

## 2009 DRAFTING REQUEST

### Bill

Received: 03/16/2010

Received By: agary

Wanted: Soon

Companion to LRB:

For: Brett Davis (608) 266-1192

By/Representing: Luke Bacher

May Contact:

Drafter: agary

Subject: Transportation - mass trnst/rail

Addl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email: Rep.Davis@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Enumeration of passenger rail projects

---

### 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>
/?				_____			S&L
/P1	agary 03/16/2010	kfollett 03/17/2010	rschluet 03/17/2010	_____	cduerst 03/17/2010		S&L
/1	agary 03/18/2010	kfollett 03/18/2010	rschluet 03/18/2010	_____	mbarman 03/18/2010		S&L
/2	agary 03/18/2010	kfollett 03/18/2010	mduchek 03/18/2010	_____	lparisi 03/18/2010	cduerst 03/31/2010	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For: "1a" @ intro. 4/15/10

<END>

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/1	agary 03/18/2010	kfollett 03/18/2010	rschlue 03/18/2010	_____	mbarman 03/18/2010		S&L
/2	agary 03/18/2010	kfollett 03/18/2010	mduchek 03/18/2010	_____	lparisi 03/18/2010		

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

**<END>**

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/1	agary 03/18/2010	kfollett 03/18/2010	rschluet 03/18/2010	_____	mbarman 03/18/2010		

FE Sent For:

12/5f  
3/18  
md  
3/18  
R  
3/18

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/?				_____			S&L
/P1	agary 03/16/2010	kfollett 03/17/2010	rschluet 03/17/2010	_____	cduerst 03/17/2010		

FE Sent For:

11/25  
3/18  
3/18/10

<END>

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1/?	agary	1P/HK/f 3/17/10		_____	_____		

FE Sent For:

<END>

## Gary, Aaron

---

**From:** Bacher, Luke  
**Sent:** Tuesday, March 16, 2010 12:06 PM  
**To:** Gary, Aaron  
**Cc:** Ammerman, Fred; Konopacki, Larry; Bacher, Luke; 'Brett.Davis@charter.net'  
**Subject:** Rail Legislation

**Importance:** High

**Attachments:** 3.12.10 Davis.pdf

3/16 - Memo from Luke  
- want to block high-speed train  
from Milw. to Madison  
- wants to follow LFB plan

Aaron -

I've copied Fred and Larry on this, who I'm working with as well. Feel free to ask them if you have questions.

I've attached the memo from Fred. I think Fred has a pretty solid understanding of what we want to do politically and legislatively.

Perhaps if it saves you time just do a /P1 draft instead of a /1.

I know you're backed up but Rep. Davis wants to do this ASAP.

If you look at the last paragraph Fred lays out the legislation idea.

To be specific, lets draft it to:

- require approval by full legislature (assembly and senate), and governor (so a bill, I guess??)
- it would apply to all aspects of project that would expend any money, fed or state \$.
- no money, fed or state, could be spent before this was approved.
- it would apply to passenger rail projects, say \$100 million or more (either state or fed money)

That is the concept. I hope that makes sense. If I'm way off on something, please let me know.

Thank you!



3.12.10 Davis.pdf  
(98 KB)

**Luke Bacher**  
**Research Assistant**  
**State Representative Brett Davis**  
**Phone: (608)-266-1192**  
**Fax: 608-282-3680**  
**luke.bacher@legis.wi.gov**  
**<http://www.brettdavis.us>**





## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

March 12, 2010

TO: Representative Brett Davis  
Room 11 West, State Capitol

FROM: Fred Ammerman, Program Supervisor

SUBJECT: Enumeration Requirements for Transportation Projects

At your request, I am providing information on current law enumeration requirements for transportation projects and a discussion of how such a concept could be extended to rail passenger route development projects.

Currently, s. 84.013(4)(a) of the statutes specifies that no major highway project may be constructed unless the project is enumerated in a statutory list. Major highway projects are those with a total cost exceeding \$5,000,000 that involve: (a) constructing a new highway 2.5 miles or more in length; (b) relocating 2.5 miles or more of existing highway; (c) adding one or more lanes five miles or more in length to an existing highway; or (d) improving to freeway standards 10 miles or more of an existing, multi-lane divided highway. There are currently 37 enumerated major highway projects, although many of these have been completed.

A separate statutory section [s. 84.014 (5m)(am)] prohibits the Department of Transportation from expending funds from any southeast Wisconsin freeway rehabilitation appropriations for a southeast Wisconsin freeway rehabilitation project that involves adding one or more lanes five miles or more in length to the existing freeway unless the project is enumerated in a statutory list. Currently, there are two such enumerated projects (the I-94 north-south corridor and the Zoo Interchange).

A third statutory section [s. 85.062(2)] specifies that no major transit capital improvement project may be constructed using any state transportation revenues unless the project is enumerated in a statutory list. Major transit capital improvement projects are those with a total cost exceeding \$5,000,000 that involve: (a) constructing a separate roadway designated for use by buses or other high-occupancy modes of travel; (b) initial construction or expansion of a light rail transit system;

or (c) initial construction or expansion of a commuter rail transit system. There are currently three enumerated major transit capital improvements (the Dane County commuter rail project, any project resulting from the Milwaukee Downtown Transit Connector Study, and the KRM commuter rail line).

The current statutes related to rail passenger route development and assistance (ss. 85.06 and 85.061) do not require enumeration in a specific statutory list. However, the statutes do limit the use of authorized bonding to routes between Milwaukee and Madison, Green Bay, or Chicago or between Madison and Eau Claire or La Crosse. The use of bonds for this purpose requires the approval of the Joint Committee on Finance. The use of state rail passenger service funding is not statutorily limited to specific routes, but is effectively limited by the funding level provided to subsidizing Amtrak's current Hiawatha service between Milwaukee and Chicago.

If the Legislature were to decide to play a greater role in determining whether specific rail passenger service extensions should occur, a statutory enumeration requirement could be created for such extensions. In formulating such a requirement, consideration could be given as to what activities would be subject to the requirement (engineering, construction, maintenance, and/or operation) and to what type of funding would be restricted (state, local, and/or federal, to the extent allowed under federal law).

If you have any questions regarding this memorandum or need additional information, please contact me.

FA/vh

## Gary, Aaron

---

**From:** Bacher, Luke  
**Sent:** Tuesday, March 16, 2010 4:09 PM  
**To:** Gary, Aaron  
**Subject:** RE: Rail Legislation

Thank you!

---

**From:** Gary, Aaron  
**Sent:** Tuesday, March 16, 2010 4:04 PM  
**To:** Bacher, Luke  
**Cc:** Ammerman, Fred; Konopacki, Larry; 'Brett.Davis@charter.net'  
**Subject:** RE: Rail Legislation

Luke,  
I entered this as LRB-4550. As I understand it, the bill will cut off all funding for large (\$100M +) service extension projects unless the legislature approves (by enumeration) the project.

I'm not sure what projects DOT now has in the works, so I don't know if there is a "phase in" (initial applicability) issue to deal with. I understand that you want the bill to apply to the proposed Milwaukee to Madison high-speed rail route. I'm not sure if DOT has any older projects in the works. At this point, I'll draft the bill to apply to all projects described above. If it turns out that such an approach brings to a halt another project that you didn't mean to stop mid-way, I suppose we can figure out the "phase in" (initial applicability) issue in a redraft.

Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**From:** Bacher, Luke  
**Sent:** Tuesday, March 16, 2010 12:06 PM  
**To:** Gary, Aaron  
**Cc:** Ammerman, Fred; Konopacki, Larry; Bacher, Luke; 'Brett.Davis@charter.net'  
**Subject:** Rail Legislation  
**Importance:** High

Aaron -

I've copied Fred and Larry on this, who I'm working with as well. Feel free to ask them if you have questions.

I've attached the memo from Fred. I think Fred has a pretty solid understanding of what we want to do politically and legislatively.

Perhaps if it saves you time just do a /P1 draft instead of a /1.

I know you're backed up but Rep. Davis wants to do this ASAP.

If you look at the last paragraph Fred lays out the legislation idea.

To be specific, lets draft it to:

- require approval by full legislature (assembly and senate), and governor (so a bill, I guess??)
- it would apply to all aspects of project that would expend any money, fed or state \$.
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- it would apply to passenger rail projects, say \$100 million or more (either state or fed money)

That's the concept. I hope that makes sense. If I'm way off on something, please let me know.

Thank you!

<< File: 3.12.10 Davis.pdf >>

**Luke Bacher**

**Research Assistant**

**State Representative Brett Davis**

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**luke.bacher@legis.wi.gov**

**<http://www.brettdavis.us>**



State of Wisconsin  
2009 - 2010 LEGISLATURE

Wanted  
3/17  
end of day

LRB-4550/P1  
ARG... kjf  
in 3/16

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Gen

1 AN ACT ...; **relating to:** requiring that certain rail passenger service extension  
2 projects be enumerated by the legislature.

---

***Analysis by the Legislative Reference Bureau***

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

---

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

3 SECTION 1. 85.057 of the statutes is created to read:

4 **85.057 Rail passenger service extension projects.** (1) In this section, "rail  
5 passenger service extension project" means a project having a total cost of at least  
6 \$100,000,000 that involves extending an existing rail passenger route or creating a  
7 new rail passenger route.

8 (2) Notwithstanding ss. 85.02 (1), 85.022, 85.055, 85.06, 85.061, 85.064, 85.067,  
9 and 85.09, the department may not encumber or expend any funds from any

1 appropriation under ch. 20 for any aspect of a rail passenger service extension  
2 project, including for costs associated with environmental assessments or reports,  
3 preliminary engineering or design work, or project construction, unless the project  
4 is enumerated under sub. (3).

5 (3) The department may encumber or expend funds for the following rail  
6 passenger service extension projects:

7 (a) No project is enumerated as of the effective date of this <sup>paragraph</sup> subsection.... [LRB  
8 inserts date].

9 (END)

## Gary, Aaron

---

**From:** Bacher, Luke  
**Sent:** Thursday, March 18, 2010 10:50 AM  
**To:** Gary, Aaron  
**Subject:** RE: Rail Legislation

Aaron -

Thank you for your work.

The draft of 4550 looks great.

Lets just tighten the definition up to target only the passenger rail from madison to milwaukee (any rail project in that corridor).

With that change, I think its good, so lets go ahead with a /1.

Thanks!

**Luke Bacher**  
**Research Assistant**  
**State Representative Brett Davis**  
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**luke.bacher@legis.wi.gov**  
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*He w/ Luke  
make sure it  
includes any part  
of route b/w  
Madison & Milw.*

---

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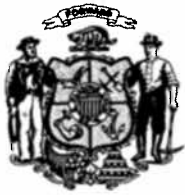
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TODAY

AMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Regen

1 AN ACT *to create* 85.057 of the statutes; **relating to:** requiring that certain rail  
2 passenger service extension projects be enumerated by the legislature.

***Analysis by the Legislative Reference Bureau***

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

Insert  
ANAL

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5 passenger service extension project" means a project having a total cost of at least  
6 \$100,000,000 that involves extending an existing rail passenger route, or creating a  
7 new rail passenger route. *insert 1-7*

8 (2) Notwithstanding ss. 85.02 (1), 85.022, 85.055, 85.06, 85.061, 85.064, 85.067,  
9 and 85.09, the department may not encumber or expend any funds from any

1 appropriation under ch. 20 for any aspect of a rail passenger service extension  
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5 (3) The department may encumber or expend funds for the following rail  
6 passenger service extension projects:

7 (a) No project is enumerated as of the effective date of this paragraph .... [LRB  
8 inserts date].

9 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4550/lins  
ARG:.....

1

2

**INSERT ANAL:**

Under current law, the Department of Transportation (DOT) administers a rail passenger route development program, funded from general obligation bond proceeds. The program allows DOT, subject to various limitations, to provide funds for certain expenses relating to rail passenger service, including capital costs related to rail passenger service routes between the cities of Milwaukee and Madison. Federal funds may also be available for rail passenger service route development.

This bill prohibits DOT from encumbering or expending any federal, state, or local funds for any aspect of a rail passenger service extension project, including for costs associated with environmental assessments or reports, preliminary engineering or design work, or project construction, unless the legislature has approved the project by statutory enumeration. The bill defines a "rail passenger service extension project" as a project having a total cost of at least \$100,000,000 that involves extending an existing rail passenger route, or creating a new rail passenger route, within any corridor between the cities of Milwaukee and Madison. The bill does not enumerate any such projects.

3

**INSERT 1-7:**

4

(no H) , within any corridor between the cities of Milwaukee and Madison

5

## Gary, Aaron

---

**From:** Bacher, Luke  
**Sent:** Thursday, March 18, 2010 1:50 PM  
**To:** Gary, Aaron  
**Subject:** RE: 4550/1

I guess that's not the right language.

I just don't want the state to be able to shift the money to DOA or an RTA to get around the original DOT language.

---

**From:** Gary, Aaron  
**Sent:** Thursday, March 18, 2010 1:34 PM  
**To:** Bacher, Luke  
**Subject:** RE: 4550/1

Luke,  
What do you have in mind by "political subdivision of the state"? Traditionally this would mean cities, villages, towns, and counties. It would not include RTAs.

Aaron

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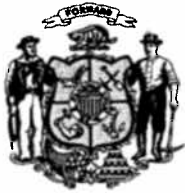
**From:** Bacher, Luke  
**Sent:** Thursday, March 18, 2010 1:05 PM  
**To:** Gary, Aaron  
**Cc:** Bacher, Luke  
**Subject:** 4550/1

I have a couple things I think need to be changed.

I think I want the 100,000,000 amount removed so it applies to any amount.

Also, Davis said he wants it to apply to all spending by any agency or political subdivision of the state (RTAs), not just DOT.

**Luke Bacher**  
**Research Assistant**  
**State Representative Brett Davis**  
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TODAY

in 3/18

RMR

2009 BILL

, as well as any other state agency or regional transit authority,

Reger

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**Analysis by the Legislative Reference Bureau**

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\*

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\*

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:**

**BILL**

*insert 2-2*  
*Ⓢ (c)*

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2 **85.057 Rail passenger service extension projects.** (1) In this section, "rail  
3 passenger service extension project" means a project ~~having a total cost of at least~~  
4 ~~\$100,000,000~~ that involves extending an existing rail passenger route, or creating  
5 a new rail passenger route, within any corridor between the cities of Milwaukee and  
6 Madison. *and any other provision of law,*

7 (2) Notwithstanding ss. 85.02 (1), 85.022, 85.055, 85.06, 85.061, 85.064, 85.067,  
8 ~~and 85.09,~~ *no agency or authority* the department ~~may not~~ encumber or expend any funds ~~from any~~  
9 ~~appropriation under ch. 20~~ for any aspect of a rail passenger service extension  
10 project, including for costs associated with environmental assessments or reports,  
11 preliminary engineering or design work, or project construction, unless the project  
12 is enumerated under sub. (3). *An agency or authority*

13 (3) ~~The department~~ may encumber or expend funds for the following rail  
14 passenger service extension projects:

15 (a) No project is enumerated as of the effective date of this paragraph .... [LRB  
16 inserts date].

17 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4550/2ins  
ARG:.....

1

2

3

**INSERT 2-2:**

4

(a) "Agency" has the meaning given in s. 16.70 (1e). ✓

5

(b) "Authority" has the meaning given in s. 66.1039 (1) (a). ✓

6

**Duerst, Christina**

---

**From:** Bacher, Luke  
**Sent:** Wednesday, March 31, 2010 3:48 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-4550/2 Topic: Enumeration of passenger rail projects

Please Jacket LRB 09-4550/2 for the ASSEMBLY.