

CR 82-40

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C E R T I F I C A T E

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Owen Ayres, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the department, do hereby certify that the annexed rule amending TRANS 6 (CR 82-40) was duly approved and adopted by this department on June 7, 1982.

I further certify that this copy has been compared by me with the original on file in this department and that the same is a true copy thereof and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation in the City of Madison, Wisconsin, this 7 day of June, 1982.

Owen Ayres
Secretary
Wisconsin Department of Transportation

8-1-82

STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

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AN ORDER to repeal TRANS 6.04; to amend TRANS 6.01, 6.02(4) and (5), 6.03(1), 6.05(1)(a), (b) and (c) and (2), 6.07(1) and 6.08(1); and to repeal and recreate TRANS 6.06, relating to the rural and small urban area public transportation assistance program.

Analysis Prepared by the Department of Transportation

General summary of proposed rule. These proposed amendments to TRANS 6, Wisconsin Administrative Code, have been formulated to respond to the designation of five new urbanized areas by the U.S. Bureau of the Census and the related changes made to this federally funded program. Certain other changes are proposed upon the department's initiative.

TRANS 6.02 Definitions. (4) By federal law, the definition of "Eligible public transportation service" limits eligible services to operations in non-urbanized areas. Because some 100 urban areas, including five in Wisconsin, were newly designated as "urbanized" under the 1980 census, the appropriations bill for the U.S. Department of Transportation for the federal fiscal year ending September 30, 1982, specified that one-half of the appropriation made for the Section 18 program is to be allocated based on the 1970 census and the other half of the appropriation is to be allocated based on the 1980 census. This means that the five newly designated urbanized areas in Wisconsin (Beloit, Eau Claire, Janesville, Sheboygan and Wausau) will be eligible for federal operating assistance under Section 18 for the first half of the calendar year 1982 and thereafter will be eligible to receive such assistance under Section 5 of the Urban Mass Transportation Act.

TRANS 6.03 Federal share of project costs. (1) This section will be revised to eliminate the "maintenance of effort" requirement. The maintenance of effort requirement inhibits operating deficit reductions by a recipient. Since the maintenance of effort requirement calls for state and local financial support to equal the average of such support for the prior two years, if a recipient attempts to reduce its transit systems operating deficit by reducing costs or increasing user revenues, or through a combination of both actions, the effect of such action is to merely reduce the federal aids which the recipient is eligible for. Federal rules encourage continuation of existing funding (both state and local) without imposing a formal maintenance of effort requirement on local applicants. The elimination of this section will also reduce the administrative and paper work burden of the department and of the recipients.

TRANS 6.05 Distribution of federal aids. (1)(a) This section will be changed to allow the department to withhold less than the ten percent now required to be reserved by the department for administrative and technical assistance. The phrase, "up to ten percent," will replace the current language. This change will allow the department to use a larger percentage of the total available funds for operating and capital grants.

TRANS 6.05 Distribution of federal aids (1)(b) and (c) These two sections refer to the percentage of the state's annual Section 18 allocation which is reserved for the small urban systems and for the rural systems. Allowing for the flexibility in the percentage of funds the department can reserve for administrative and planning functions necessitates revising these two sections from the current forty-five percent figure to a flexible allocation of one-half of the funds remaining after the department deducts its administrative set-aside. Since the department can reserve no more than 10 percent of the funds the small urban and rural allocation will be equal to or greater than the forty-five percent now incorporated in the rule.

TRANS 6.05 Distribution of Federal Aids (2). This section now addresses how any uncommitted balance of the state's annual Section 18 allocation shall be used in subsequent years. This section will be revised to include not only uncommitted balances, but also deobligated funds from grant contracts awarded in preceding years, where contract funds exceed actual project expenses incurred by the grant recipient.

TRANS 6.06 Operating grants to small urban areas (1). This section addresses the method used to allocate operating assistance among eligible applicants. The allocation method will be revised to allow all eligible applicants to share equally in the available Section 18 funds based on their eligible operating project cost. The original version of this section was designed to encourage small urban transit systems to raise user fees. The impetus for such action has, however, come from a new basis for distributing state operating assistance made available under s.85.20. The

original version of this section did not accomplish its objective and created unnecessary administrative and paper work burdens for both the department and recipients. The second revision to this section will limit the "operating project cost" for the five newly designated urbanized areas to 50 percent of their projected annual operating project cost.

Authority for Rule

Section 85.23, Stats., authorizes the department to administer a program for the distribution of rural public transportation aids made available to the state under Section 18 of the urban mass transportation act of 1964, as amended. Sections 110.06(1) and 227.014, Stats., grant the department general rule-making authority.

Fiscal Estimate

Local fiscal effects could be produced by the removal of the maintenance of effort rule, the reduction in the funds reserved by the department for administration and planning, and the change in the method of distributing operating grants to small urban areas.

The maintenance of effort requirement calls for state and local financial support equal to the average of the prior two years. In previous years when program funds were sufficient to meet needs, the maintenance of effort requirement limited the use of federal funds in many of the cities eligible to use the funds. Because of the reduction in Section 18 funds, the maintenance of effort requirement now only limits program funds in those cities which are reducing their transit system operating deficit by reducing costs or increasing user revenue.

Removing the maintenance of effort will allow all eligible applicants to share equally in the available funds based on their eligible operating project costs. Equalizing the federal funds among the eligible applicants will mean slightly reducing aids to the majority of the applicants, while increasing aids to a few of the applicants that would have otherwise been penalized unfairly for reducing their operating deficit.

The second issue concerns program funds reserved by the department for administration and technical assistance. Giving the department the flexibility of reserving less than the ten percent currently required will enable the department to make available additional program funds for capital and operating assistance projects.

The last issue relates to the method used to allocate operating assistance funds to the small urban areas. The proposed allocation method will allow all eligible applicants to share equally in the available Section 18 funds based on their eligible operating project cost. Equalizing the federal funds among the eligible small urban areas will mean that approximately 60 percent of the applicants will receive seven to 20 percent more Section 18 assistance than they would have otherwise and approximately 40 percent will receive 12 percent less.

This analysis has been prepared by Jim Beckwith of the DOT Bureau of Transit, (608) 266-1379.

Text of Rule

Pursuant to authority vested in the Wisconsin Department of Transportation by secs. 110.06(1), 85.23, and 227.104, Wis. Stats., the Department of Transportation hereby proposed to adopt rules interpreting sec. 85.23, Stats., as follows:

SECTION 1. TRANS 6.01 is amended to read:

TRANS 6.01 PURPOSE AND SCOPE OF RULE. The purpose of this chapter is to prescribe the Department of Transportation's administrative interpretation of sec. ~~85.08(7)~~ 85.23, Stats., and to prescribe the administrative policies and procedures for implementing the federal program for public transportation projects in areas other than urbanized. This program is authorized by Section 18 of the Urban Mass Transportation Act of 1964, as amended. The goals of this program are to enhance access of people in non-urbanized areas for purposes such as health care, shopping, education, recreation, public services, and employment by encouraging the maintenance, development, improvement, and use of public transportation services. By federal definition, "areas other than urbanized" include small urban and rural areas.

SECTION 2. TRANS 6.02(4) and (5) is amended to read:

TRANS 6.02(4). "Eligible public transportation service" means a public transportation service operating or designed to operate in non-urbanized areas. For calendar year 1982 only, eligible public transportation service shall include public transportation services provided in the five urban areas newly designated as "urbanized" by virtue of the 1980 federal census. These five urban areas are: Beloit, Eau Claire, Janesville, Sheboygan and Wausau.

TRANS 6.02(5). "Public transportation service" means a passenger transportation service provided to the general public on a regular and continuing basis by a public agency or private firm. Passenger fares must be collected for the service in accordance with established tariff schedules. The transportation service may be provided by bus, rail, shared-ride taxicab, or other conveyance. The service may constitute an entire public transit system or may be an individual route or a segment of a route provided by a common carrier of passengers. The service must be regulated by the State Transportation Commission under Chapter 194, unless exempt from such regulation under ~~s.85.05(5)~~ s.85.20(5), Stats., or under Chapter 194. A transportation service provided exclusively for a subgroup of the general public is not considered to be a "public transportation service" for purposes of this chapter.

SECTION 3. TRANS 6.03(1) is amended to read:

TRANS 6.03(1) The federal share of operating project costs shall not exceed 50 percent of such costs, ~~subject to the "maintenance-of-effort" provision of sec. TRANS-6-04.~~ The department shall determine the types of costs that are eligible for federal reimbursement in accordance with generally accepted accounting principles and practices and with applicable federal guidelines. The department shall also establish the official projections of eligible operating costs for purposes of allocating federal aids.

SECTION 4. TRANS 6.04 is repealed.

SECTION 5. TRANS 6.05(1)(a)(b)(c) and (2) are amended to read:

TRANS 6.05. (1) The State's annual apportionment of Section 18 funds will be distributed as follows:

(a) ~~Ten~~ Up to 10 percent will be reserved by the department for administrative and technical assistance purposes. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs and such research as the department may deem appropriate to promote effective means of delivering public transportation services in areas other than urbanized areas.

(b) ~~Forty-five percent~~ One-half of the funds not otherwise reserved for 6.05(1)(a) will be reserved for grants to eligible applicants that also qualify for state aids under sec. ~~85-05~~ 85.20, Stats. Funds reserved under this subsection will be expended in accordance with the criteria set forth under sec. TRANS 6.06.

(c) ~~Forty-five percent~~ One-half of the funds not otherwise reserved for 6.05(1)(a) will be reserved for grants to eligible applicants that do not qualify for state aids under sec. ~~85-05~~ 85.20, Stats. Funds reserved under this subsection will be expended in accordance with criteria set forth under sec. TRANS 6.07.

(2). Any uncommitted balance of the State's annual apportionment of Section 18 funds from a preceding project year or any unexpended balance from previous obligations shall be divided equally between the two grant categories defined in s. TRANS 6.06 and 6.07.

SECTION 6. TRANS 6.06 is repealed and recreated to read:

TRANS 6.06 OPERATING GRANTS TO SMALL URBAN AREAS (1) Subject to the limitations set forth in s. TRANS 6.03(1), the funds available in s. TRANS 6.05(1)(b) shall be allocated among eligible applicants that also qualify for state aids under s.85.20, Stats., in proportion to each applicant's share of the projected operating project costs of all applications. Projected operating project costs

for the cities of Janesville, Beloit, Eau Claire, Wausau and Sheboygan shall be limited, for purposes of this allocation, to not more than one-half of the projected operating project costs for calendar 1982 for their respective transit systems.

(2) If the funds reserved for grants under this section exceed the amounts applied for, such balances shall be made available to small urban areas for capital grants under s. TRANS 6.08.

SECTION 7. TRANS 6.07(1) is amended to read:

TRANS 6.07(1) The department shall categorize all applications received from eligible applicants that do not also qualify for state aids under ~~sec. 85.05~~ s. 85.20, Stats., according to the following rank order of priority until the funds available under sec. TRANS 6.05(1) (c) are committed.

SECTION 8. TRANS 6.08(1) is amended to read:

TRANS 6.08(1) Any uncommitted balance of funds under s. TRANS 6.06 and 6.07 shall be made available for capital grants to eligible applicants that also qualify for state aid under ~~s. 85.05~~ s. 85.20, Stats.

(End of Rule Text)

This rule shall take effect upon publication as provided in s. 227.026(1) (intro.), Stats.

Dated at Madison, Wisconsin this
7th day of June, 1982.



OWEN AYRES, P.E.
Secretary
Wisconsin Department of
Transportation