



## Legislative Fiscal Bureau

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May 19, 2009

Joint Committee on Finance

Paper #778

### **I-94 North-South Freeway Reconstruction (DOT -- State Highway Program)**

[LFB 2009-11 Budget Summary: Page 626, #3]

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#### **CURRENT LAW**

The southeast Wisconsin freeway rehabilitation program is responsible for the rehabilitation and expansion of freeways in Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha counties. The Department of Transportation (DOT) is prohibited from using funds appropriated for the state highway rehabilitation or major highway development programs on these freeways. Projects on the freeways that involve the addition of at least one lane for five or more miles must be enumerated in the statutes prior to construction. Currently, the Zoo Interchange in western Milwaukee County and the I-94 north-south corridor in Milwaukee, Racine, and Kenosha counties are enumerated under this provision.

The I-94 north-south corridor is approximately 35 miles long and is statutorily defined to include all of the following: (a) I-94 from the Illinois-Wisconsin state line in Kenosha County proceeding northerly through the Mitchell Interchange to Howard Avenue in Milwaukee County; (b) the Mitchell Interchange of I-43, I-94, and I-894 in Milwaukee County; (c) I-43/I-894 from the Mitchell Interchange proceeding westerly to 35<sup>th</sup> Street in Milwaukee County; (d) the STH 119 Airport Spur Parkway between I-94 and General Mitchell International Airport in Milwaukee County; and (e) all freeways, roadways, shoulders, interchange ramps, frontage roads, and collector road systems adjacent or related to these routes or interchanges.

#### **GOVERNOR**

Provide \$8,350,000 SEG in 2010-11 and \$250,250,000 in transportation-fund supported, general obligation bonds for the reconstruction of the I-94 North-South freeway between the Mitchell Interchange and the Illinois state line.

## DISCUSSION POINTS

1. A total of \$371.8 million has previously been provided for the I-94 North-South freeway project, composed of the following: (a) a funding increase of \$29.2 million provided in the 2005-07 biennial budget; (b) a funding increase of \$181.6 million provided in the 2007-09 biennial budget; (c) \$63.4 million in base resources in the 2007-09 biennium, including base funding that had previously been dedicated to the Marquette Interchange reconstruction project; and (d) \$97.6 million in federal economic stimulus funds that were allocated to the project in 2008-09 by 2009 Act 2.

2. The bill would provide a total increase of \$258,600,000 in SEG and bond funds specifically for the project, and a separate item would provide \$61,100,000 in 2009-10 in federal economic stimulus funds for the southeast Wisconsin freeway rehabilitation program. Upon introduction of the bill, DOT indicated that if these funding increases were approved, the North-South freeway project would be allocated \$146,400,000 in 2009-10 and \$370,600,000 in 2010-11, which includes base SEG and FED funds, a portion of the federal economic stimulus funds, and the SEG and bonding increases, as shown in the table below.

	<u>2009-10</u>	<u>2010-11</u>	<u>Biennial Total</u>
Base SEG	\$38,700,000	\$38,900,000	\$77,600,000
Base FED	<u>73,100,000</u>	<u>73,100,000</u>	<u>146,200,000</u>
Total Base	\$111,800,000	\$112,000,000	\$223,800,000
FED-Stimulus	\$34,600,000	\$0	\$34,600,000
SEG Increase	0	8,350,000	8,350,000
Bonds	<u>0</u>	<u>250,250,000</u>	<u>250,250,000</u>
Total New Funds	\$34,600,000	\$258,600,000	\$293,200,000
Total For North-South Freeway	\$146,400,000	\$370,600,000	\$517,000,000

3. At the time that the transportation provisions of the bill were developed, the precise amount of federal economic stimulus funds that the state would receive was unknown. Based on an early version of the federal stimulus bill, it was assumed that the state would receive \$563.7 million in highway funds and that 50% of this amount would be spent in 2008-09, leaving the other half, or \$281.9 million, to be budgeted in 2009-10. The \$61.1 million provided for the southeast Wisconsin freeway rehabilitation program is an allocation of these funds. However, two factors have reduced the amount of federal economic stimulus funds available for 2009-10. First, the actual amount received by the state under the federal act is \$529.1 million, which is \$34.6 million less than had been assumed. Second, of the amount actually received, an estimated \$341.2 million (64% of the total) will be spent in 2008-09, leaving \$187.9 million remaining for 2009-10, which is \$94.0 million less than the amount reflected in the bill. Furthermore, since the bill would not allocate enough stimulus funding to satisfy commitments for local projects, the shortfall in available funds for state highway programs is greater. In total, the bill would provide \$247.1 million for state highway programs, but after making adjustments for the amount actually received, the amount

allocated to projects in 2008-09, and the amount committed to local projects, only \$55.9 million will remain for those programs. Consequently, to accurately reflect the amount of stimulus funds available for state highway programs in 2009-10, the Committee must reduce the amount allocated to state highway program appropriations by a total of \$191.2 million, a reduction of 77.4%.

4. If the Committee decides to make the necessary reductions to the federal economic stimulus allocations on a proportionate basis among all state highway programs, the 2009-10 allocation to the southeast Wisconsin freeway rehabilitation program would be reduced from \$61,100,000 to \$13,822,900 [Alternative #A2]. The Department could decide to allocate this remaining amount of stimulus funds to the North-South freeway project, or to other rehabilitation projects on the southeast Wisconsin freeway system.

5. If no stimulus funding is allocated to the North-South freeway project in 2009-10, the total amount available during the 2009-11 biennium would be reduced to \$482.4 million. However, relative to the Department's initial financial plan for the project (prepared in November, 2008), the project would still receive more total funding through the end of the 2009-11 biennium (\$854.2 million compared to a planned \$843.5 million) because of the allocation of \$97.6 million in federal economic stimulus funds in 2008-09.

6. The Department's final environmental impact statement for the project estimates the total cost to be \$1.701 billion in 2008 dollars. Taking into consideration an assumed 3% annual rate of inflation, this estimate translates into a total cost of \$1.912 billion when expressed in year-of-expenditure dollars. Of this amount, 85.6% would be for construction, 6.2% for design, 5.0% for real estate, 1.6% for utility and railroad relocation, and 1.6% for traffic mitigation.

7. In May, 2008, the final environmental impact statement was approved by the Federal Highway Administration, allowing the Department to proceed with final design and construction. Along with complete replacement of pavements and bridges, the selected design alternative for the project calls for safety and design improvements, with capacity expansion.

8. The design and safety improvements for the corridor include improved interchange spacing, the construction of auxiliary lanes, the elimination of lane-drops to improve route continuity and reduce traffic weaving, increased ramp lengths to allow more space for merging, the straightening of curves, the addition of collector/distributor roads in Milwaukee County, increasing the distance between frontage roads and the freeway in Racine and Kenosha counties, the elimination of left-hand ramps, and the separation of frontage roads from freeway ramps in Racine and Kenosha counties.

9. The selected design would include the construction of an additional, general purpose lane in each direction from the Mitchell Interchange to the state line, to increase the total number of general purpose lanes from six to eight. Also, an additional lane would be added to the system interchange ramps within the Mitchell Interchange to increase the capacity for traffic moving between I-94 and I-894. The Department's environmental impact statement maintains that capacity expansion is needed to accommodate forecast traffic volumes for the "design year," which is 2035.

The Department projects that traffic volume will grow, on average, at between 1% and 1.5% annually in Kenosha and Racine counties through 2035, while in Milwaukee County, traffic is expected to grow at a somewhat lower rate, between 0.4% and 0.8% annually. In all three counties, this rate of growth would result in levels of traffic congestion that are higher than federal standards for freeways of this type.

10. The Department's environmental impact statement includes an estimate of both the selected design alternative and an estimate of making design and safety improvements without additional capacity. The estimated cost of the design and safety improvements alternative (without capacity expansion) is approximately \$200 million less than the selected alternative, which includes additional lane capacity. The 2007-09 budget included a provision authorizing the construction of additional lanes throughout the corridor, and the Department has proceeded with the design, real estate acquisition, utility relocation, and initial construction of the capacity expansion alternative.

11. In 2008-09, the Department is using or will use a combination of funding provided in the 2007-09 budget and federal economic stimulus funds to begin construction on selected projects within the corridor. Among these projects are several that involve the reconstruction of bridges or interchanges (not including the Mitchell Interchange) in all three counties and the reconfiguration of frontage roads in Kenosha and Racine counties. In addition, using economic stimulus funding, the Department will begin work on a segment of mainline freeway from the state line to STH 50 in Kenosha County, a project that was originally scheduled for 2011 and 2012.

12. With funding provided under the bill, the Department would begin the reconstruction of the Mitchell Interchange, as well as proceed with additional work on frontage roads and other interchanges. The Department indicates, however, that the schedule of projects remains somewhat uncertain because of the modifications made as the result of the use of economic stimulus funds. The schedule will be reevaluated once the final funding for the 2009-11 biennium is known.

13. If the Governor's recommended funding increases (without any additional stimulus funding in 2009-10) are approved, and the Department allocates base funding for the project as proposed, an estimated \$1,057.8 million would remain to complete financing for the project after 2010-11. According to the Department's financial plan for the project, most of this remaining amount would be needed in the four-year period from 2011-12 through 2014-15 (\$3.6 million would be spent in the two fiscal years after 2014-15). Although expenditures would vary within this four-year period, and would be subject to revisions as the project proceeds, the average expenditures for the four years would be \$263.6 million annually. SEG and FED funding allocated to the project in 2010-11 would total \$120.4 million. If this amount is not changed in subsequent years, the average, above-base funding increase needed to fund the project in those four years would be \$143.2 million (the difference between the \$120.4 million base and the \$263.6 million average, annual expenditure). These amounts could be provided with SEG or FED appropriation increases, with additional bonds, or a combination of appropriation increases and bonds.

14. Of the \$371.8 million in funding provided through the 2007-09 biennium for the

North-South freeway project, \$90.2 million, or 24% of the total, has been provided with transportation fund-supported, general obligation bonds. The bill would provide an additional \$250,250,000 in bonds that, if approved, would increase the percentage of the project funded with bonds through the end of the biennium (assuming no federal stimulus funding is allocated to the project in 2009-10) to 40%. If the above-base funding increases needed to complete the project (as described in the previous point) are provided entirely with bonds, the total amount that would be paid with bonds over an eight-year period would be \$913.3 million, which would be 48% of the total estimated project cost.

15. By comparison with the bond estimates outlined in the previous points, of the \$810 million cost of the Marquette Interchange reconstruction project, \$213.1 million, or 26%, was paid with bonds. [The \$810 million was the initial estimate of the cost of the project, although the Department indicates that the actual cost, which is not yet finalized, is expected to be \$10 million to \$15 million less than that.]

16. Once fully issued, debt service payments on the \$250,250,000 in bonds that would be authorized by the bill would be \$20.0 million annually. When added to debt service on the \$90.2 million in bonds authorized for the project by the 2007-09 biennium, total, annual debt service payments would be \$27.2 million. If the remaining, above-base costs after the 2009-11 biennium are paid with bonds, as described in Points #13 and #14, total debt service payments would be an estimated \$73.1 million annually. However, since these bonds would be issued over an eight-year period, variations in bond interest and issuance structure during that time could alter this estimate.

17. The Department of Administration's method for estimating debt service on general obligation bonds for the biennial budget bill is typically based on an assumption on the issuance of unused, existing bond authority. For previously-authorized bonds for the Marquette Interchange and North-South freeway projects, the bill estimates debt service at \$22,661,700 in 2009-10 and \$23,959,900 in 2010-11, which is an above-base increase of \$5,741,500 in 2009-10 and \$7,039,700 in 2010-11. For new general obligation bonding authority, DOA assumes that the bonds will not be issued during the biennium or will be issued late enough in the biennium that no additional debt service will be incurred. Consequently, the bill's debt service estimates do not include any debt service incurred on the \$250,250,000 in new bonds that would be authorized for the North-South freeway project.

18. While DOA's bond issuance assumption may be reasonable for many bond-funded programs in state government, past experience with bonds authorized for the southeast Wisconsin freeway reconstruction projects suggests that the bonds could be issued early enough in the biennium to result in debt service payments during the biennium. Therefore, the bill's total debt service estimates on southeast Wisconsin freeway rehabilitation bonds may be too low. Under DOT's financial plan for the North-South freeway project, the bonds authorized under the bill would be used in 2010-11 and cash payments for construction contracts would likely require the issuance of a portion of the bonds in that year. Under the bond issuance assumptions that DOT used in submitting its budget request, and DOA's general interest and bond structure assumptions, debt service on the bonds authorized by the bill is estimated at \$1,876,900 in 2010-11.

19. At the time of the introduction of the bill, the biennium-ending transportation fund balance was estimated at \$32,324,800. Based on revised revenue estimates and the Committee's earlier actions, the biennium-ending balance is now estimated at \$4,543,400. Without significant modifications to revenues or the reallocation of transportation fund resources, such as a reduction in the amount provided for general fund programs, it would be difficult to substantially change the funding proposed for the North-South freeway project. If, however, the Committee has an interest in modifying the funding proposed for the project, one alternative would be to use additional SEG or FED funds (based on previous action, the Committee has reduced FED appropriations by \$9,476,600) to replace bonds in 2010-11. Because an increase to the SEG or FED appropriation for the project would add to the ongoing base, it could have the effect of reducing the amount of bonds over the remaining period that the project is under construction. For instance, a \$10,000,000 SEG increase in 2010-11 (and a corresponding decrease in bonds) would reduce the total amount of bonds needed for the project under the scenario outlined in Point #14 by \$50.0 million if that SEG increase is maintained in the base for the following four years. This would reduce long-term debt service by \$4.0 million annually. A \$10,000,000 reduction in bonds would reduce debt service in 2010-11 by an estimated \$75,000 SEG [Alternative #A3].

20. If the Committee determines that the overall use of bonds on the project should be reduced, but that any available SEG or FED funds should be used on other transportation programs, one alternative would be to reduce the amount of bonds by some amount without providing a corresponding increased appropriation. Under this alternative, the Department would have to rework the schedule for the project, reducing the amount of construction occurring in this biennium. This would result in a lengthening of the time needed to complete the project unless sufficient funding is provided in future biennia to compensate for the reduction or unless the total cost of the project is reduced. The Committee could adopt any amount of a bond reduction, but if the authorization were reduced by 25% (a reduction of \$62,562,500), then debt service on the bonds would be reduced by \$469,200 SEG in 2010-11 [Alternative #A4].

21. Similar to the Marquette Interchange reconstruction project, the Department's plan for the North-South freeway project would employ single liability and worker's compensation insurance policies covering all contractors involved in the work, an approach known as an owner-controlled insurance policy, or OCIP. Under the OCIP approach, the Department is the policy holder, in contrast to other construction projects, in which each contractor purchases a policy for the project covering only its own workers. With large projects like the Marquette Interchange or North-South freeway, there are presumed to be efficiencies associated with an OCIP, as well as other benefits associated with a project-wide risk management and safety strategy. The 2005-07 biennial budget act created a SEG-S appropriation for the collection of claim deductibles and safety-related fines, which are then used on project-related claims, construction safety activities, and to offset premium payments. The Department indicates that the experience with the Marquette Interchange OCIP was successful and that the program could be used on the North-South freeway and other large construction projects. However, the existing appropriation is limited to use on the Marquette Interchange project. In order to allow the OCIP approach to be used on other large projects, the bill could specify that the existing SEG-S appropriation could be used on any project with an estimated cost exceeding \$500 million [Alternative #B1].

## ALTERNATIVES

### A. I-94 North-South Freeway Project Funding

1. Approve the Governor's recommendation to provide \$8,350,000 SEG in 2010-11 and \$250,250,000 in transportation-fund supported, general obligation bonds for the I-94 North-South freeway reconstruction project. Increase funding by \$1,876,900 SEG in 2010-11 to reestimate debt service payments on the bonds.

ALT A1	Change to Bill Funding
SEG	\$1,876,900

2. Modify the Governor's recommendation by reducing the allocation of federal economic stimulus funds to the southeast Wisconsin freeway rehabilitation appropriation by \$47,277,100 in 2009-10, to reduce the allocation of such funds among all state highway programs on a proportionate basis to match the amount that is actually available for those programs in 2009-10.

ALT A2	Change to Bill Funding
FED	- \$47,277,100

3. Modify the Governor's recommendation by increasing funding by \$10,000,000 SEG in 2010-11 and reducing the bond authorization by a corresponding amount to \$240,250,000. Increase funding by \$1,801,900 SEG in 2010-11 to reflect debt service payments on the bonds. [This alternative would provide SEG funds to replace bonds, although FED funds could also be provided for this purpose, depending upon the relative availability of each fund source within the Committee's overall transportation finance package. This alternative could also be modified by using a different amount of bonds replaced with a SEG or FED appropriation.]

ALT A3	Change to Bill Funding
SEG	\$11,801,900
BR	<u>- 10,000,000</u>
Total	\$1,801,900

4. Reduce the amount of bonds provided for the project by \$62,562,500, a reduction of 25%, to provide a total of \$187,687,500. Increase funding by \$1,407,700 SEG in 2010-11 to reflect debt service payments on the bonds. [This alternative could be modified by reducing the amount of bonds by a different amount.]

<b>ALT A4</b>	<b>Change to Bill Funding</b>
SEG	\$1,407,700
BR	<u>- 62,562,500</u>
Total	- \$61,154,800

5. Delete provision.

<b>ALT A5</b>	<b>Change to Bill Funding</b>
SEG	- \$8,350,000
BR	<u>- 250,250,000</u>
Total	- \$258,600,000

## **B. Owner-Controlled Insurance Program**

1. Modify the bill by specifying that the current law SEG-S appropriation for the owner-controlled insurance program may be used for any DOT construction project with an estimated cost exceeding \$500 million, instead of, under current law, only on the Marquette Interchange reconstruction project.

2. Maintain current law.

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