

CR 83-60  
CERTIFICATE

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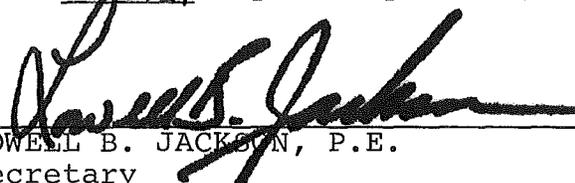
STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF TRANSPORTATION )

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Department of Transportation and custodian of the official records of the Department, do hereby certify that the annexed rule relating to the rural and small urban area public transportation assistance program was duly approved and adopted by this Department on September 14th, 1983.

I further certify that the annexed 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 here-  
onto set my hand and affixed the  
official seal of the Department at  
the Hill Farms State Office Building  
in the City of Madison, Wisconsin,  
this 14th day of September, 1983.



LOWELL B. JACKSON, P.E.  
Secretary  
Wisconsin Department of  
Transportation

IN THE MATTER OF THE ORDER TO :  
 REPEAL AND RECREATE CH. TRANS 6, :  
 WISCONSIN ADMINISTRATIVE CODE, :  
 RELATING TO THE RURAL AND SMALL :  
 URBAN AREA PUBLIC TRANSPORTATION :  
 ASSISTANCE PROGRAM, AS AUTHORIZED :  
 UNDER SECTION 18 OF THE FEDERAL :  
 URBAN MASS TRANSPORTATION ACT. :

**RECEIVED**ORDER  
ADOPTING SEP 15 1983  
RULERevisor of Statutes  
Bureau

Clearinghouse Rule 83-60

Analysis Prepared by Department of Transportation

General summary of rule. The recreation of chapter TRANS 6, Wisconsin Administrative Code, has been formulated to respond to the additional federal appropriation of funds for 1983 under the federal rural and small urban area public transportation assistance program including authorizing the five newly urbanized areas to participate in the program for the first quarter of 1983. Certain other changes are proposed upon the Department's initiative.

The administrative rule establishes two separate funds, one for capital projects only as mandated by the Surface Transportation Assistance Act of 1982 and funded by a special allocation derived by the passage of the new federal 5¢ gas tax, and the other fund available for operating assistance to all eligible applicants. All initial applications for both capital and operating assistance can be funded to the maximum allowable amount under the rule.

The five newly urbanized areas of Beloit, Eau Claire, Janesville, Sheboygan and Wausau will be eligible to participate in the program for the first quarter of 1983.

Any operating assistance funds not obligated during the initial application period is available to fund applications received throughout the remainder of the year for intercity bus services not already under the program. The capital fund would be available to fund applications throughout the year or until the funds are exhausted.

In addition, the rule specifies the allowable operating revenue and expenses to be used in determining project costs.

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 rulemaking authority.

Fiscal estimate. The small urban areas will experience a positive fiscal impact without harming any of the rural or inter-city applicants. The rules which governed the program in 1982 would have restricted the amount of operating assistance available to small urban areas to approximately \$940,750 while the projected needs of these systems is over \$1.3 million. The five newly urbanized areas which would potentially be eligible for approximately \$447,000 would not receive any Section 18 funds if the rules are not revised.

The amounts of Section 18 funds available to Wisconsin for 1983 are higher than in previous years due to the fact that an extra appropriation is available for capital projects only. The total Section 18 appropriations are larger than the initial requests received for both operating and capital assistance.

This analysis has been prepared by Ron Morse of the DOT Bureau of Transit (608) 266-9637.

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Pursuant to the authority vested in the state of Wisconsin, department of transportation, by s. 110.06(1), Stats., the department of transportation hereby adopts an administrative rule interpreting the provisions of s. 85.23, Stats., as follows:

TEXT OF RULE

SECTION 1. Chapter TRANS 6 is repealed and recreated to read:

TRANS 6

RURAL AND SMALL URBAN AREA

PUBLIC TRANSPORTATION ASSISTANCE PROGRAM

TRANS 6.01 PURPOSE AND SCOPE OF RULE. The purpose of this chapter is to prescribe the department of transportation's administrative interpretation of s. 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.

TRANS 6.02 DEFINITIONS. (1) "Capital project cost" means the cost of acquisition, construction, reconstruction and improvement of facilities, vehicles and equipment for use in the provision of an eligible public transportation service. A public body shall retain ownership of all capital items purchased under this program.

(2) "Eligible applicants" means local public bodies, private transportation providers and Indian reservations.

(3) "Eligible public transportation service" means a public transportation service operating or designed to operate in non-urbanized areas. For calendar year 1983 only, eligible public transportation service shall include public transportation services provided in the 5 urban areas newly designated as "urbanized" by virtue of the 1980 federal census. These 5 urban areas are: Beloit, Eau Claire, Janesville, Sheboygan and Wausau.

(4) "Federal section 18 funds" means all funds appropriated to the state for use in the federal program for public transportation projects in small urban, rural and intercity areas.

(5) "Local public bodies" means counties, cities, villages and towns or agencies thereof.

(6) "Operating project cost" means the difference between the costs of operating an eligible public transportation service and the revenues derived therefrom. User subsidies such as transportation stamps are not considered to be "operating costs" for purposes of this chapter.

(7) "Private transportation providers" means privately owned (for-profit or nonprofit) organizations that operate an eligible public transportation service.

(8) "Project year" means a calendar year.

(9) "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 shall 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 shall be authorized by the state transportation commission under ch. 194, Stats., unless exempt from such under s. 85.20(5), Stats., or under ch. 194, Stats. 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, unless it is part of an overall public transit service to the area.

(10) "Station revenue" means those revenues which are derived from the operation of a public transportation facility. Such

revenues include concessions, storage rentals, parking, office space rental, and other miscellaneous sources.

(11) "Urbanized area" means those areas of the state so defined by the U.S. Bureau of the Census.

(12) "User-side subsidies" means a program whereby users of the transit service are permitted to purchase transportation vouchers at prices substantially below the fares charged by the transit providers. The users can exchange these vouchers for transportation services, and the providers can then redeem them for the full fare.

TRANS 6.03 FEDERAL SHARE OF PROJECT COSTS. (1) The federal share of operating project costs shall not exceed 50% of such costs. The department has determined that the following operating revenues and expenses will be used to establish the project costs.

(a) Operating revenues shall consist of all passenger and station revenue derived from the project service and any unrestricted federal, state or local funds received as a result of providing the project service, which are not used to match federal section 18 funds. Package express revenue received by private intercity applicants is not operating revenue for the purposes of this chapter.

[Note: Charter operation expenses and revenues for all applicants and package delivery expenses and revenues for all public body applicants can be assumed to be equal and, therefore, will not have any net financial effect on the project.]

(b) Eligible operating expenses are those transportation and overhead expenses associated with the provision of public transportation service including labor, fringe benefits, materials and

supplies, utilities, insurance, purchased transportation service, license fees and certain lease expenses. The following expenses are not eligible project expenses:

1. Depreciation and amortization except for privately owned systems not receiving state operating assistance under s. 85.20, Stats.;

2. Taxes paid which are subject to rebate;

3. Interest expense, except that privately owned systems not receiving state operating assistance under s. 85.20, Stats., may include interest on short-term debt obligation;

4. Profit, except for privately owned systems not receiving state operating assistance under s. 85.20, Stats. Such private systems are eligible for profit which shall be a fixed fee and cannot exceed 10% of the gross contract costs;

5. Lease-purchase payments;

6. Lease payments to a related party which are a less than arms length agreement, except for privately owned systems not receiving state operating assistance under s. 85.20, Stats. Only actual eligible expenses of owning said property, including depreciation and taxes, shall be allowed;

7. Lease payments for revenue passenger vehicles unless the grantee is actively pursuing a capital grant to purchase vehicles, an emergency situation exists necessitating a short-term lease, or the grantee is a privately owned system not receiving state operating assistance under s. 85.20, Stats.;

8. Entertainment costs;

9. Fines and penalties;

10. Bad debts;
11. Charitable deductions;
12. User-side subsidies;
13. Payments to members of advisory committees, transit commissions or transit boards;
14. Federal, state and local income taxes;
15. Expenses related to contractual agreements for special planning studies;
16. Indirect transit-related functions or activities of regional or local entities performed as a normal or direct aspect of general public administration;
17. Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund. For the purposes of determining eligible operating expenses, capital acquisitions are defined as the purchase of non-expendable personal property with a useful life of more than one year and an acquisition cost of \$300 or more per unit. A unit is defined as one or more like items. The cost of materials and supplies utilized in facility or vehicle repairs, regardless of cost, shall be considered as eligible operating costs so long as such repairs involve replacement of existing items.

(2) The federal share of capital project costs shall not exceed 80% of eligible costs. The department shall establish the appropriateness of each capital expenditure. Where capital items are to be shared by parties not directly involved in the provision of the project service, it shall be shown to the satisfaction of the department that the applicant will use the item at least 50%

of the available time before the item will be considered eligible for funding. The project cost will be prorated according to the use percentage.

TRANS 6.04 DISTRIBUTION OF FEDERAL AIDS. (1) The state's annual apportionment of section 18 funds will be distributed as follows:

(a) Up to 10% 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. Any uncommitted balance of the state's apportionment of administrative funds from a preceding project year may be used during subsequent years until such balance is depleted.

(b) The apportionment from the mass transit account of the federal highway trust fund will be made available to all eligible applicants for capital grants only. Funds reserved under this subsection will be expended in accordance with criteria set forth under s. TRANS 6.06.

(c) Applications for capital grants may be made at any time during the year so long as funds are available.

(d) The apportionment from the general fund is available for operating assistance grants.

(e) Any uncommitted balance of the state's annual apportionment of general funds remaining after applications have been filed

under s. TRANS 6.07(2) shall remain available for application throughout the remainder of the year for intercity service not covered under the program.

(2) Any uncommitted balance of the state's annual apportionment from the general fund from a preceding project year or any unexpended balance from previous obligations shall be carried forward to the following year's operating assistance fund.

TRANS 6.05 OPERATING GRANTS TO AREAS OTHER THAN URBANIZED. Subject to the limitations set forth in s. TRANS 6.03(1), the funds available in s. TRANS 6.04(1)(d) shall be allocated among eligible applicants 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 the purposes of this allocation, to one-fourth of the projected operating project costs for calendar year 1983 for their respective transit systems.

TRANS 6.06 CAPITAL GRANTS. (1) Funds under s. TRANS 6.04(1)(b) shall be made available according to the following rank order of priority until all of the funds available are committed:

- (a) Projects for services to Indian reservations;
- (b) Projects to replace vehicles operated by existing systems;
- (c) Projects to initiate a public transportation service in areas other than urbanized;
- (d) Projects to replace maintenance and storage facilities of existing systems;

(e) Projects to expand the number of vehicles operated by existing systems;

(f) Projects to expand and rehabilitate maintenance and storage facilities of existing systems; and

(g) Projects to purchase and install passenger amenities for existing systems such as shelters and bus stop signs.

(2) If available funds are not sufficient to fund all applications within a given category, then the department shall, after consultation with the applicants, reduce the scope or timing of proposed projects within that category to fit available funding.

(3) If the funds available for grants under this section exceed the amounts applied for, such balances shall be available in subsequent years for capital projects.

TRANS 6.07 APPLICATION FOR FEDERAL AIDS. (1) Eligible applicants may apply to the department for section 18 funds. If more than one local public body will financially participate in the project, one such body should submit a single application on behalf of all. In such cases, the federal aids received shall be allocated among all local public bodies in proportion to each one's share of eligible project costs.

(2) Applications for operating assistance shall be submitted to the department no later than December 1 of the year immediately preceding the project year except for those applications filed under s. TRANS 6.04(1)(e). Applicants may request up to a 30-day extension of this date and the department may grant such requests. No application for operating assistance received after January 1 of the project year may be funded unless the secretary of trans-

portation determines that a later date is appropriate in order to properly respond to an emergency situation.

(3) The assisted transit services may be operated for less than a calendar year.

(4) Applications shall be made in a manner and form prescribed by the department in accordance with governing federal regulations.

(5) The applicant shall submit the original of its application to the appropriate transportation district office of the department.

(6) An applicant shall submit a copy of its application for review and comment purposes to the appropriate regional planning commission, to the appropriate area agency on aging, and to the appropriate department of health and social services' division of community services' regional office. In order to be considered by the department, comments by such agencies shall be submitted to the department's appropriate transportation district office within 45 days following the submission of the application to the department. The department shall give appropriate consideration to the review comments of such agencies.

(7) The department reserves the right to reject applications for any of the following reasons:

(a) The proposed project is not consistent with the intent of the section 18 program;

(b) The lack of federal funds;

(c) The application is incomplete;

(d) The proposed project is not effective and efficient when compared to projects of a similar type. Such measures as the ratio of operating revenues to operating expenses, passengers per mile of service, operating expenses per passenger, and passengers per population served may be used to determine effectiveness and efficiency.

TRANS 6.08 REPORTING REQUIREMENTS. All grant recipients shall maintain books and records in the manner required by the department and shall make such periodic and special reports as are required by the department or by governing federal regulations.

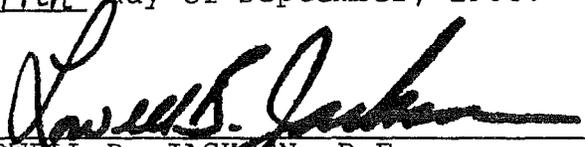
TRANS 6.09 LABOR PROTECTION REQUIREMENTS. Each eligible applicant, through formal resolution by its governing body, must assume all responsibility and liability for all labor protection requirements imposed by the federal government to implement section 13(c) of the urban mass transportation act of 1964, as amended. The department shall not fund any applicant that fails to comply with this section.

(End of Rule Text)

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This rule shall take effect upon publication in the official state newspaper in accordance with s. 227.026(1)(intro.), Wis. Stats.

Dated at Madison, Wisconsin, this  
14th day of September, 1983.

  
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LOWELL B. JACKSON, P.E.  
Secretary  
Wisconsin Department of  
Transportation