legislature from enumerating any major highway project unless the TPC has recommended approval of the project.

~~The bill further requires prior TPC approval for certain project design changes proposed by DOT after the project's enumeration.~~

three

The bill ~~also~~ requires DOT to submit a report to the TPC, beginning on February 1, 2005, and every ~~30~~ months thereafter, that does all of the following:

1. Summarizes the current status of each potential major highway project for which the TPC has approved preparation of an EIS or EA ~~and~~ of each enumerated major highway project ~~and~~ *and of each southeast Wisconsin freeway rehabilitation project*

2. For each project identified in item 1., above, identifies all actual and estimated project costs, itemized by major cost categories.

3. For each enumerated major highway project on which the project design or scope changed after enumeration, explains the change, the reason for the change, and the estimated project cost attributable to implementing the change.

4. For each enumerated major highway project on which the total actual or estimated project costs increase to an amount that exceeds 10 percent of the total estimated project costs specified in DOT's final EIS or EA, identifies and explains the cost increases, except that if estimated cost increases attributable to proposed project design changes alone exceed 10 percent, DOT must obtain approval of the TPC before implementing the proposed design changes. If such a report is required, the increased project costs specified in the report become the baseline for determining whether subsequent project cost increases require another report.

The bill requires all project information in the report to be reported on both a cumulative basis from the inception of the project and on an updated basis for the period since DOT's last report.

insert ANAL-B

Under current law, membership of the TPC consists of the governor, three citizens appointed by the governor, ~~and~~ five senators, and five representatives to the assembly. The secretary of transportation also serves as a nonvoting member. Three of the five senators and three of the five representatives are chosen from the majority party, and two senators and two representatives are chosen from the minority party. This bill increases the membership of the TPC by adding two additional members. Under the bill, the TPC includes six senators and six representatives, rather than five of each. Of these six senators and six representatives, four of each are chosen from the majority party and two of each are chosen from the minority party.

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

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

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1 **SECTION 1.** 13.489 (1) of the statutes is renumbered 13.489 (1g) and amended
2 to read:

3 **13.489 (1g) CREATION.** There is created a transportation projects commission
4 consisting of the governor, 3 citizen members appointed by the governor to serve at
5 his or her pleasure, and 5 6 senators and 5 6 representatives to the assembly
6 appointed as are the members of standing committees in their respective houses. Of
7 the members from each house, 3 4 shall be chosen from the majority party and 2 shall
8 be chosen from the minority party. The secretary of transportation shall serve as a
9 nonvoting member. The governor shall serve as chairperson. Citizen members of the
10 commission shall be reimbursed for their actual and necessary expenses incurred as
11 members of the commission from the appropriation under s. 20.395 (4) (aq).

12 **SECTION 2.** 13.489 (1m) (a) of the statutes is renumbered 13.489 (1c), and
13 13.489 (1c) (intro.), as renumbered, is amended to read:

14 **13.489 (1c) (intro.)** In this subsection section:

15 **SECTION 3.** 13.489 (2m) of the statutes is created to read:

16 **13.489 (2m) APPROVAL OF CERTAIN PROJECT DESIGN CHANGES.** The commission
17 shall review any report submitted as provided in sub. (6) (a) 2. and, within 60 days
18 of submission of the report, notify the department of transportation of those proposed
19 project design changes that the commission approves or approves with modifications
20 or shall notify the department that it does not approve any of the proposed project
21 design changes. The department of transportation may not implement any proposed
22 project design changes required to be submitted to the commission under sub. (6) (a)
23 2. unless the commission notifies the department under this subsection that the
24 proposed project design changes, with or without modifications, are approved.

25 **SECTION 4.** 13.489 (4) (a) 1. a. and b. of the statutes are amended to read:

BILL

1 13.489 (4) (a) 1. a. The commission determines that, within 6 years after the
2 first July 1 after the date on which the commission recommends approval of the
3 project, construction will be commenced on all projects enumerated under s. 84.013
4 (3) and on the project recommended for approval and the commission has received
5 and reviewed a final environmental impact statement or environmental assessment
6 for the project approved by the federal highway administration.

7 b. The report recommending approval of the project is accompanied by a
8 financing proposal that, if implemented, would provide funding in an amount
9 sufficient to ensure that construction will commence on all projects enumerated
10 under s. 84.013 (3) and on the project within 6 years after the first July 1 after the
11 date on which the commission recommends approval of the project and the
12 commission has received and reviewed a final environmental impact statement or
13 environmental assessment for the project approved by the federal highway
14 administration.

15 **SECTION 5.** 13.489 (4) (c) of the statutes is created to read:

16 13.489 (4) (c) No project may be enumerated under s. 84.013 (3) or approved
17 under s. 84.013 (6) unless the commission recommends approval, with or without
18 modifications, of the project under par. (a) or, with respect to a project under s. 84.013
19 (6m), designates the project under par. (b).

20 **SECTION 6.** 13.489 (5) ~~and (6)~~ of the statutes ~~are~~ ^{is} created to read:

21 13.489 (5) DEPARTMENT TO REPORT PROJECT STATUS AND COSTS. (a) By February

22 1, 2005, and every ³/₆ months thereafter, the department of transportation shall
23 submit a report to the commission that does all of the following:

BILL

1 1. Summarizes the current status of each project approved by the commission
 2 under sub. (1m) (d) ~~and~~ ⁵ of each project enumerated under s. 84.013 (3) or approved
 3 under s. 84.013 (6) ~~and~~ ⁵ *and of each southeast Wisconsin freeway*
 4 2. For each project specified under subd. 1., identifies all actual and estimated
 5 project costs, as of the date of preparation of the report ~~itemized by the following~~

6 ~~major cost categories:~~
 7 a. Construction contracts.
 8 b. Real estate.
 9 c. Design engineering.
 10 d. Construction engineering.
 11 e. Contract change orders.
 12 f. Other costs.
 13 3. Subject to sub. (6) (a) 2., for each project enumerated under s. 84.013 (3) or
 14 approved under s. 84.013 (6) on which the project design or scope changed after
 15 enumeration or approval, explains the change, the reason for the change, and the
 16 estimated project cost attributable to implementing the change.
 17 4. Includes any information required under sub. (6).

18 (b) All project information included in any report required under this
 19 subsection shall be reported on both a cumulative basis from the inception of the
 20 project and on an updated basis for the period since the department's last report
 21 under this subsection.

*Insert
5-21*

22 (6) PROJECT COST OVERRUNS. (a) If at any time after a project is enumerated
 23 under s. 84.013 (3) or approved under s. 84.013 (6) the total actual or estimated
 24 project costs for the project increase to an amount that exceeds 10 percent of the total
 25 estimated project costs specified in the final environmental impact statement or

BILL

1 environmental assessment for the project reviewed by the commission under sub. (4)

2 (a) 1., the department of transportation shall do all of the following:

3 1. Subject to subd. 2., in its next report under sub. (5), identify and explain,
4 including providing any reason for, all such increases in actual or estimated project
5 costs.

6 2. If proposed project design changes alone cause the total estimated project
7 costs to increase by the amount specified in this subsection, the department shall,
8 prior to implementing the proposed project design changes, report the proposed
9 project design changes, any reason for these design changes, and the estimated
10 project cost attributable to these design changes, to the commission for review and
11 approval under sub. (2m).

12 (b) If at any time the department is required to report to the commission under
13 par. (a) 1. or 2., the total project costs, including the identified increase, reported to
14 the commission under par. (a) 1. or 2. shall thereafter be used in lieu of the total
15 estimated project costs specified in the final environmental impact statement or
16 environmental assessment for purposes of determining whether, at any time
17 subsequent to the report under par. (a) 1. or 2., any additional increase in project
18 costs requires a new report to the commission under par. (a).

19 **SECTION 7. Initial applicability.**

20 (1) The treatment of section 13.489 (4) (a) 1. a. and b. and (c) and (5) (a) 1. and
21 2. of the statutes first applies to ^{major highway} projects being considered by the transportation
22 projects commission under section 13.489 of the statutes on the effective date of this
23 subsection.

24 (2) The treatment of section 13.489 ~~(2b)~~ (5) (a) 1. ^{and 20} ~~(2b)~~ of the statutes
25 first applies to ^{major highway} projects enumerated under section 84.013 (3) of the statutes or

BILL

1 approved under section 84.013 (6) of the statutes on the effective date of this
2 subsection.

3 (END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4144/3ins
ARG:.....

INSERT ANAL-A:

Current law ~~also~~ distinguishes, and provides separate funding for, southeast Wisconsin freeway rehabilitation projects, including reconstruction of the Marquette interchange in Milwaukee County. Current law specifically exempts any southeast Wisconsin freeway rehabilitation project from the definition of a major highway project, even if the southeast Wisconsin freeway rehabilitation project would meet the criteria described above for a major highway project. Southeast Wisconsin freeway rehabilitation projects are therefore not required to be reviewed or approved by the TPC.

INSERT ANAL-B:

The bill ~~also~~ requires DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects and southeast Wisconsin freeway rehabilitation projects.

INSERT 5-21:

~~SECTION 6,~~ [#] 85.052 of the statutes is created to read:

85.052 Change management system for major highway projects and southeast Wisconsin freeway rehabilitation projects. The department shall develop and implement a change management system for providing fiscal and management oversight for all major highway projects funded from any appropriation specified in s. 84.013 (2) (a) and all southeast Wisconsin freeway rehabilitation projects funded from any appropriation specified in s. 84.014 (2).

Barman, Mike

From: Gary, Aaron
Sent: Wednesday, February 18, 2004 4:40 PM
To: Barman, Mike
Subject: LRB-4144

Mike,

The "1/3" of this draft will be out sometime tomorrow and Pam Shannon at Leg Council asked me to ask you to initiate the fiscal estimate process as soon as possible on the "1/3" version. Thanks. Aaron

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

Give To Mike B
↓
FE Request

Barman, Mike

From: Asbjornson, Karen
Sent: Thursday, February 19, 2004 3:02 PM
To: LRB.Legal
Subject: Draft review: LRB 03-4144/3 Topic: Changes regarding major highway projects enumeration and transportation projects commission following audit bureau report

It has been requested by <Asbjornson, Karen> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-4144/3 Topic: Changes regarding major highway projects enumeration and transportation projects commission following audit bureau report