

## CHAPTER 85

## DEPARTMENT OF TRANSPORTATION

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**85.01 Definitions.** In this chapter:

(1) "Department" means the department of transportation.

(2) "Secretary" means the secretary of transportation.

(3) "Commission" means the transportation commission.

History: 1971 c. 125; 1973 c. 90; 1977 c. 29.

**85.02 Planning, promotion and protection.**

The department may direct, undertake and expend state and federal aid for planning, promotion and protection activities in the areas of highways, motor vehicles, traffic law enforcement, aeronautics, mass transit systems and for any other transportation mode as well as for ports, harbors and waterways when requested by a state, regional or municipal agency or harbor commission. All state, regional and municipal agencies and commissions created under authority of law shall to the extent practicable, when dealing with transportation, follow the recommendations made by the secretary.

History: 1973 c. 90.

**85.03 Federal reduction or termination of aid.**

All appropriations made to the department under s. 20.395 are subject to the specific provision that if federal government funding of any portion of a program under s. 20.395 is reduced or terminated, the secretary may terminate or reduce state participation in the program in such proportion as he deems appropriate.

History: 1971 c. 125; 1973 c. 90 ss. 397e, 560 (4).

**85.035 Reduction of department appropriations.**

Where the secretary deems that economic conditions warrant, the secretary, in conjunction with submission of quarterly estimates under s. 16.50, may recommend to the secretary of administration that authorized department appropriations be reduced to reflect revenue deficiencies.

History: 1977 c. 29.

**85.04 Acquisition of replacement lands.**

If federal law prohibits the acquisition of lands determined by the secretary to be necessary for transportation purposes unless replacement lands are provided, the department may acquire by gift, devise, purchase or condemnation any lands or interests in lands necessary to satisfy the replacement requirement.

History: 1977 c. 418.

**85.05 Urban mass transit operating assistance program. (1) DEFINITIONS.** In this section:

(a) "Eligible applicant" means a local public body in an urban area which is served by an urban mass transit system incurring an operating deficit.

(b) "Total operating deficit" means the amount by which the total operating expenses incurred in the operation of an urban mass transit system exceeds the amount of operating revenue derived therefrom.

(c) "Operating revenues" mean income accruing to an urban mass transit system by virtue of its operations.

(d) "Operating expenses" mean costs accruing to an urban mass transit system by virtue of its operations, but do not include profit, return on investment or depreciation as costs for purposes of this section.

(e) "Urban mass transit system" means a mass transit system operating within an urban area.

(f) "Mass transit system" means transportation by bus, shared-ride taxicab, rail, or other conveyance, either publicly or privately owned, that provides the public with general or special service on a regular and continuing basis.

(g) "Urban area" means any area that includes a city or village having a population of 5,000 or more that is appropriate, in the judgment of the department, for an urban mass transit system.

(h) "Local public body" includes counties, municipalities or towns, or agencies thereof; transit or transportation commissions or authorities and public corporations established by law or by interstate compact to provide mass transportation services and facilities or 2 or more of any such bodies acting jointly under s. 66.30.

(i) "Elderly persons" means individuals age 65 or over.

(j) "Handicapped persons" means individuals who, by reason of illness, injury, age, congenital malfunction, or other temporary or permanent incapacity or disability, are unable without special planning or design to use mass transit facilities and services as effectively as persons who are not so affected.

(k) "Revenue passenger trip" means a trip taken on an urban mass transit system by any passenger who pays a fare to use an urban mass transit system, or by any passenger for whom a fare has been paid by another under a contract or other arrangement with an urban mass transit system.

(1) "Base year entitlement" means the amount of state aid authorized under s. 85.05, 1975 stats., which an urban mass transit system was entitled to receive to offset the nonfederal share of the operating deficit incurred during calendar year 1978, except that in any calendar year, the base year entitlement may not exceed two-thirds of the nonfederal share of the operating deficit for that calendar year, as determined by the department. For systems that have not received any state aid prior to 1979, the base year entitlement shall equal two-thirds of the nonfederal share of the operating deficit for the first full calendar year of operation.

(2) **PURPOSE.** The purpose of this section is to promote the general public good by preserving and improving existing urban mass transit systems in this state.

(3) **ADMINISTRATION.** The department shall administer the mass transit aid program and shall have all the powers necessary and convenient to implement this section, including the following powers:

(a) To receive applications for aid under this section and to prescribe the form, nature and extent of information which shall be contained in applications.

(b) To make and execute contracts with any eligible applicant to ensure the continuance and improvement of quality urban mass transit service at reasonable fares. No such contract is effective for a period of more than one year in length and is not enforceable against the state unless the following conditions are met:

1. The eligible applicant pays the operating deficit of the urban mass transit systems involved in accordance with a schedule approved by the department;

2. The participating urban mass transit systems provide reduced fare programs for elderly and handicapped persons during nonpeak hours. Such reduced fares may not exceed one-half of the full adult cash fare applicable during peak hours of operation; and

3. The eligible applicant establishes and maintains accounting procedures and documentation requirements as prescribed or approved by the department.

(c) To audit the operating revenues and expenses of all urban mass transit systems participating in the program in accordance with generally accepted accounting principles and practices. The audits shall be the basis for computing the maximum share of state and federal aids each eligible applicant can apply against operating deficits for each state aid contract period.

(d) To apply for and receive federal grants for the department or as requested on behalf of eligible recipients.

(4) **STATE AIDS.** Payments of state aids appropriated for this program shall be in accordance with the terms and conditions of contracts executed between the department and eligible applicants. State aid payments shall be subject to the following limitations:

(a) 1. From the total amounts appropriated under s. 20.395 (1) (sd) and (se), an amount equal to the base year entitlements for all participating urban mass transit systems shall be allocated for distribution to eligible applicants in accordance with par. (b). With respect to a new system that has not established a base year entitlement level as defined in sub. (1) (L), the department shall estimate that system's base year entitlement for the purpose of making the allocation under this subdivision.

2. If the amounts appropriated under s. 20.395 (1) (sd) and (se) exceed the total base year entitlements allocated under subd. 1, subject to subd. 4, the balance of the moneys appropriated shall be allocated for distribution in accordance with pars. (c) to (e).

3. If the amounts appropriated under s. 20.395 (1) (sd) and (se) are less than the total base year entitlements allocated under subd. 1, the moneys appropriated thereunder shall be allocated for distribution in accordance with par. (b) on a pro rata basis.

4. The allocation under subsd. 1 and 2 may not exceed two-thirds of the total nonfederal share of the operating deficits of all participating systems in that calendar year.

(b) From the amounts allocated under par. (a) 1, the department shall distribute to each participating eligible applicant an amount equal to its base year entitlement for the purpose of offsetting its nonfederal share of operating deficits.

(c) 1. One-half of the amounts allocated under par. (a) 2 shall be distributed to participating eligible applicants on the basis of the following formula: to each participating eligible applicant, one-half of the amount allocated under par. (a) 2 multiplied by the ratio of the annual number of revenue passenger trips in the preceding calendar year in the participating urban mass transit systems involved to the annual number of revenue passenger trips in the preceding calendar year in all the participating urban mass transit systems in the state. The department shall use only the revenue passenger trip data from the previous year of those urban mass transit systems participating in the current year.

2. The number of revenue passengers shall be determined for each participating urban mass transit system in the manner prescribed by the department. The department shall audit the revenue passenger trip figures of each participating urban mass transit system.

3. If the amount of aids payable under this paragraph to a participating eligible applicant causes the total state aids, based on estimated operating deficits, to exceed the limitation specified in par. (f), then the amount of state aids payable under this paragraph to that participating eligible applicant that exceeds that limitation shall be distributed to the remaining participating eligible applicants in accordance with the formula under subd. 1.

(d) One-half of the amount allocated under par. (a) 2 shall be distributed to participating eligible applicants on the basis of the following formula: to each participating eligible applicant, one-half of the amount allocated under par. (a) 2 multiplied by the ratio of the increase in that system's estimated two-thirds nonfederal share of the operating deficit over its base year entitlement to the estimated total increase in two-thirds nonfederal share operating deficits of all participating systems over the total base entitlements as determined in par. (a) 1.

(e) Allocations under par. (a) 2 shall be distributed to eligible applicants under par. (d) prior to making distributions under par. (c).

(f) For each eligible applicant the total of the payments under pars. (b) to (d) may not exceed 72% of the nonfederal share of the operating deficit of the urban mass transit system involved.

(g) The department shall administer the distribution of moneys appropriated for this

program in a manner that ensures that the base year entitlements are encumbered for each calendar year before making the allocation under par. (a) 2.

(h) If more than one local public body contributes assistance to the operation of an urban mass transit system, the state aids distributable under this section shall be allocated among the contributors in proportion to their contributions.

(5) REGULATION. For such time as any urban mass transit system participates in this program, it shall be exempt from regulation under ch. 194.

History: 1973 c. 90, 333; 1975 c. 39; 1977 c. 29

### 85.06 Urban mass transit planning and technical assistance program. (1) PURPOSE.

The purpose of this section is to promote the general public good by planning urban mass transit systems and services and by providing technical assistance to urban mass transit systems, including but not limited to conducting feasibility studies for the establishment of new urban mass transit systems in urban areas of the state without such services.

(2) DEFINITIONS. In this section:

(a) "Urban mass transit system" has the meaning prescribed in s. 85.05 (1) (e).

(b) "Urban area" has the meaning prescribed in s. 85.05 (1) (g).

(c) "Mass transit system" has the meaning prescribed in s. 85.05 (1) (f).

(3) ADMINISTRATION. The department shall administer the urban mass transit planning and technical assistance program and shall have all powers necessary and convenient to implement this section, including the power to use the appropriation for this program to match federal moneys available to the state for planning and technical assistance for urban mass transit systems.

History: 1973 c. 90; 1977 c. 29

### 85.065 Urban rail line relocations. (1) (a)

Any county, city, village, town or combination thereof may apply to the department for a study of the cost and benefits of the location and form of railroad lines, associated facilities, and railroad operations within an urban area. Upon receiving such application, the department may undertake or contract for a study to determine the extent to which the existing location of such lines, facilities and operations serves the public interests in:

1. Reliable, economical and expeditious commercial transportation;

2. Safe and orderly movement of pedestrian and vehicular traffic;

3. Coordinated and environmentally sound planning for development or preservation of the area; and

4. Conservation of scarce land or energy resources.

(b) The study shall be performed in consultation with the applicant and other interested parties and shall result in a report describing alternatives to the existing location and form of such railroad lines, facilities and operations which assesses each alternative in light of those criteria.

History: 1977 c. 29.

### **85.08 Elderly and handicapped and rail transportation aids. (1) LEGISLATIVE FINDINGS.**

The legislature finds that private capital and local governmental financial resources are unable to fully meet the transportation needs of all citizens. It is determined that the programs authorized under this section are legitimate governmental functions serving proper public purposes.

(2) **GENERAL POWERS.** The department may exercise those powers necessary to establish transportation service programs, including authority:

(a) To promote, supervise and support safe, adequate and efficient transportation services designed for elderly and handicapped people.

(b) To plan, promote and engage in financial assistance programs for continuing, restoring and operating Lake Michigan rail and car ferry and rail branch line transportation services.

(c) To maintain adequate programs of investigation, research, promotion and development in connection with transportation programs authorized under this section and to provide for public participation in these programs.

(d) To comply with federal regulations affecting federal transportation service continuation or restoration, or operating assistance programs.

(e) To enter into joint service agreements or other agreements providing for mutual cooperation related to transportation services and projects, including joint applications for federal aids with any county or other body public and corporate.

(f) To receive, use or reallocate federal funds, grants, gifts and aids.

(g) To adopt rules necessary to effectuate and enforce this section and to prescribe conditions and procedures, including auditing and accounting methods and practices, to assure compliance in carrying out the purposes for which state financial assistance is made.

(i) To make and execute contracts with the federal government, any other state or any county or other body public and corporate to

ensure the continuance and improvement of quality transportation service at reasonable rates.

(j) To audit the operating revenues and expenditures of all transportation systems participating in the aids program under this section in accordance with accounting methods and practices prescribed by the department.

(3) **COORDINATION AND COOPERATION.** (a) The department shall coordinate the transportation activities of the state to effectuate the purposes of this section and is responsible for negotiating with the federal government for transportation service programs authorized under this section.

(b) The department may cooperate with other states in connection with the purchase, subsidization or operation of any transportation properties within this state or in other states in order to carry out the purposes of this section. The department may enter into contractual arrangements for such purposes, including joint purchase of transportation properties with other states and entering into leases jointly with other states affected thereby.

(4) **RAIL FERRY AND RAIL BRANCH LINE TRANSPORTATION AIDS.** The department shall administer a program of financial assistance for the purpose of matching federal moneys made available to the state for assisting continuance or restoration or operation of Lake Michigan rail and car ferry services and railroad branch line transportation services. The department shall maximize the use of such available federal aids to assist in preserving rail service wherever feasible and appropriate.

(4g) **MUNICIPAL RAIL SERVICE GRANTS.** The department may make grants to municipalities for the purpose of reimbursing municipalities for moneys expended to continue the operation of or increase the level of service of any railroad.

(4m) **RAIL PRESERVATION LOANS AND GRANTS.** (a) *Purpose; findings.* The purpose of this subsection is to assist local governments in the preservation of rail service in those areas of the state confronted with the possibility of service discontinuation. The legislature finds that private capital and local government contributions are insufficient to prevent the breakdown of rail service. The legislature finds that rail service preservation bears a significant relationship to the conservation of energy, the preservation of existing economic and tax bases and the maintenance of a balanced transportation system. The legislature further finds that these are proper governmental functions and that the programs authorized under this subsection are therefore valid governmental functions serving proper public purposes. It is the intent of this

subsection to promote the public good by preserving and improving rail service in this state.

(b) *Definitions.* In this subsection:

1. "Eligible applicant" means a county, municipality or town or agency thereof or a transit commission organized under s. 59.968, 66.30 or 66.943.

2. "Rail property improvements" means any property used in operating a railroad or railway including, without limitation because of enumeration, rails, ties, switches, trestles and bridges located on the right-of-way, but not including the right-of-way.

3. "Rail service" means a level of rail service which the department determines to be an acceptable level of service.

(c) *Loan program administration.* The department may make loans to eligible applicants for the purpose of purchasing rail property improvements. The department shall administer the loan program and shall have all the powers necessary and convenient to implement this paragraph, including the following powers:

1. To develop the specifications and provisions of the loans which are made to eligible applicants. If the eligible applicant defaults on the specified provisions of the loan, the rail property improvements are transferred to the department for disposal.

2. To receive and review applications for loans under this paragraph and to prescribe the form, nature and extent of the information which shall be contained in applications. The applications and loans may be made after the line has been filed for abandonment.

3. To make and execute agreements with eligible applicants for loans. These agreements shall ensure that rail service on the line is maintained and that the required maintenance and improvement activities are performed.

4. To determine whether or not rail service is being maintained on a rail line. If rail service is not maintained on a rail line for which the applicant has obtained a loan or loans under this paragraph, the applicant has defaulted on the provisions of the loan and the rail property improvements are transferred to the department for disposal.

5. To coordinate this program with acquisition of rail right-of-way under s. 195.199.

(d) *Grant program administration.* If the department has made a loan or loans to an applicant under par. (c), the department may, if it deems advisable, make a grant or grants to such an applicant to purchase right-of-way. Aid granted under this paragraph shall be paid from the appropriation under s. 20.395 (5) (td).

(5) SPECIALIZED TRANSPORTATION ASSISTANCE PROGRAMS FOR THE ELDERLY AND THE HANDICAPPED. (a) *Purpose.* The purpose of this

subsection is to promote the general public health and welfare by providing transportation services for the elderly and handicapped, and to thereby improve and promote the maintenance of human dignity and self-sufficiency by affording the benefits of transportation services to those people who would not otherwise have an available or accessible method of transportation.

(b) *Definitions.* In this subsection:

1. "County proportionate share" means the total amount appropriated for purposes of this subsection during the current fiscal year multiplied by the ratio of the number of elderly and handicapped persons in the county to the total number of elderly and handicapped persons in this state, as determined by the department.

2. "Designated service area" means that area to be provided specialized transportation service for any fiscal year.

3. "Elderly person" means any individual age 65 or over.

4. "Eligible applicant" means any county or agency thereof.

5. "Handicapped person" means any individual who, because of any temporary or permanent physical or mental condition or institutional residence is unable without special facilities or special planning or design to use available transportation facilities and services as effectively as persons who are not so affected.

6. "Specialized transportation service" means a transportation system, either publicly or privately owned, which provides to elderly or handicapped persons general or special service on a regular and continuing basis in a designated service area.

(c) *Administration.* The department shall administer the specialized transportation service assistance program and shall have all the powers necessary and convenient to implement this subsection, including the following powers:

1. To receive and review county plans for specialized transportation service assistance under this subsection and to prescribe the form, nature and extent of the information which shall be contained in the county plans. County plans may also include specialized transportation services to persons age 55 or over.

2. To determine the county proportionate share in accordance with a generally accepted statistical methodology and practice.

3. To make and execute contracts with counties to ensure the provision of specialized transportation service. Payments under such contracts to eligible applicants shall not exceed the county proportionate share, except as supplemented under subd. 4. No such contract shall be effective for a period of more than one year in length. Contract requirements may require the county to make a matching contribution of 10%

of the county proportionate share or to furnish information determined necessary by the department for periodic program monitoring and year-end auditing and evaluation.

4. If any county fails to contract with the department for its entire county proportionate share by February 1 of any fiscal year, the department may distribute the remaining amount by supplemental contract with other counties that have applied for more than their county proportionate share.

**(6) OPERATING AND CAPITAL GRANTS FOR ELDERLY AND HANDICAPPED TRANSPORTATION.**

(a) *Purpose.* The purpose of this subsection is to promote the general public health and welfare by providing capital and operating assistance to private, nonprofit organizations providing transportation services to elderly and handicapped people.

(b) *Definitions.* In this subsection:

1. "Eligible applicant" means any private, nonprofit organization.

2. "Eligible capital project costs" mean costs incurred in the acquisition of vehicles and equipment under this subsection as defined by the department for the purpose of administering the program under 49 U.S.C. 1612 (b) (2).

3. "Operating assistance block grant" means the money granted to eligible applicants by the department to finance the operation of vehicles under this subsection or 49 U.S.C. 1612 (b) (2), or both.

(c) *Administration.* The department shall administer the grant program and shall have all the powers necessary and convenient to implement this subsection, including the following powers:

1. To receive and review applications for aid under this subsection and to prescribe the form, nature and extent of information which shall be contained in applications. Applicants may be required to furnish information determined necessary by the department for periodic program monitoring, auditing and evaluation.

2. To make and execute agreements with eligible applicants to provide for the undertaking of transportation services to the elderly or the handicapped. Payments of state moneys under such agreements may not exceed 20% of eligible capital project costs, except as supplemented under subd. 3.

3. To reserve up to 50% of the moneys appropriated for this program to add to the

annual allocation of federal moneys made available to the state for eligible capital project costs. State moneys reserved under this subdivision may be expended in accordance with federal guidelines for eligible capital project costs.

4. To make grants to eligible applicants to finance the operation of vehicles providing transportation services to the elderly or the handicapped. Payments of state moneys for operating assistance block grants may not exceed \$5,000 per vehicle. No eligible applicant may receive more than one operating assistance block grant.

History: 1977 c. 29, 418.

**85.10 Sale of aerial photographic survey products.**

(1) The department shall consult with the department of administration regarding the scope and character of the aerial photographic survey conducted by the department of administration under s. 16.965. In addition, the department shall consult with the department of administration regarding the scope, character and price of the photographic products to be sold by the department under sub. (3).

(2) The department shall receive from the department of administration or its designee the refined and unrefined products of the aerial photographic survey conducted by the department of administration under s. 16.965. The department shall prepare the master imagery sets from which the photographic products sold under sub. (3) are prepared.

(3) The department shall produce and sell to any person the selection of photographic products derived from the aerial photographic survey conducted under s. 16.965 designated for production and sale by the department of administration under s. 16.695 (2) [16.965 (2)]. The sale price for the products shall be determined by the department of administration in accordance with s. 16.965 (2).

History: 1977 c. 418

**85.15 Property management.** The department may improve, use, maintain or lease any property acquired for highway, airport or any other transportation purpose until the property is actually needed for any such purpose.

History: 1977 c. 29.