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Joint Committee on Finance

Paper #653

I-94 East-West Freeway Corridor Project -- Design Engineering Funding and I-94 Lane Capacity Restriction (DOT -- State Highway Program)

[LFB 2013-15 Budget Summary: Page 464, #6 & Page 465, #7]

CURRENT LAW

A southeast Wisconsin freeway megaproject is defined as a freeway rehabilitation project in Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, or Waukesha counties with an estimated cost exceeding \$535 million, an amount that is adjusted annually according to a construction cost inflation index. Such projects may only be financed with the southeast Wisconsin freeway megaprojects appropriations or with bonds authorized for the program. The Department of Transportation (DOT) may not proceed with the construction of a southeast Wisconsin freeway megaproject unless it is enumerated in a statutory list of megaprojects. Currently, the Zoo Interchange and the I-94 North-South corridor are enumerated as southeast Wisconsin freeway megaprojects.

The Department is prohibited from adding any lane for vehicular traffic on I-94 adjacent to Wood National Cemetery, between Hawley Road and the Stadium Interchange, in Milwaukee County.

A major highway project is defined as a highway improvement that: (a) has an estimated cost exceeding \$32,000,000 (indexed annually to the rate of construction inflation) and meets certain capacity expansion thresholds, notably adding one or more lanes in a segment of at least five miles in length; or (b) does not meet the capacity expansion thresholds, but has an estimated cost exceeding \$80,000,000 (also indexed annually). A project that meets the definition of a southeast freeway megaproject is excluded from the major highway definition. A major highway project that meets the capacity expansion thresholds must be approved by the Transportation Projects Commission (TPC) before the Department can begin an environmental impact statement or environmental assessment, and must be enumerated in the statutes before

DOT can begin construction. A major highway project that does not meet the capacity expansion thresholds does not need to be individually enumerated in the statutes for the Department to begin construction, but the TPC must approve the project prior to construction.

GOVERNOR

Permit the Department, notwithstanding statutory restrictions on the expenditure of funds in the major highway development and southeast Wisconsin freeway megaprojects programs, to encumber or expend funds from the SEG appropriation for major highway development for preliminary engineering and design work associated with the I-94 reconstruction project between 70th Street and 25th Street in Milwaukee County as follows: (a) in 2013-14, if a federal record of decision (final federal approval of environmental documents) is issued during that fiscal year; and (b) in 2014-15, if a record of decision is issued anytime during the 2013-15 biennium. Delete this authorization on July 1, 2015.

Delete the current law provision that prohibits the Department from adding any lanes for vehicular traffic to I-94 adjacent to the Wood National Cemetery between Hawley Road and the Stadium Interchange, in Milwaukee County.

DISCUSSION POINTS

1. This paper provides an overview of a Milwaukee County freeway project currently under study, the Governor's proposal to provide design engineering funds for that project, and a proposal to remove a current law statutory restriction on adding lanes to the freeway.

2. In 2012, the Department began an environmental and engineering study of a three-mile segment of I-94 in Milwaukee County between 25th Street and 70th Street, including the Stadium Interchange. The project is one of six projects that the TPC approved for environmental study in 2011. Under the current schedule, the Department anticipates that the study will be completed in the spring of 2014, and will receive final federal approval (record of decision) in late 2014.

3. Normally, the Department presents potential major highway projects to the TPC in the summer or fall of even-numbered years for consideration, following the approval of the record of decision. The TPC makes recommendations to the Governor and Legislature as to which projects should be enumerated to allow the Department to proceed with construction.

4. In the course of the environmental and engineering study, the Department will select a preferred alternative and develop a preliminary estimate of the cost of that alternative. The study will explore alternatives ranging from replacing the current freeway and structures without modifications, to complete reconstruction with added lanes to address capacity issues. The Department indicates that, depending upon what alternative is chosen, the cost could exceed the \$535 million threshold for a southeast freeway megaproject. In this case, the project would no

longer be defined as a major highway project, and would not proceed through the TPC review process, but would require enumeration as a megaproject before the Department could begin construction. The Department indicates that no cost estimates for the range of alternatives have been completed.

5. The bill would allow the Department to proceed with design engineering on the project using the SEG appropriation for the major highway development program, regardless if the project is above or below the southeast Wisconsin freeway megaproject cost threshold. The Department indicates that the initial design engineering contract is expected to be approximately \$15 million to \$20 million, and would be initiated in 2014-15. Additional design funds would be needed in subsequent biennia, but the amount would depend upon the selected alternative. According to the preliminary schedule for the project, design engineering and other preliminary work would occur in the 2013-15 and 2015-17 biennia, and construction would begin in the 2017-19 biennium.

6. Without the authority to use the major highway development program to proceed with design engineering (and if the project is costly enough to become a southeast Wisconsin freeway megaproject), the design work would likely be delayed until the 2015-17 biennium, since no funding is allocated to the project within the megaprojects program in the 2013-15 biennium. In this event, the Department indicates that construction would likely be delayed until the 2019-21 biennium.

7. The schedule for the design engineering and construction is tentative, particularly since the scope of the improvements has not yet been determined. However, if work proceeds on the project with the goal of beginning construction in the 2017-19 biennium, much of the preliminary work and construction would overlap with major work on both the Zoo Interchange and I-94 North-South freeway projects. To complete the Zoo Interchange in 2018, the Department's schedule calls for \$640 million in the 2015-17 biennium and, preliminarily, \$306 million in the 2017-19 biennium. The North-South freeway would need an estimated \$397 million in 2017-19 and \$356 million in 2019-21, to keep that project on schedule for completion in 2021.

8. The 2011-13 biennial budget established the Transportation Finance and Policy Commission, to examine issues related to the future of transportation finance in the state. In its final report, the Commission recommended a series of program funding and revenue increases to meet transportation condition targets and provide a stable financing system. With respect to the southeast Wisconsin freeway megaprojects program, the Commission noted that the freeway system is expected to require an annual improvement program of between \$250 million and \$300 million for the next 20 years. By comparison, the southeast Wisconsin freeway megaprojects program received \$188 million in 2012-13.

9. The bill would not adopt the Commission's recommended transportation tax and fee increases, and the Governor and many legislators have expressed opposition to such increases. If the Committee agrees with the decision not to increase revenues, and there is a desire to reduce the use of transportation bonds in the 2013-15 and subsequent biennia, then some program funding

decreases may be required. In this case, it may be necessary to accept the negative impacts on various transportation programs, including project delays and a decrease in highway conditions. In the case of the East-West freeway project, the Committee could decide that, in light of the demands for funding for the current southeast Wisconsin freeway megaprojects and the funding available to do those projects, a decision could be made to eliminate the authority to use the major highway development program for final design costs (Alternative A2). This would lead to a delay in that project or would require the Department to reallocate resources among the southeast Wisconsin freeway megaprojects to address the most critical needs.

10. A delay in the start of the East-West freeway project will likely lead to further deterioration of the roadway. This segment of I-94 was originally constructed in 1963, and was resurfaced in 1975/1976, in 1997/1998, and in 2011/2012 (each resurfacing was done over a two-year period). The pavement life with each resurfacing after original reconstruction is expected to have a shorter life because of deterioration of the underlying roadway. Normally, pavements following a third overlay can be expected to last between five and eight years. Consequently, the Department expects that the current pavement surface will begin to show significant deterioration by 2017 to 2020. A decision to delay final design work would mean that construction may not start until after that time. This delay, in turn, could delay subsequent southeast Wisconsin freeway rehabilitation projects.

11. In another provision related to the East-West freeway project, the bill would delete a current law prohibition on adding lane capacity to I-94 adjacent to the Wood National Cemetery between Hawley Road and the Stadium Interchange. The restricted segment lies within the East-West freeway study area. The Department requested the repeal of this provision "in order to avoid design and construction limitations that may prevent the Department from executing its obligations as to safe and efficient highway design and construction."

12. With the repeal of the lane capacity restriction, another statutory provision would take effect that requires the Department to design the reconstruction of I-94 in Milwaukee and Waukesha counties to allow for capacity expansion to meet projected traffic capacity needs for 25 years following the completion of such reconstruction. The Department has indicated that, in the event a decision is made to add lanes to the freeway, it would be done in such a way as to avoid moving gravesites that lie along both sides of the freeway. To avoid moving graves, the Department is exploring options to use tunneling or structures to partially overlap the two sides of the freeway. Such measures are likely to add significantly to the cost of the project and would make it more likely that the project would meet the cost threshold for a southeast Wisconsin freeway megaproject.

13. Since major highway development projects that involve adding lanes for five miles or more must be enumerated in the statutes prior to construction, the construction of those capacity expansion projects is, in effect, prohibited by statute until legislation is enacted to allow the Department to proceed. [The Department can, and does, study capacity expansion options, since the statutory restriction applies to construction, not studies.] With that program, enumeration is requested following the completion of the environmental process, when a preferred alternative is

identified and an estimate of the cost is developed. Therefore, the Legislature has information on the cost of those projects when making a decision on capacity expansion. With the proposed repeal of the capacity expansion restriction on I-94 adjacent to the cemeteries, the Legislature is being asked to make a decision to allow capacity expansion without an estimate of the cost of such a project. Since, as the Department has indicated, a capacity expansion project would involve either tunneling or the construction of structures, the cost implications for this decision could be significant. The Department indicates that the draft environmental impact statement is scheduled to be completed in the fall of 2013, at which time preliminary cost estimates, as well as other pertinent information, would be available for the alternatives. If the Committee decides that the Legislature should have information on the cost and other implications of capacity expansion before the Department begins final design work, then it could modify the bill to retain the current law restriction on capacity expansion (Alternative B2).

ALTERNATIVES

A. East-West Freeway Corridor Design Engineering Funding Source

1. Approve the Governor's recommendation to permit the Department to use the SEG appropriation for the major highway development program for preliminary engineering and design work on the East-West freeway corridor project in the 2013-15 biennium.

2. Delete provision.

B. I-94 Lane Capacity Restriction

1. Approve the Governor's recommendation to delete the current law restriction on adding lane capacity on I-94 between Hawley Road and the Stadium Interchange.

2. Delete provision.

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