

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

LRB-1114/P1dn  
EVM:jld:rs

January 29, 2013

ATTN: Sen. Fred Risser

The following is the text of the drafter's notes that accompanied the /P1 and /P4 versions of LRB-3101 of the 2009-10 session:

“Senator Risser:

The requirements in the attached draft apply to all transit systems receiving state transit aids under s. 85.20. I believe that all significant transit systems in the state receive such aids. Please advise if you would like me to confer with DOT on this issue.

To the extent this draft is intended to cover bus operators (and potentially train operators in the future), the provisions of the draft may overlap with federal law. Bus operators are required to hold commercial driver licenses and may be subject to other physical qualification requirements, including drug testing, under federal law. Train operators may also be subject to federal fitness standards. You may wish to confer with DOT on the question of how federal regulation may impact this bill or, if you prefer, I would be happy to contact DOT on this subject.

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

Please review the attached draft carefully to ensure that it is consistent with your intent. Please review, in particular, the definitions for “revenue service” and “proof of physical fitness” that I have provided in this draft.

For the “revenue service” definition, I have provided a paraphrased and somewhat reworded version of the definition from NTD that you provided. Of particular note, I substituted “subsidized by public funds” for “subsidized by public policy.” I changed this wording because “public policy” is not used in a similar way elsewhere in the statutes. Does the new wording meet your intent? I also omitted the final sentence

of the NTD definition, as the exclusions contained in that sentence appear to be matters that do not fit within the definition. Please let me know if you believe any of these specific exclusions need to be referenced in the definition.

For the definition of “proof of physical fitness,” I referred generically to “the same documentation that a school bus operator would be required to provide.” Under current Department of Transportation rules, this documentation would consist of the documentation required under s. Trans. 112.03 (3), Wis. Adm. Code.

Also, my notes did not clearly indicate one way or the other, but because it appeared that we were working off of LRB-3101/P2, I reinserted the employer notice requirement included as s. 66.1022 (4) in that draft. Let me know if this should be removed.

As an additional note, the term “vehicle” used in the definition of “transit employee” in this draft may be somewhat ambiguous. The definition of “transit employee” refers to a system receiving funding under s. 85.20, stats. Certain commuter or light rail systems are eligible to receive funding under s. 85.20 (4m) (a) 6. e., stats. Because there is no specific definition of “vehicle” provided for s. 66.1022, as created by this draft, the term can likely be interpreted to either exclude or include commuter or light rail conveyance devices. On the one hand, since s. 66.1022, as created by this draft, deals with transportation matters, the definition of “vehicle” contained in s. 340.01 (74), stats., may be referenced by a reviewing court. This definition of “vehicle” excludes “railroad trains.” I do not know, however, if the definition of “railroad train” in s. 340.01 (48), stats., would include a commuter or light rail conveyance device. On the other hand, the definition of “transit employee,” as created by this draft, clearly refers to a system receiving funding under s. 85.20 — certain commuter and light rail systems are eligible to receive funding under that section. Also, because there is no provided definition or cross-reference, reference to the definition of “vehicle” in s. 340.01 (74), stats., is not necessarily required. The common dictionary definition of “vehicle” is likely broad enough to include commuter or light rail conveyance devices. Do you wish to clarify the applicability of this provision in regards to commuter or light rail systems?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible “/1” draft.”

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: eric.mueller@legis.wisconsin.gov