AN ACT to renumber 13.489 (1) and 85.05; to renumber and amend 13.489 (1m) (a) and 13.489 (2); to amend 13.489 (4) (a) 1. a., 13.489 (4) (a) 1. b. and 85.05 (title); and to create 13.489 (2) and (b), 13.489 (2m), 84.013 (10) to (12) and 85.05 (2) of the statutes; relating to: major highway projects and the Transportation Projects Commission.

Analysis by the Legislative Reference Bureau

Current law generally requires that any major highway project, unlike other construction projects undertaken by the Department of Transportation (DOT), receive the approval of the Transportation Projects Commission (TPC) and the legislature before the project may be constructed. 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.

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 requires DOT to report to the TPC each major highway project for which a draft EIS or EA or final EIS or EA has been completed, and prohibits the TPC from recommending approval of any major highway project prior to the completion by DOT of a final EIS or EA approved by the Federal Highway Administration.

The bill also imposes numerous financial reporting requirements on DOT for all potential major highway projects. The bill requires DOT to establish procedures for identifying, tracking, recording, and maintaining expenditure information on all potential major highway projects, and requires comprehensive, standardized, and consistently prepared financial and project cost information for all expenditures associated with each project. The bill requires DOT to compile and maintain complete and itemized project cost information, including both cost estimates and actual costs, for all potential major highway projects. Any draft or final EIS or EA prepared by DOT must include project cost information prepared in accordance with these requirements. The bill also requires DOT to establish procedures for determining, and to determine, that portion of each project’s construction costs attributable to the cost of compliance with state and federal environmental laws.

The bill requires DOT to report to the TPC annually, for each potential major highway project and for the major highway project program as a whole, all project cost information, and specified other project information, on a cumulative basis and on an updated basis as compared to the prior reporting period.

The provisions of the bill generally become effective on January 1, 2005 and apply to potential major highway projects initiated for consideration by the TPC after that date.

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:

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 (2) of the statutes is renumbered 13.489 (2) (intro.) and amended to read:
13.489 (2) DEPARTMENT TO REPORT PROPOSED PROJECTS. (intro.) Subject to s. 85.05 (1), the department of transportation shall report to the commission not later than September 15 of each even-numbered year and at such other times as required under s. 84.013 (6) concerning its recommendations for adjustments in the major highway projects program under s. 84.013. Any report submitted under this subsection shall include all of the following:

SECTION 4. 13.489 (2) (a) and (b) of the statutes are created to read:

13.489 (2) (a) A list of potential major highway projects approved under sub. (1m) (d) for which the department has completed draft environmental impact statements or environmental assessments and for which the department recommends approval to proceed with preparation of a final environmental impact statement or environmental assessment.

(b) A list of potential major highway projects approved under sub. (2m) for which the department has completed final environmental impact statements or environmental assessments and obtained approval from the federal highway administration and for which the department recommends approval under sub. (4).

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

13.489 (2m) APPROVAL OF DRAFT ENVIRONMENTAL STUDIES. In conducting its review under sub. (4) of reports submitted as provided by sub. (2), the commission's report under sub. (4) shall notify the department of projects specified in sub. (2) (a) that the commission approves for preparation of a final environmental impact statement or environmental assessment or shall notify the department that it does not approve any project specified in sub. (2) (a) for preparation of a final environmental impact statement or environmental assessment. The department of transportation may not proceed with preparation of a final environmental impact
statement or environmental assessment unless the commission notifies the
department that the project is approved under this subsection.

SECTION 6. 13.489 (4) (a) 1. a. of the statutes is amended to read:

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

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

13.489 (4) (a) 1. b. The report recommending approval of the project is
accompanied by a financing proposal that, if implemented, would provide funding in
an amount sufficient to ensure that construction will commence on all projects
enumerated under s. 84.013 (3) and on the project within 6 years after the first July
1 after the date on which the commission recommends approval of the project and
the commission determines that the department has completed a final
environmental impact statement or environmental assessment and obtained
approval for the project from the federal highway administration.

SECTION 8. 84.013 (10) to (12) of the statutes are created to read:

84.013 (10) (a) For each potential major highway project submitted by the
department to the transportation projects committee for consideration at any time
under s. 13.489 and each major highway project enumerated under sub. (3) or
approved under sub. (6), the department shall compile and maintain, in accordance
with the procedures established under s. 85.05 (2), complete financial data for all
project costs that identifies both total project costs and itemized project costs, which
itemization shall include costs associated with all of the following:

1. Construction and construction contracts.
2. Design work.
3. Construction engineering.
4. Acquisition of interests in real estate, including rights-of-way, correlated to
type of interest and number of acres acquired.
5. Utility relocation.
6. Home and business relocation.
7. Environmental compliance, other than costs specified under par. (c) 1.,
   including consultant contracts, services of state agencies, and staffing.
8. Administration.

(b) The financial data required under par. (a) shall include, for each item of
itemized cost, both the department’s cost estimate and, if any funds have been
expended, the department’s actual expenditure.

(c) For each project specified in par. (a), the department shall compile and
maintain, in accordance with the procedures established under s. 85.05 (2), complete
financial data related to all of the following:

1. The department’s determination, in accordance with procedures established
   under s. 85.05 (2) (b), of that portion of costs specified under par. (a) 1. that are
   attributable to the cost of compliance with state and federal environmental laws.
2. The department’s estimate of necessary contingency costs for the project.
3. The department’s estimate of anticipated future highway maintenance costs
   associated with the project.
(d) For each project for which financial data is required under this subsection, the department shall compile and maintain, in accordance with the procedures established under s. 85.05 (2), the financial data for every phase of the project, and shall retain the financial data for not less than 10 years after the discontinuance of any project or, if construction of the project is completed, for the duration of the life of the highway.

(11) Any draft or final environmental impact statement or environmental assessment prepared by the department in connection with a project specified under sub. (10) (a) shall, for each project alternative identified in the environmental impact statement or environmental assessment, include all financial data specified in sub. (10), prepared in accordance with procedures specified in s. 85.05 (2).

(12) (a) By January 1, 2005, and annually thereafter, the department shall report to the transportation projects commission, for each project specified in sub. (10) (a), all of the following:

1. All information specified in sub. (10).

2. Any significant change in concept, design, or scope of the project.

3. With respect to any project for which the department has entered into any construction contract, any contract change order or other amendment to the contract, the reason for the change order or amendment, and the project cost impact of the change order or amendment.

4. With respect to any project enumerated under sub. (3) or approved under sub. (6) for which the department has separated a portion of the project or combined a portion of the project with another project, a description of the change in the project and, in addition to the information under subd. 1., all information specified in sub. (10) for the project calculated as if no such change had occurred.
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(b) The report under par. (a) shall include both cumulative project information and project information for the most recent year that is compared to project information included in the prior reporting period.

(c) The report under par. (a) shall include aggregated and comprehensive project expenditures for each project specified in sub. (10) (a) and for the entire major highway projects development program.

SECTION 9. 85.05 (title) of the statutes is amended to read:

85.05 (title) Evaluation of Procedures for proposed major highway projects.

SECTION 10. 85.05 of the statutes is renumbered 85.05 (1).

SECTION 11. 85.05 (2) of the statutes is created to read:

85.05 (2) (a) The department shall establish procedures for identifying, tracking, recording, and maintaining expenditure information on all potential major highway projects submitted by the department to the transportation projects committee for consideration at any time under s. 13.489 and on all major highway projects enumerated under s. 84.013 (3) or approved under s. 84.013 (6). The department’s procedures shall require comprehensive, standardized, and consistently prepared financial and project cost information for all expenditures associated with each project and shall require that the same procedures be followed on every project. These procedures shall be used for the development of project cost estimates for each proposed highway project, including all design alternatives for the project, and shall require that all anticipated project costs be included in any total project cost estimate.

(b) For each project specified under par. (a), the department shall establish procedures for determining that portion of expenditures, within each bid item of each
construction contract, attributable to the cost of compliance with state and federal environmental laws. The department shall consult with the department of natural resources and construction contractors in establishing procedures under this paragraph. Each construction contract entered into by the department shall require the contractor to cooperate with the department, and provide information the department determines to be necessary, to implement the procedures established under this paragraph.

**SECTION 12. Initial applicability.**

(1) This act first applies to projects first submitted to the transportation projects commission for consideration under section 13.489 of the statutes on the effective date of this subsection.

(2) The treatment of section 85.05 (2) (b) of the statutes first applies to contracts entered into on the effective date of this subsection.

**SECTION 13. Effective dates.** This act takes effect on January 1, 2005, except as follows:

(1) The treatment of section 84.013 (12) of the statutes, the renumbering of section 85.05 of the statutes, the amendment of section 85.05 (title) of the statutes, and the creation of section 85.05 (2) of the statutes take effect on the day after publication.

(END)