

CR 84-8

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MAR 13 1984

C E R T I F I C A T E

2:25 pm
Revisor of Statutes
Bureau

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the Department, do hereby certify that the annexed administrative rule relating to the urban mass transit operating assistance program was approved and adopted by this Department on the 13th day of March, 1984.

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 13th day of
March, 1984.



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

IN THE MATTER OF THE AMENDMENT	:	
OF CHAPTER TRANS 4, WISCONSIN	:	ORDER
ADMINISTRATIVE CODE, RELATING	:	ADOPTING
TO THE URBAN MASS TRANSIT	:	RULE
OPERATING ASSISTANCE PROGRAM	:	

Analysis Prepared by the Wisconsin Department of Transportation

General summary of rule. These amendments to Trans 4, Wis. Admin. Code, have been formulated to respond to statutory changes made by 1983 Wisconsin Act 27, to define more precisely eligible project costs, and to modify the referendum requirement pertaining to the appropriateness of urban areas for participation in the program. Following is a summary of the changes by section:

Trans 4.03. This section is modified to allow an urban area not currently participating in the state urban mass transit operating assistance program to participate in the program for one year prior to meeting the referendum requirement.

Trans 4.04. This section is modified to more precisely define both eligible and ineligible project costs.

Trans 4.05. This section, which defines the state share of eligible project costs, is rewritten to conform to 1983 Wisconsin Act 27.

Trans 4.06. This section, which defines the distribution of state aids, is rewritten to conform to 1983 Wisconsin Act 27.

Trans 4.08. This section is modified to clarify the grant recipient's responsibilities as they relate to the "Transit Management Plan."

Authority for rule. Section 85.20(3), Stats., authorizes the department to administer the urban mass transit operating assistance program. Sections 110.06(1) and 227.014, Stats., grant the department general rulemaking authority.

Fiscal estimate. Section 85.20, Stats., as amended by 1983 Wisconsin Act 27, will have a financial impact on potential recipients of state aids under the state urban mass transit operating assistance program, as well as on the State of Wisconsin. Under this Act, the Legislature increased the maximum level of state funding from 30 percent of a participating transit system's total operating expenses to 35 percent. There are 30 urban transit systems participating in the program in 1984. Total state funding at the 35 percent level will be \$36 million. The additional cost

to the state is, therefore, \$5 million, which will be distributed amongst the 30 participating urban areas.

Forms. Copies of application forms to be used under this rule may be obtained from the Wisconsin Department of Transportation, Bureau of Transit, P.O. Box 7914, Madison, Wisconsin 53707.

This analysis was prepared by Richard Martin, Bureau of Transit, Division of Transportation Assistance, Wisconsin Department of Transportation (608) 266-0658.

Pursuant to authority vested in the Wisconsin department of transportation by ss. 85.20(3), 110.06(1) and 227.014, Stats., the Wisconsin department of transportation hereby amends, repeals and recreates, and adopts rules interpreting s. 85.20, Stats., as follows:

RULE TEXT

SECTION 1. Trans 4.03(2) is amended to read:

Trans 4.03(2) Except as provided for in sub. (1), an urban area shall be deemed appropriate if the electorate of its most populous public body approves a referendum question prior to the filing of its second year's application asking whether the public body should subsidize the operations of an urban mass transit system.

SECTION 2. Trans 4.04 is repealed and recreated to read:

Trans 4.04 PROJECT COSTS. (1) Eligible project costs are limited to the operating expenses of a mass transit system, including labor, fringe benefits, materials and supplies, utilities, insurance, purchased transportation services, license fees and lease expenses. For publicly owned mass transit systems, only the wages and fringe benefits of those employees whose activities are directly related to the day-to-day operation of the system shall

be considered eligible project costs. If such employees do not work full time on transit, only that portion of their time spent on transit shall be considered.

(2) The following expenses are not eligible project costs:

(a) Depreciation and amortization.

(b) Taxes paid which are subject to rebate.

(c) Interest expense.

(d) Profit.

(e) Lease-purchase payments.

(f) Lease payments to a related party which would constitute less than an arms-length agreement.

(g) Lease payments for revenue passenger vehicles unless the situation exists necessitating a short-term lease. For purposes of this subsection, a short-term lease is defined to be of one year or less in duration. If the grantee is actively pursuing a federal grant to purchase vehicles, the eligibility of lease payments may be extended until such time as the purchased vehicles have been delivered.

(h) Entertainment costs.

(i) Fines and penalties.

(j) Bad debts.

(k) Charitable deductions.

(l) User-side subsidies.

(m) Payments to members of advisory committees, transit commissions or transit boards.

(n) Federal, state and local income taxes.

(o) Charter-related expenses.

(p) Expenses related to hauling freight.

(q) Expenses related to contractual agreements for special planning studies.

(r) Indirect transit-related functions or activities of regional or local entities performed as a normal or direct aspect of general public administration.

(s) Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund. For 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.

(t) For privately owned mass transit systems, the wages and fringe benefits of any public employees.

SECTION 3. Trans 4.05 is repealed and recreated to read:

Trans 4.05 STATE SHARE OF ELIGIBLE PROJECT COSTS. (1) The state's share of eligible project costs may not exceed either:

(a) Thirty-five percent of the audited operating expenses as determined by the department for the project year of the applicant's urban mass transit system; or

(b) The non-federal share of the audited operating deficit as determined by the department for the project year of the applicant's urban mass transit system.

(2) "Operating deficit" means the amount by which the total operating expenses incurred in the operation of a mass transit system exceeds the amount of operating revenues derived therefrom.

(3) "Operating revenues" means income accruing to a mass transit system by virtue of its operations, excluding any income derived from the sale of charter service or the hauling of freight.

(4) "Operating expenses" has the meaning designated in s. Trans 4.04(4).

SECTION 4. Trans 4.06(2), (3) and (4) are amended to read:

Trans 4.06(2) From the amounts appropriated, an amount equal to ~~30%~~ 35 percent of the projected operating expenses of each eligible applicant's mass transit system shall be allocated to each eligible applicant.

(3) If the amounts appropriated are less than ~~30%~~ 35 percent of the projected operating expenses of the mass transit systems of all applicants, the allocations shall be made on a proportional basis.

(4) State aids shall be paid to recipients on a quarterly basis. If the department's audit establishes that the state aid commitment has exceeded either ~~30%~~ 35 percent of the mass transit system's actual operating expenses, or the actual nonfederal share of the mass transit system's operating deficit, then the recipients shall refund to the department an amount sufficient to reduce the state aids to equal the lesser of the 2 sums.

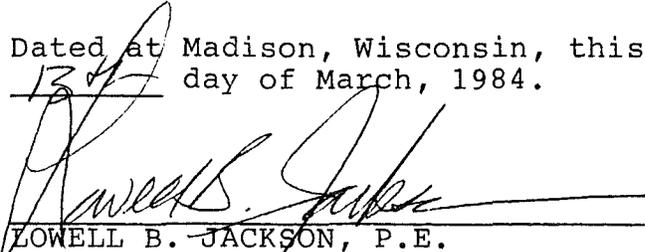
SECTION 5. Trans 4.08(5) is repealed and recreated to read:

Trans 4.08(5) Each state aid contract shall include an appendix entitled "Transit Management Plan." The "Transit Management Plan" shall describe for the contract year how the transit system will be operated, the amount of service which will be provided, the fares to be charged, steps to be taken to make the system operate more effectively and efficiently, and the procedures to be used for establishing revenue passenger trips for the system. Mass transit policy and management decisions made and actions taken during the contract period shall be in conformance with the "Transit Management Plan." Any proposed deviations from the "Transit Management Plan" shall be reported to the department and departmental concurrence secured prior to implementation. The department shall determine if a formal amendment to the "Transit Management Plan" is required. The department may also require the applicant to hold a public hearing on the proposed change prior to the department's determination on the proposal.

(End)

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

Dated at Madison, Wisconsin, this
13th day of March, 1984.



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



State of Wisconsin \

DEPARTMENT OF TRANSPORTATION



PLEASE REPLY TO:

OFFICE OF GENERAL COUNSEL

4802 Sheboygan Avenue
P. O. Box 7910
Madison, WI 53707

Telephone: (608) 266-8810

March 12, 1984

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MAR 13 1984

Revisor of Statutes
Bureau

Mr. Gary Poulson
Assistant Revisor of Statutes
411 West, State Capitol
Madison, Wisconsin 53702

RE: Clearinghouse Rule 84-8;
In the Matter of the Adoption of TRANS 4,
Wisconsin Administrative Code, Relating
to the Urban Mass Transit Operating
Assistance Program

Dear Mr. Poulson:

Enclosed for filing, pursuant to sec. 227.023, Wis. Stats.,
is a certified copy of CR 84-8, an administrative rule relating
to the urban mass transit operating assistance program. An
additional, uncertified copy of CR 84-8 is enclosed to be used
as a printer's copy. This rule is submitted by the Wisconsin
Department of Transportation.

Sincerely,

Connie S. Keator

Connie S. Keator
Legal Assistant

CK
Enclosure
cc: Sue Mattka
Skip Schneider
Doug Haist/John Hartz
Dick Martin/Ron Morse