

CR 86-148

CERTIFICATE

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Revisor of Statutes
Bureau

STATE OF WISCONSIN)
) s.s.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records do hereby certify that the rule relating to distribution of federal funds to urbanized areas of under 200,000 population for assistance to public mass transit systems was duly approved and adopted by this department on December 9th, 1986.

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 at 4802 Sheboygan Avenue, in the City of Madison, this 9th day of December, 1986.



Lowell B. Jackson

LOWELL B. JACKSON, P.E.
Secretary

2-1-87

OFFICE OF THE SECRETARY

THE MATTER OF THE ADOPTION OF	*	
CHAPTER TRANS 8, WISCONSIN	*	
ADMINISTRATIVE CODE, RELATING TO	*	
THE DISTRIBUTION OF FEDERAL	*	ORDER ADOPTING
FUNDS TO URBANIZED AREAS OF	*	RULE
UNDER 200,000 POPULATION FOR	*	
ASSISTANCE TO PUBLIC MASS	*	
TRANSIT SYSTEMS.	*	

Analysis Prepared by the Wisconsin Department of Transportation

Authority for the rule. A program of federal assistance to urban mass transportation systems by means of formula grants for capital expenditures and operating assistance was enacted on January 6, 1983, under Title III of the Surface Transportation Assistance Act of 1982 (P.L. 97-424). The legislation was authorized for fiscal years 1984, 1985 and 1986. Title III which is known as the Federal Public Transportation Act of 1982 amended the Urban Mass Transportation Act of 1964 by creating a new section 9 grant program (49 U.S.C. §1607a). Under this section funds are made available to the Governors of each state which can be distributed among the urbanized areas of their states with populations of 200,000 or less. Governor Earl has delegated to the Secretary of the Department of Transportation the authority to designate the recipients of federal section 9 funds in each urbanized area under 200,000 population and to determine the amount of funds to be granted by the federal Urban Mass Transportation Administration to each recipient. Under s. 85.16, Stats. the Secretary of the Department of Transportation may make rules which he deems necessary to the discharge of powers, duties or functions vested in the department. The Department of Transportation also administers the related state urban mass transit operating assistance program under s. 85.20, Stats. and Trans 4, Wisconsin Administrative Code.

Summary of the rule. In Wisconsin there are currently twelve (12) urbanized areas of under 200,000 population: Appleton, Beloit, Eau Claire, Green Bay, Janesville, Kenosha, LaCrosse, Oshkosh, Racine, Sheboygan, Superior and Wausau. The total amount of funds apportioned to each state is determined on the basis of a population formula. (49 U.S.C. §1607a(d)). Federal law limits the amount of these funds which may be used for operating assistance. For areas which became urbanized prior to the 1980 census, funds used for operating assistance in a given year may not exceed 95% of the funds apportioned for operating assistance to such urbanized areas in 1982. For those areas designated by

the U.S. Bureau of the Census as urbanized areas following the 1980 census, funds used for operating assistance may not exceed 40% of the funds attributable to those areas in the Section 9 apportionment for the year in which the funds are used. Funds remaining above these limits can be used only for capital projects. (49 U.S.C. §1607a(k)(2)). The Urban Mass Transportation Administration annually publishes in the federal register the amount of section 9 funds attributable to each urbanized area in each state using the formula described in 49 U.S.C. §1607a(d).

In previous years the Secretary of the Department of Transportation has determined on behalf of the Governor that each urbanized area should receive exactly the amount attributable to it. This has resulted in wide disparities between urbanized areas when the amount of Section 9 federal aid is computed as a percentage of transit system operating expenses. For example, the 1986 federal shares of projected operating expenses by area are: Appleton 30%; Beloit 19%; Eau Claire 15%; Green Bay 25%; Janesville 16%; Kenosha 29%; LaCrosse 20%; Oshkosh 25%; Racine 25%; Sheboygan 12%; Superior 19%; and Wausau 16%. If this distribution policy is continued and federal appropriations decline, some urbanized areas may not be able to continue to operate their mass transit systems.

For 1987 and subsequent years, the Secretary of the Department of Transportation proposes to distribute funds for operating assistance among Wisconsin's twelve urbanized areas using a formula which will result in each area receiving an equal percentage of their transit system's operating expenses. This is consistent with the policy adopted by the Legislature for the distribution of state aid for urban mass transit operating assistance in sec. 85.20(4m), Wis. Stats. If the formula in the present rule had been applied to the 1986 apportionment of section 9 funds to Wisconsin, each urbanized area would have received approximately 21% of its operating expenses.

The rule also specifies how funds for capital improvements will be distributed if there are insufficient funds to cover up to 80% the cost of all proposed projects. The funds would be used first for projects to replace or rehabilitate existing vehicles and maintenance equipment, then for projects to improve or rehabilitate existing maintenance and storage facilities, next for projects to purchase and install bus shelters, etc., next to purchase vehicles for expansion of transit service and finally for projects to construct new maintenance and storage facilities or passenger transfer facilities. These priorities for distribution of section 9 funds available for capital projects reflects a policy that such funds should be used to maintain existing levels of service before being used to expand services.

Final Regulatory Flexibility Analysis. This rule does not directly affect small businesses since it relates only to the distribution of federal funds to municipalities or municipal agencies.

Fiscal estimate. This rule will have no state fiscal effect since the Department of Transportation is not a recipient of federal section 9 funds and the rule does not affect the level of state aid provided under sec. 85.20, Wis. Stats.

The rule will affect the amount of federal section 9 funds distributed to the twelve urbanized areas in Wisconsin to support public mass transportation services. Seven out of the twelve urbanized areas will receive more section 9 funds under the proposed allocation method than under present policy and five will receive less. Assuming that the apportionment of funds for 1987 remains at the same level as 1986 and that operating expenses will increase by 4%, the following table shows the change for each urbanized area expressed as a percentage of operating expenses:

<u>Pre-1980 Urbanized Areas</u>			<u>Post-1980 Urbanized Areas</u>		
	1986	1987		1986	1987
Green Bay	25	21	Eau Claire	15	21
Appleton	30	21	Sheboygan	12	21
Racine	25	21	Wausau	16	21
Kenosha	29	21	Janesville	16	21
LaCrosse	20	21	Beloit	19	21
Oshkosh	25	21			
Superior	19	21			

In 1986, the Department used another source of federal aids to supplement the allocation to the five new urbanized areas. These supplemental funds will not be available in 1987. Adoption of the proposed method of distribution would help to maintain the previous level of aid received by these areas which would otherwise experience significant declines in their level of federal aid.

This analysis was prepared by Barbara Bird, Assistant General Counsel, Office of General Counsel, Wisconsin Department of Transportation, (608)266-8810.

Pursuant to the authority vested in the Wisconsin department of transportation by s. 85.16(1), Wis. Stats., the department of transportation hereby creates chapter Trans 8, Wisconsin

Administrative Code, establishing the department's policy concerning the distribution of federal funds to urbanized areas of under 200,000 population for assistance to public mass transit systems as follows:

TEXT OF RULE

Section 1. Chapter Trans 8, Wis. Admin. Code, is created to read:

CHAPTER TRANS 8

ALLOCATION OF FEDERAL PUBLIC TRANSIT ASSISTANCE PROGRAM FUNDS
TO URBANIZED AREAS UNDER 200,000 POPULATION

Trans 8.01 Purpose and Scope of Rule. The purpose of this chapter is to prescribe the policies and procedures which the department of transportation acting on behalf of the governor will use for the distribution of federal funds apportioned to the State of Wisconsin for 1987 and subsequent years for mass transit assistance to urbanized areas of under 200,000 population. This program is authorized by section 9 of the Urban Mass Transportation Act of 1964, as amended.

Trans 8.02 Definitions. (1) "Capital project" means the acquisition, construction, reconstruction and improvement of facilities, vehicles and equipment for use in the provision of an eligible urban mass transit system.

(2) "Eligible recipient" means local public bodies in urbanized areas under 200,000 population who have been designated as recipients of federal section 9 funds by the secretary of the department of transportation acting on behalf of the governor.

(3) "Eligible urban mass transit system" means a mass transit system operating or designated to operate in urbanized areas of less than 200,000 population.

(4) "Federal section 9 funds" means all federal funds apportioned to the state for distribution by the governor for urban mass transit operating assistance and capital projects in urbanized areas under 200,000 population.

(5) "Local public bodies" has the meaning given in s. Trans 4.02(2).

(6) "Mass transit system" has the meaning given in s. Trans 4.02(4).

(7) "Operating assistance" means a subsidy to pay part of the operating deficit of an eligible urban mass transit system.

(8) "Operating deficit" has the meaning given in s. Trans 4.05(2).

(9) "Operating expenses" means all eligible project costs under s. Trans 4.04.

(10) "Operating revenues" has the meaning given in s. Trans 4.05(3).

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

(12) "Urbanized area" means those areas of the state so defined by the U.S. bureau of the census.

Trans 8.03 Distribution of Federal Aids. The governor's annual apportionment of federal section 9 funds shall be distributed as follows:

(1)(a) Funds apportioned to the governor and available for operating assistance shall be allocated annually among eligible recipients in proportion to each recipient's share of the projected operating expenses of all eligible recipients for the project year. No recipient may receive an allocation that exceeds 50% of its operating deficit for any project year in accordance with 49 U.S.C. §1607a(k)(1).

(b) The department of transportation shall provide to each eligible recipient projections of the amount of state and federal funds for operating assistance which will be allocated to each recipient for the next project year no later than October 1. The projections will be based on the best information available at the time. Revised projections shall be provided to each eligible recipient within 10 days following publication of the Urban Mass Transportation Administration's official Section 9 apportionments in the Federal Register.

(2)(a) Funds apportioned to the governor and not allocated for operating assistance under sub. (1) shall be made available on an annual basis to eligible recipients to cover up to 80% of the cost of capital projects included in the final program of projects submitted by each recipient to the Secretary of the United States Department of Transportation as required by 49 U.S.C. §1607a(e)(2). In any project year in which requests for capital assistance exceed available funds, the following rank order of priority shall be used for distribution until all funds available are committed:

1. Projects to replace or rehabilitate existing vehicles and maintenance and shop equipment.

2. Projects to improve or rehabilitate existing maintenance and storage facilities.

3. Projects to purchase and install passenger amenities such as shelters and bus stops.

4. Projects to purchase vehicles necessary to expand transit service.

5. Projects to construct new maintenance and storage facilities and major passenger transfer facilities.

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

(3) Any uncommitted balances of the governor's apportionment or any unexpended balances from previous years under this section shall be carried forward to the following year.

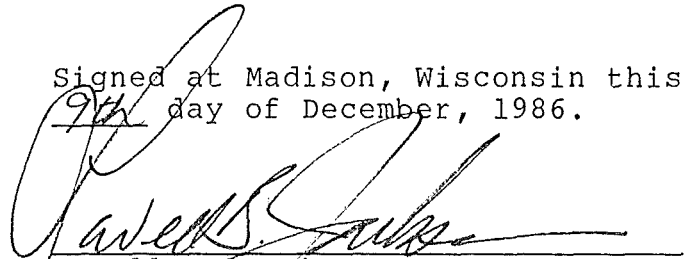
Trans 8.04 Report Requirements. All eligible recipients receiving a grant of federal section 9 funds shall maintain books and records in the manner required by the department and shall make periodic and special reports as required by the department or by applicable federal regulations.

Trans 8.05 Annual Review. The department of transportation shall review the policies and procedures established in this rule annually.

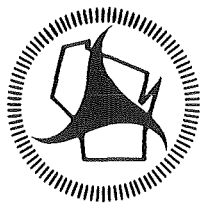
(END)

This rule creating ch. Trans 8, Wis. Admin. Code, shall take effect upon the first day of the month following publication as provided in s. 227.22(1), Wis. Stats.

Signed at Madison, Wisconsin this
9th day of December, 1986.

A handwritten signature in black ink, appearing to read 'Lowell B. Jackson', written over a horizontal line.

Lowell B. Jackson, P.E.
Secretary
Wisconsin Department of
Transportation



Wisconsin Department of Transportation

OFFICE OF GENERAL COUNSEL
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December 10, 1986

RECEIVED

DEC 15 1986

Revisor of Statutes
Bureau

Mr. Gary Poulson
Assistant Revisor of Statutes
30 West Mifflin Street
Suite 904
Madison, Wisconsin 53703

RE: Clearinghouse Rule 86-148
In the Matter of the Adoption
of TRANS 8, Wis. Admin. Code,
Relating to Distribution of Federal
Funds to Urbanized Areas of Under
200,000 Population for Assistance
to Public Mass Transit Systems.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of CR 86-148, an administrative rule relating to distribution of federal funds to urbanized areas of under 200,000 population for assistance to public mass transit systems.. An additional, uncertified copy of CR 86-148 is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

A handwritten signature in cursive script that reads "Barbara F. Bird".

Barbara F. Bird
Assistant General Counsel

BFB:dlm
Enclosures
CC: K. Sue Gallagher
Maynard Schneider