

2003 DRAFTING REQUEST

Bill

Received: **01/21/2003**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Grinde**

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

Drafter: **agary**

May Contact:

Addl. Drafters: **phurley**

Subject: **Transportation - highways**

Extra Copies: **TNF, ARG**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Grinde - BB0388,

Topic:

Transfer Highway Improvement Activities to State Highway Rehabilitation

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>
/?	phurley 01/24/2003	csicilia 01/27/2003		_____			S&L
/1	agary 01/27/2003	csicilia 01/27/2003	jfrantze 01/28/2003	_____	mbarman 01/28/2003		
	phurley 01/27/2003	csicilia 01/28/2003		_____			

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: **01/21/2003**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Grinde**

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

Drafter: **agary**

May Contact:

Addl. Drafters: **phurley**

Subject: **Transportation - highways**

Extra Copies: **TNF, ~~ARC~~**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Grinde - BB0388,

Topic:

Transfer Highway Improvement Activities to State Highway Rehabilitation

Instructions:

See Attached

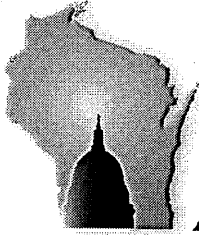
Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 01/24/2003	csicilia 01/27/2003		_____			S&L
/1	agary 01/27/2003 phurley	csicilia 01/27/2003		_____			

1/28/03 *1/28/03* *1/28/03*

FE Sent For:

<END>



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

JAMES E. DOYLE
GOVERNOR

MARC J. MAROTTA
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: January 20, 2003

To: Stephen R. Miller, Chief
Legislative Reference Bureau

From: Kirsten Grinde *KMG*
Team Leader
ECR Team

Subject: **Biennial Budget Drafting Request**
Agency 395 – Department of Transportation (DOT)

Budget Office Request Title:

Transfer Highway Improvement Activities to State Highway Rehabilitation

Request Description:

Reverse the language in 2001 Wisconsin Act 16, that modified the definition of "highway improvement" and prohibited the expenditure of funds from the state highway rehabilitation and southeast freeway rehabilitation appropriations for the installation, replacement, rehabilitation or maintenance of highway signs, traffic control signals, highway lighting, pavement markings or intelligent transportation systems. This would have the impact of allowing DOT to expend rehabilitation funding for these activities.

Please let me know if you have any questions or need more information. I can be contacted at 6-1040 or kirsten.grinde@doa.state.wi.us.

BB0399

LFB:.....Dyck – Expenditure authority for state highway rehabilitation, maintenance, and traffic operations (item 37)

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 188, line 19: decrease the dollar amount for fiscal year 2001-02 by
3 \$27,000,000 to decrease funding for the purposes for which the appropriation is
4 made.

5 **2.** Page 189, line 12: increase the dollar amount for fiscal year 2001-02 by
6 \$27,000,000 to increase funding for the purposes for which the appropriation is
7 made.

8 **3.** Page 344, line 17: after "84.014" insert ", or to the installation, replacement,
9 rehabilitation, or maintenance of highway signs, traffic control signals, highway

1 lighting, pavement markings, or intelligent transportation systems, unless
2 incidental to the improvement of existing state trunk and connecting highways”.

3 4. Page 346, line 12: after “84.014” insert “, or to the installation, replacement,
4 rehabilitation, or maintenance of highway signs, traffic control signals, highway
5 lighting, pavement markings, or intelligent transportation systems, unless
6 incidental to the improvement of existing state trunk and connecting highways”.

7 5. Page 347, line 1: delete the material beginning with “for” and ending with
8 “lighting” on line 3 and substitute “~~for highway operations such as permit issuance,~~
9 ~~pavement marking, highway signing, traffic signalization and highway lighting for~~
10 permit issuance and other highway operations, including the installation,
11 replacement, rehabilitation, or maintenance of highway signs, traffic control signals,
12 highway lighting, pavement markings, and intelligent transportation systems.”.

13 6. Page 347, line 23: delete the material beginning with “for” and ending with
14 “lighting” on line 25 and substitute “~~for highway operations such as permit issuance,~~
15 ~~pavement marking, highway signing, traffic signalization and highway lighting for~~
16 permit issuance and other highway operations, including the installation,
17 replacement, rehabilitation, or maintenance of highway signs, traffic control signals,
18 highway lighting, pavement markings, and intelligent transportation systems.”.

19 7. Page 856, line 3: after that line insert:

20 “SECTION 2294m. 84.001 (1r) of the statutes is created to read:

21 84.001 (1r) “Intelligent transportation system” means a specialized computer
22 system or other electronic, information processing, communication, or technical
23 system, including roadway detector loops, closed circuit television, permanent

1 variable message signs, or ramp meters, that is used to improve the efficiency or
2 safety of a surface transportation system.”.

3 **8.** Page 865, line 20: after that line insert:

4 **“SECTION 2307g.** 84.06 (1) of the statutes is amended to read:

5 84.06 (1) DEFINITIONS. In this section, “improvement” or “highway
6 improvement” includes construction, reconstruction, rehabilitation, and the
7 ~~activities, operations and processes incidental to building, fabricating, or bettering~~
8 ~~a highway, public mass transportation system or street, but not maintenance. The~~
9 ~~terms do not include the installation, replacement, rehabilitation, or maintenance~~
10 ~~of highway signs, traffic control signals, highway lighting, pavement markings, or~~
11 ~~intelligent transportation systems, unless incidental to building, fabricating, or~~
12 ~~bettering a highway or street.~~

13 **SECTION 2307h.** 84.07 (1) of the statutes is amended to read:

14 84.07 (1) STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY. The state trunk
15 highway system shall be maintained by the state at state expense. The department
16 shall prescribe by rule specifications for such maintenance and may contract with
17 any county highway committee or municipality to have all or certain parts of the
18 work of maintaining the state trunk highways within or beyond the limits of the
19 county or municipality, including interstate bridges, performed by the county or
20 municipality, and any county or municipality may enter into such contract. General
21 maintenance activities include the application of protective coatings, the removal
22 and control of snow, the removal, treatment and sanding of ice, interim repair of
23 highway surfaces and adjacent structures, and all other operations, activities and
24 processes required on a continuing basis for the preservation of the highways on the

1 state trunk system, and including the care and protection of trees and other roadside
2 vegetation and suitable planting to prevent soil erosion or to beautify highways
3 pursuant to s. 80.01 (3), and all measures deemed necessary to provide adequate
4 traffic service. Special maintenance activities include the restoration,
5 reinforcement, complete repair or other activities which the department deems are
6 necessary on an individual basis for specified portions of the state trunk system.
7 Maintenance activities also include the installation, replacement, rehabilitation, or
8 maintenance of highway signs, traffic control signals, highway lighting, pavement
9 markings, and intelligent transportation systems. The department may contract
10 with a private entity for services or materials or both associated with the installation,
11 replacement, rehabilitation, or maintenance of highway signs, traffic control signals,
12 highway lighting, pavement markings, and intelligent transportation systems.”.

13 **9.** Page 1363, line 2: after that line insert:

14 (7q) REQUEST FOR ADDITIONAL MAINTENANCE ACTIVITIES FUNDING. At the 4th
15 quarterly meeting of the joint committee on finance under section 13.10 of the
16 statutes in the 2001–02 fiscal year, the department of transportation may submit to
17 the committee a request for the transfer of moneys not to exceed \$10,000,000 from
18 the appropriation under section 20.395 (3) (cq) of the statutes, as affected by this act,
19 to the appropriation under section 20.395 (3) (eq) of the statutes, as affected by this
20 act, in the 2002–03 fiscal year for the purpose of funding the installation,
21 replacement, rehabilitation, or maintenance of highway signs, traffic control signals,
22 highway lighting, pavement markings, and intelligent transportation systems.”.

23 (END)

LFB:.....Dyck – Southeast Wisconsin freeway rehabilitation (item 35)

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 189, line 2: on lines 2, 6 and 10, delete “reconstruction” and substitute
3 “rehabilitation”.

4 **2.** Page 344, line 16: delete the material beginning with “the” and ending with
5 “specified” on line 17 and substitute “any southeast Wisconsin freeway rehabilitation
6 projects”.

7 **3.** Page 344, line 19: delete “*reconstruction*” and substitute “*rehabilitation*”.

8 **4.** Page 344, line 20: delete the material beginning with “reconstruction” and
9 ending with “repair” on line 21 and substitute “rehabilitation”.

1 **5.** Page 344, line 23: after “(a).” insert “This paragraph does not apply to the
2 installation, replacement, rehabilitation, or maintenance of highway signs, traffic
3 control signals, highway lighting, pavement markings, or intelligent transportation
4 systems, unless incidental to rehabilitation of southeast Wisconsin freeways.”.

5 **6.** Page 345, line 15: delete the material beginning with “the” and ending with
6 “specified” on line 16 and substitute “any southeast Wisconsin freeway rehabilitation
7 projects”.

8 **7.** Page 345, line 18: delete “*reconstruction*” and substitute “*rehabilitation*”.

9 **8.** Page 345, line 19: delete the material beginning with “reconstruction” and
10 ending with “repair” on line 20 and substitute “rehabilitation”.

11 **9.** Page 346, line 11: delete the material beginning with “the” and ending with
12 “specified” on line 12 and substitute “any southeast Wisconsin freeway rehabilitation
13 projects”.

14 **10.** Page 346, line 14: delete “*reconstruction*” and substitute “*rehabilitation*”.

15 **11.** Page 346, line 15: delete “reconstruction and interim repair” and
16 substitute “rehabilitation”.

17 **12.** Page 346, line 18: after “purposes.” insert “This paragraph does not apply
18 to the installation, replacement, rehabilitation, or maintenance of highway signs,
19 traffic control signals, highway lighting, pavement markings, or intelligent
20 transportation systems, unless incidental to rehabilitation of southeast Wisconsin
21 freeways.”.

22 **13.** Page 859, line 10: delete “**reconstruction**” and substitute
23 “**rehabilitation**”.

1 **14.** Page 859, line 22: after that line insert:

2 “(d) “Rehabilitation” means the reconditioning, reconstruction, or resurfacing,
3 as defined in s. 84.013 (1) (b) to (d), of a freeway or the adding of one or more lanes
4 to the freeway, and includes interim repairs.

5 (e) “Southeast Wisconsin freeway” means a state trunk highway, located in
6 Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, or Waukesha
7 county, that has 4 or more lanes of traffic physically separated by a median or barrier
8 and that gives preference to through traffic by limiting access to interchanges only.”.

9 **15.** Page 859, line 23: after “86.255,” insert “any southeast Wisconsin freeway
10 rehabilitation projects, including”.

11 **16.** Page 859, line 24: delete “project” and substitute “project,”.

12 **17.** Page 860, line 7: on lines 7 and 13, delete “reconstruction” and substitute
13 “rehabilitation”.

14 **18.** Page 1359, line 25: delete “reconstruction” and substitute
15 “rehabilitation”.

16 **19.** Page 1360, line 4: delete “RECONSTRUCTION” and substitute
17 “REHABILITATION”.

18 **20.** Page 1360, line 11: on lines 11 and 14, delete “reconstruction” and
19 substitute “rehabilitation”.

20

(END)



SA ✓
new CR ✓
x-ref ✓

State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1640/1
ARG&PJH:/:....

gjs

DOA:.....Grinde - BB0388, Transfer Highway Improvement Activities to
State Highway Rehabilitation

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

D-note

Do NOT Gen

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

Analysis by the Legislative Reference Bureau

TRANSPORTATION ✓

HIGHWAYS ✓

Under current law, state funds appropriated from the transportation fund for state highway rehabilitation may be used by the Department of Transportation (DOT) for improvement of existing state trunk and connecting highways and for the construction and rehabilitation of interstate and federal-aid highways, but may not be used for the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems unless incidental to the improvement of existing state trunk and connecting highways. Also under current law, state and federal funds appropriated from the transportation fund for rehabilitation of southeast Wisconsin freeways, including the Marquette interchange reconstruction project, may be used by DOT for such purposes but may not be used for the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems unless incidental to the rehabilitation of southeast Wisconsin freeways. Current law provides for specific appropriations of state and federal funds for state highway maintenance, repair, and traffic operations, including the installation, replacement,

language that prevents

rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems.

Also under current law, "highway improvement" for purposes of highway construction is defined to include construction, reconstruction, and rehabilitation, but not maintenance or the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems. Current law defines maintenance activities to include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems, and allows DOT to contract with private entities to carry out these specific activities.

This bill removes the statutory ~~prohibition and thereby allows~~ DOT ~~to use~~ state funds appropriated for state highway rehabilitation and state and federal funds appropriated for rehabilitation of southeast Wisconsin freeways for purposes related to the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems in connection with any state highway rehabilitation project or any southeast Wisconsin freeway rehabilitation project. The bill also modifies definitions of "highway improvement" and "maintenance" to reflect this change in funding authorization. The bill continues to allow DOT to contract with private entities to carry out the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems.

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

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

- 1 SECTION 1. 20.395 (3) (cq) of the statutes is amended to read:
- 2 20.395 (3) (cq) *State highway rehabilitation, state funds.* As a continuing
- 3 appropriation, the amounts in the schedule for improvement of existing state trunk
- 4 and connecting highways; for improvement of bridges on state trunk or connecting
- 5 highways and other bridges for which improvement is a state responsibility, for
- 6 necessary approach work for such bridges and for replacement of such bridges with
- 7 at-grade crossing improvements; for the construction and rehabilitation of the
- 8 national system of interstate and defense highways and bridges and related

1 appurtenances; for special maintenance activities under s. 84.04 on roadside
2 improvements; for bridges under s. 84.10; for payment to a local unit of government
3 for a jurisdictional transfer under s. 84.02 (8); for the disadvantaged business
4 demonstration and training program under s. 84.076; for the transfers required
5 under 1999 Wisconsin Act 9, section 9250 (1); and for the purposes described under
6 1999 Wisconsin Act 9, section 9150 (8g), and 2001 Wisconsin Act 16, section 9152 (4e).

7 ~~This paragraph does not apply to any southeast Wisconsin freeway rehabilitation~~
8 ~~projects under s. 84.014, or to the installation, replacement, rehabilitation, or~~
9 ~~maintenance of highway signs, traffic control signals, highway lighting, pavement~~
10 ~~markings, or intelligent transportation systems, unless incidental to the~~
11 ~~improvement of existing state trunk and connecting highways.~~ ← plain ✓

delete
strike

12 SECTION 2. 20.395 (3) (cr) of the statutes is amended to read:

13 20.395 (3) (cr) *Southeast Wisconsin freeway rehabilitation, state funds.* As a
14 continuing appropriation, the amounts in the schedule for rehabilitation of
15 southeast Wisconsin freeways, including reconstruction and interim repair of the
16 Marquette interchange in Milwaukee County, and for the grant under s. 84.03 (3) (a).
17 ~~This paragraph does not apply to the installation, replacement, rehabilitation, or~~
18 ~~maintenance of highway signs, traffic control signals, highway lighting, pavement~~
19 ~~markings, or intelligent transportation systems, unless incidental to rehabilitation~~
20 ~~of southeast Wisconsin freeways.~~ No moneys may be encumbered from this
21 appropriation account after June 30, 2011. Notwithstanding s. 20.001 (3) (c), any
22 unencumbered balance in this appropriation account on July 1, 2011, shall be
23 transferred to the appropriation account under par. (cq).

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

1 20.395 (3) (cy) *Southeast Wisconsin freeway rehabilitation, federal funds.* All
2 moneys received from the federal government for rehabilitation of southeast
3 Wisconsin freeways, including reconstruction and interim repair of the Marquette
4 interchange in Milwaukee County, and for the grant under s. 84.03 (3) (a), for such
5 purposes. ~~This paragraph does not apply to the installation, replacement,~~
6 ~~rehabilitation, or maintenance of highway signs, traffic control signals, highway~~
7 ~~lighting, pavement markings, or intelligent transportation systems, unless~~
8 ~~incidental to rehabilitation of southeast Wisconsin freeways.~~ No moneys may be
9 encumbered from this appropriation account after June 30, 2011. Notwithstanding
10 s. 20.001 (3) (c), any unencumbered balance in this appropriation account on July 1,
11 2011, shall be transferred to the appropriation account under par. (cx).

12 **SECTION 4.** 84.06 (1) of the statutes is amended to read:

13 84.06 (1) **DEFINITIONS.** In this section, “improvement” or “highway
14 improvement” includes construction, reconstruction, rehabilitation, and processes
15 incidental to building, fabricating, or bettering a highway or street, but not
16 maintenance. ~~The terms do not include the installation, replacement, rehabilitation,~~
17 ~~or maintenance of highway signs, traffic control signals, highway lighting, pavement~~
18 ~~markings, or intelligent transportation systems, unless incidental to building,~~
19 ~~fabricating, or bettering a highway or street.~~

20 **SECTION 5.** 84.06 (2) (a) of the statutes is amended to read:

21 84.06 (2) (a) All such highway improvements shall be executed by contract
22 based on bids unless the department finds that another method as provided in sub.
23 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
24 the manner determined by the department. Except as provided in s. 84.075, the
25 contract shall be awarded to the lowest competent and responsible bidder as

1 determined by the department. If the bid of the lowest competent bidder is
2 determined by the department to be in excess of the estimated reasonable value of
3 the work or not in the public interest, all bids may be rejected. The department shall,
4 so far as reasonable, follow uniform methods of advertising for bids and may
5 prescribe and require uniform forms of bids and contracts. Except as provided in par.
6 (b), the secretary shall enter into the contract on behalf of the state. Every such
7 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
8 ss. 16.528, 16.752 and 16.754 apply to the contract. Any such contract involving an
9 expenditure of \$1,000 or more shall not be valid until approved by the governor. The
10 secretary may require the attorney general to examine any contract and any bond
11 submitted in connection with the contract and report on its sufficiency of form and
12 execution. The bond required by s. 779.14 (1m) is exempt from approval by the
13 governor and shall be subject to approval by the secretary. This subsection also
14 applies to contracts with private contractors based on bids under s. 84.067 and on
15 bids for maintenance under s. 84.07.

16 **SECTION 6.** 84.067 of the statutes is created to read:

17 **84.067 Contracts with private entities for certain services and**
18 **materials.** The department may contract with a private entity for services or
19 materials or both associated with the installation, replacement, rehabilitation, or
20 maintenance of highway signs, traffic control signals, highway lighting, pavement
21 markings, and intelligent transportation systems. ✓

22 **SECTION 7.** 84.07 (1) of the statutes is amended to read:

23 **84.07 (1) STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY.** The state trunk
24 highway system shall be maintained by the state at state expense. The department
25 shall prescribe by rule specifications for such maintenance and may contract with

SECTION 7

1 any county highway committee or municipality to have all or certain parts of the
 2 work of maintaining the state trunk highways within or beyond the limits of the
 3 county or municipality, including interstate bridges, performed by the county or
 4 municipality, and any county or municipality may enter into such contract. General
 5 maintenance activities include the application of protective coatings, the removal
 6 and control of snow, the removal, treatment and sanding of ice, interim repair of
 7 highway surfaces and adjacent structures, and all other operations, activities and
 8 processes required on a continuing basis for the preservation of the highways on the
 9 state trunk system, and including the care and protection of trees and other roadside
 10 vegetation and suitable planting to prevent soil erosion or to beautify highways
 11 pursuant to s. 80.01 (3), and all measures deemed necessary to provide adequate
 12 traffic service. Special maintenance activities include the restoration,
 13 reinforcement, complete repair or other activities which the department deems are
 14 necessary on an individual basis for specified portions of the state trunk system.
 15 ~~Maintenance activities also include the installation, replacement, rehabilitation, or~~
 16 ~~maintenance of highway signs, traffic control signals, highway lighting, pavement~~
 17 ~~markings, and intelligent transportation systems. The department may contract~~
 18 ~~with a private entity for services or materials or both associated with the installation,~~
 19 ~~replacement, rehabilitation, or maintenance of highway signs, traffic control signals,~~
 20 ~~highway lighting, pavement markings, and intelligent transportation systems.~~

SECTION 8. 84.075 (1) of the statutes is amended to read:

21 84.075 (1) In purchasing services under s. 84.01 (13), in awarding construction
 22 contracts under s. 84.06 and in contracting with private contractors and agencies
 23 under s. ss. 84.067 and 84.07, the department shall attempt to ensure that 5% of the
 24 total amount expended in each fiscal year is paid to contractors, subcontractors and
 25

1 vendors which are minority businesses, as defined under s. 560.036 (1) (e) 1. In
2 attempting to meet this goal, the department may award any contract to a minority
3 business that submits a qualified responsible bid that is no more than 5% higher
4 than the low bid.

5 SECTION 9. 84.075 (3) of the statutes is amended to read:

6 84.075 (3) The department shall at least semiannually, or more often if
7 required by the department of administration, report to the department of
8 administration the total amount of money it has paid to contractors, subcontractors
9 and vendors which are minority businesses under ss. 84.01 (13), 84.06, 84.065, and
10 84.07 and the number of contacts with minority businesses in connection with
11 proposed purchases and contracts. In its reports, the department shall include only
12 amounts paid to businesses certified by the department as minority businesses.

13

(END)

067

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1640/1dn
PJH&ARG:.....

js

ATTN.: Kirsten Grinde

2001 Wisconsin Act 16 (the budget bill) included provisions that significantly modified the relationship between "construction" funding and "maintenance" funding for highways. In particular, Act 16 inserted language prohibiting certain highway "reconstruction" or "rehabilitation" funds from being expended for "maintenance" or "traffic operations" activities, even if the "maintenance" or "traffic operations" activities occurred in connection with a reconstruction or rehabilitation project. In essence, Act 16 established a "funding wall" between certain types of activities even if the activities were part of one project. We interpret this request as one to remove the "funding wall" so that DOT has flexibility in funding its projects, but not necessarily to undo all related statutory modifications in Act 16. ✓

The relevant provisions in Act 16 included a \$27 million decrease in the appropriation for highway rehabilitation (s. 20.395 (3) (cq)) and a corresponding \$27 million increase in the appropriation for highway maintenance and traffic operations (s. 20.395 (3) (eq)) for fiscal year 2001-02 to reflect the transfer of funding responsibility for certain activities from the former appropriation to the latter. However, no such such dollar adjustment was provided for fiscal year 2002-03, the "base" year. Therefore, to truly "undo" these funding provisions from Act 16 may take some adjustment to the chapter 20 schedule. (We also note that Act 16 included a provision allowing DOT to request from the joint finance committee, under s. 13.10, an increase in funding under s. 20.395 (3) (eq) of up to \$10 million. Act 16, section 9152(7q) DOT made this request late last year, and the request was granted; we are unaware whether this additional \$10 million will be included in the fiscal year 2002-03 "base" for the appropriation.) ✓

in section 9152 (7q) ✓

The treatment of s. 20.395 (3) (eq) and (ex) in Act 16 "cleaned up" the language of these provisions and provided more specificity as to authorized expenditures under these appropriations. The language of s. 20.395 (3) (eq) and (ex) does not prohibit expenditures under s. 20.395 (3) (cq), (cr), (cx), and (cy) for similar activities, and we accordingly do not believe the treatment of s. 20.395 (3) (eq) and (ex) is necessary in the attached draft. ✓ ✓ ✓

Because s. 84.06 (1) defines "highway improvements" to exclude maintenance, certain modifications to s. 84.06 (1) and 84.07 (1) are necessary in the attached draft. As we indicated above, we interpret the drafting instructions to request statutory changes ✓ ✓

related to the respective funding obligations of the "rehabilitation" appropriation vs. the "maintenance" appropriation, not to "undo" all related statutory modifications in Act 16. A related provision of Act 16 authorizes DOT to contract with private entities for the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems. To leave this provision intact, we have had to move the provision from s. 84.07 (1) to a newly created provision, s. 84.067. This new provision is placed between s. 84.06 (highway construction) and s. 84.07 (maintenance) and does not identify these specified activities as either "highway improvements" or "maintenance".

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

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1640/1dn
PJH&ARG:cjs:jf

January 28, 2003

ATTN.: Kirsten Grinde

2001 Wisconsin Act 16 (the budget bill) included provisions that significantly modified the relationship between "construction" funding and "maintenance" funding for highways. In particular, Act 16 inserted language prohibiting certain highway "reconstruction" or "rehabilitation" funds from being expended for "maintenance" or "traffic operations" activities, even if the "maintenance" or "traffic operations" activities occurred in connection with a reconstruction or rehabilitation project. In essence, Act 16 established a "funding wall" between certain types of activities even if the activities were part of one project. We interpret this request as one to remove the "funding wall" so that DOT has flexibility in funding its projects, but not necessarily to undo all related statutory modifications in Act 16.

The relevant provisions in Act 16 included a \$27 million decrease in the appropriation for highway rehabilitation (s. 20.395 (3) (cq)) and a corresponding \$27 million increase in the appropriation for highway maintenance and traffic operations (s. 20.395 (3) (eq)) for fiscal year 2001-02 to reflect the transfer of funding responsibility for certain activities from the former appropriation to the latter. However, no such dollar adjustment was provided for fiscal year 2002-03, the "base" year. Therefore, to truly "undo" these funding provisions from Act 16 may take some adjustment to the chapter 20 schedule. (We also note that Act 16, in section 9152 (7q), included a provision allowing DOT to request from the joint finance committee, under s. 13.10, an increase in funding under s. 20.395 (3) (eq) of up to \$10 million. DOT made this request late last year, and the request was granted; we are unaware whether this additional \$10 million will be included in the fiscal year 2002-03 "base" for the appropriation.)

The treatment of s. 20.395 (3) (eq) and (ex) in Act 16 "cleaned up" the language of these provisions and provided more specificity as to authorized expenditures under these appropriations. The language of s. 20.395 (3) (eq) and (ex) does not prohibit expenditures under s. 20.395 (3) (cq), (cr), (cx), and (cy) for similar activities, and we accordingly do not believe the treatment of s. 20.395 (3) (eq) and (ex) is necessary in the attached draft.

Because s. 84.06 (1) defines "highway improvements" to exclude maintenance, certain modifications to s. 84.06 (1) and 84.07 (1) are necessary in the attached draft. As we indicated above, we interpret the drafting instructions to request statutory changes

related to the respective funding obligations of the "rehabilitation" appropriation vs. the "maintenance" appropriation, not to "undo" all related statutory modifications in Act 16. A related provision of Act 16 authorizes DOT to contract with private entities for the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems. To leave this provision intact, we have had to move the provision from s. 84.07 (1) to a newly created provision, s. 84.067. This new provision is placed between s. 84.06 (highway construction) and s. 84.07 (maintenance) and does not identify these specified activities as either "highway improvements" or "maintenance."

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

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1640/1
ARG&PJH:cjs:jf

DOA:.....Grinde – BB0388, Transfer Highway Improvement Activities to
State Highway Rehabilitation

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, state funds appropriated from the transportation fund for state highway rehabilitation may be used by DOT for improvement of existing state trunk and connecting highways and for the construction and rehabilitation of interstate and federal-aid highways, but may not be used for the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems unless incidental to the improvement of existing state trunk and connecting highways. Also under current law, state and federal funds appropriated from the transportation fund for rehabilitation of southeast Wisconsin freeways, including the Marquette interchange reconstruction project, may be used by DOT for such purposes but may not be used for the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems unless incidental to the rehabilitation of southeast Wisconsin freeways. Current law provides for specific appropriations of state and federal funds for state highway maintenance, repair, and traffic operations, including the installation, replacement, rehabilitation, or maintenance

of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems.

Also under current law, “highway improvement” for purposes of highway construction is defined to include construction, reconstruction, and rehabilitation, but not maintenance or the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems. Current law defines maintenance activities to include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems, and allows DOT to contract with private entities to carry out these specific activities.

This bill removes the statutory language that prevents DOT from using state funds appropriated for state highway rehabilitation and state and federal funds appropriated for rehabilitation of southeast Wisconsin freeways for purposes related to the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems in connection with any state highway rehabilitation project or any southeast Wisconsin freeway rehabilitation project. The bill also modifies definitions of “highway improvement” and “maintenance” to reflect this change in funding authorization. The bill continues to allow DOT to contract with private entities to carry out the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems.

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

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

1 **SECTION 1.** 20.395 (3) (cq) of the statutes is amended to read:
2 20.395 (3) (cq) *State highway rehabilitation, state funds.* As a continuing
3 appropriation, the amounts in the schedule for improvement of existing state trunk
4 and connecting highways; for improvement of bridges on state trunk or connecting
5 highways and other bridges for which improvement is a state responsibility, for
6 necessary approach work for such bridges and for replacement of such bridges with
7 at-grade crossing improvements; for the construction and rehabilitation of the
8 national system of interstate and defense highways and bridges and related

1 appurtenances; for special maintenance activities under s. 84.04 on roadside
2 improvements; for bridges under s. 84.10; for payment to a local unit of government
3 for a jurisdictional transfer under s. 84.02 (8); for the disadvantaged business
4 demonstration and training program under s. 84.076; for the transfers required
5 under 1999 Wisconsin Act 9, section 9250 (1); and for the purposes described under
6 1999 Wisconsin Act 9, section 9150 (8g), and 2001 Wisconsin Act 16, section 9152 (4e).
7 This paragraph does not apply to any southeast Wisconsin freeway rehabilitation
8 projects under s. 84.014, ~~or to the installation, replacement, rehabilitation, or~~
9 ~~maintenance of highway signs, traffic control signals, highway lighting, pavement~~
10 ~~markings, or intelligent transportation systems, unless incidental to the~~
11 ~~improvement of existing state trunk and connecting highways.~~

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

13 20.395 (3) (cr) *Southeast Wisconsin freeway rehabilitation, state funds.* As a
14 continuing appropriation, the amounts in the schedule for rehabilitation of
15 southeast Wisconsin freeways, including reconstruction and interim repair of the
16 Marquette interchange in Milwaukee County, and for the grant under s. 84.03 (3) (a).
17 ~~This paragraph does not apply to the installation, replacement, rehabilitation, or~~
18 ~~maintenance of highway signs, traffic control signals, highway lighting, pavement~~
19 ~~markings, or intelligent transportation systems, unless incidental to rehabilitation~~
20 ~~of southeast Wisconsin freeways.~~ No moneys may be encumbered from this
21 appropriation account after June 30, 2011. Notwithstanding s. 20.001 (3) (c), any
22 unencumbered balance in this appropriation account on July 1, 2011, shall be
23 transferred to the appropriation account under par. (cq).

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

1 20.395 (3) (cy) *Southeast Wisconsin freeway rehabilitation, federal funds.* All
2 moneys received from the federal government for rehabilitation of southeast
3 Wisconsin freeways, including reconstruction and interim repair of the Marquette
4 interchange in Milwaukee County, and for the grant under s. 84.03 (3) (a), for such
5 purposes. ~~This paragraph does not apply to the installation, replacement,~~
6 ~~rehabilitation, or maintenance of highway signs, traffic control signals, highway~~
7 ~~lighting, pavement markings, or intelligent transportation systems, unless~~
8 ~~incidental to rehabilitation of southeast Wisconsin freeways.~~ No moneys may be
9 encumbered from this appropriation account after June 30, 2011. Notwithstanding
10 s. 20.001 (3) (c), any unencumbered balance in this appropriation account on July 1,
11 2011, shall be transferred to the appropriation account under par. (cx).

12 **SECTION 4.** 84.06 (1) of the statutes is amended to read:

13 84.06 (1) DEFINITIONS. In this section, “improvement” or “highway
14 improvement” includes construction, reconstruction, rehabilitation, and processes
15 incidental to building, fabricating, or bettering a highway or street, but not
16 maintenance. ~~The terms do not include the installation, replacement, rehabilitation,~~
17 ~~or maintenance of highway signs, traffic control signals, highway lighting, pavement~~
18 ~~markings, or intelligent transportation systems, unless incidental to building,~~
19 ~~fabricating, or bettering a highway or street.~~

20 **SECTION 5.** 84.06 (2) (a) of the statutes is amended to read:

21 84.06 (2) (a) All such highway improvements shall be executed by contract
22 based on bids unless the department finds that another method as provided in sub.
23 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in
24 the manner determined by the department. Except as provided in s. 84.075, the
25 contract shall be awarded to the lowest competent and responsible bidder as

1 determined by the department. If the bid of the lowest competent bidder is
2 determined by the department to be in excess of the estimated reasonable value of
3 the work or not in the public interest, all bids may be rejected. The department shall,
4 so far as reasonable, follow uniform methods of advertising for bids and may
5 prescribe and require uniform forms of bids and contracts. Except as provided in par.
6 (b), the secretary shall enter into the contract on behalf of the state. Every such
7 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but
8 ss. 16.528, 16.752 and 16.754 apply to the contract. Any such contract involving an
9 expenditure of \$1,000 or more shall not be valid until approved by the governor. The
10 secretary may require the attorney general to examine any contract and any bond
11 submitted in connection with the contract and report on its sufficiency of form and
12 execution. The bond required by s. 779.14 (1m) is exempt from approval by the
13 governor and shall be subject to approval by the secretary. This subsection also
14 applies to contracts with private contractors based on bids under s. 84.067 and on
15 bids for maintenance under s. 84.07.

16 **SECTION 6.** 84.067 of the statutes is created to read:

17 **84.067 Contracts with private entities for certain services and**
18 **materials.** The department may contract with a private entity for services or
19 materials or both associated with the installation, replacement, rehabilitation, or
20 maintenance of highway signs, traffic control signals, highway lighting, pavement
21 markings, and intelligent transportation systems.

22 **SECTION 7.** 84.07 (1) of the statutes is amended to read:

23 **84.07 (1) STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY.** The state trunk
24 highway system shall be maintained by the state at state expense. The department
25 shall prescribe by rule specifications for such maintenance and may contract with

1 any county highway committee or municipality to have all or certain parts of the
2 work of maintaining the state trunk highways within or beyond the limits of the
3 county or municipality, including interstate bridges, performed by the county or
4 municipality, and any county or municipality may enter into such contract. General
5 maintenance activities include the application of protective coatings, the removal
6 and control of snow, the removal, treatment and sanding of ice, interim repair of
7 highway surfaces and adjacent structures, and all other operations, activities and
8 processes required on a continuing basis for the preservation of the highways on the
9 state trunk system, and including the care and protection of trees and other roadside
10 vegetation and suitable planting to prevent soil erosion or to beautify highways
11 pursuant to s. 80.01 (3), and all measures deemed necessary to provide adequate
12 traffic service. Special maintenance activities include the restoration,
13 reinforcement, complete repair or other activities which the department deems are
14 necessary on an individual basis for specified portions of the state trunk system.
15 ~~Maintenance activities also include the installation, replacement, rehabilitation, or~~
16 ~~maintenance of highway signs, traffic control signals, highway lighting, pavement~~
17 ~~markings, and intelligent transportation systems. The department may contract~~
18 ~~with a private entity for services or materials or both associated with the installation,~~
19 ~~replacement, rehabilitation, or maintenance of highway signs, traffic control signals,~~
20 ~~highway lighting, pavement markings, and intelligent transportation systems.~~

21 **SECTION 8.** 84.075 (1) of the statutes is amended to read:

22 84.075 (1) In purchasing services under s. 84.01 (13), in awarding construction
23 contracts under s. 84.06 and in contracting with private contractors and agencies
24 under ~~s. ss. 84.067 and~~ 84.07, the department shall attempt to ensure that 5% of the
25 total amount expended in each fiscal year is paid to contractors, subcontractors and

1 vendors which are minority businesses, as defined under s. 560.036 (1) (e) 1. In
2 attempting to meet this goal, the department may award any contract to a minority
3 business that submits a qualified responsible bid that is no more than 5% higher
4 than the low bid.

5 **SECTION 9.** 84.075 (3) of the statutes is amended to read:

6 84.075 (3) The department shall at least semiannually, or more often if
7 required by the department of administration, report to the department of
8 administration the total amount of money it has paid to contractors, subcontractors
9 and vendors which are minority businesses under ss. 84.01 (13), 84.06, 84.067, and
10 84.07 and the number of contacts with minority businesses in connection with
11 proposed purchases and contracts. In its reports, the department shall include only
12 amounts paid to businesses certified by the department as minority businesses.

13

(END)