

## 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. 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; 1979 c. 34.

**85.023 Planning for bicycle facilities.** The department shall assist any regional or municipal agency or commission in the planning, promotion and development of bikeways as defined in s. 84.60 (1) (a). The department shall draft model local zoning ordinances for the planning, promotion and development of bikeways and bicycle racks.

History: 1979 c. 221.

**85.025 Highway and bridge projects.** The department shall adopt by rule criteria for selecting and evaluating all highway and bridge projects which are constructed from the appropriations under s. 20.395 (3) (bq), (bv), (bx), (cq), (cv), (cx), (dq), (dv) or (dx).

History: 1979 c. 221, 355.

**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.

**85.045 Transportation system management program. (1) DEFINITIONS.** In this section:

(a) "Eligible applicant" means county, city, village, town or combination thereof.

(b) "Project" means a transportation system management planning and demonstration project for which a grant is requested under this section.

(2) ADMINISTRATION. The department shall administer a transportation system manage-

ment program which provides grants to eligible applicants for transportation system management planning and demonstration projects. The projects shall be designed to plan and demonstrate how new initiatives which require minimal capital investment could be used employing the coordinated management and operation of existing transportation facilities and services to improve air quality, conserve energy and increase transportation efficiency. The projects shall include new initiatives which improve vehicular flow and transit services, give preferential treatment to high-occupancy vehicles, reduce peak-period travel and promote nonvehicular travel modes and the use of high-occupancy vehicles.

(3) **APPLICATIONS.** Any eligible applicant may apply to the department for a grant under this section. Each application shall outline the details of the specific project for which the grant is to be used. The department shall prescribe the form, nature and extent of information to be contained in the applications.

(4) **GRANTS.** The department may make a grant to an eligible applicant for a project if the department determines that the project will benefit the transportation system management of the eligible applicant. A grant may not exceed 75% of the estimated cost of the project. No grant may be made to an eligible applicant under this section unless the applicant agrees to provide to the department, upon completion of the project, a report which documents the effect of the project on air quality, energy conservation and transportation efficiency.

History: 1979 c. 34.

**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.

(L) "Base year entitlement" means the basic figure, as determined under sub. (3m), which is used to compute the amount of aids an eligible applicant receives under this section.

(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 in-

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.

**(3m) DETERMINATION OF BASE YEAR ENTITLEMENT.** The department shall determine the base year entitlement of an eligible applicant as follows:

(a) Except as provided in par. (b) or (c), the base year entitlement shall be 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.

(b) For urban mass transit systems which experienced a transit strike during calendar year 1978, the department shall determine the base year entitlement by increasing the actual operating deficit of the system for calendar year 1978 by the ratio of the number of days the system would have operated if a transit strike had not occurred divided by the number of days the system actually operated in 1978.

(c) For urban mass transit systems which have not received any state aid under this section prior to 1979, the base year entitlement shall be two-thirds of the nonfederal share of the operating deficit for the first full calendar year of operation.

(d) A base year entitlement determined under this subsection may not exceed two-thirds of the nonfederal share of the operating deficit of the urban mass transit system in a calendar year, as determined by the department.

**(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) (bq), 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) (bq) 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) (bq) 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 proportional basis.

4. The allocation under subds. 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; 1979 c. 34 ss. 911p, 911r, 2102 (52) (a); 1979 c. 110 s. 60 (11).

**85.055 Urban mass transit capital expenditure 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.

(b) "Local public body" has the meaning prescribed in s. 85.05 (1) (h).

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

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

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

**(2) ADMINISTRATION.** The department shall administer the urban mass transit capital expenditure program to provide funds to local public bodies for the purchase of busses used in a mass transit system. Upon application for aid by an eligible applicant under this section, the department may reimburse the eligible applicant for up to 50% of the total costs of a capital expenditure for busses undertaken by the eligible applicant on or after July 1, 1979. The department shall distribute the grants to eligible applicants on the basis of the increased use of the mass transit system and the corresponding need for busses. No eligible applicant may receive more than one grant under this section. The department shall distribute the grants to eligible applicants to implement this section.

**History:** 1979 c. 34.

**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.

**85.063 Urban rail transit systems. (1) DEFINITIONS.** In this section:

(b) "Urban area" means any area that includes a city or village having a population of 50,000 or more that is appropriate, in the judgment of the department, for an urban rail transit system.

(c) "Urban rail transit system" means a system, either publicly or privately owned, which will provide transportation by rail to the public on a regular and continuing basis.

**(2) ADMINISTRATION.** The department shall administer an urban rail transit system program

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to plan, design and engineer urban rail transit systems for urban areas in the state.

History: 1979 c. 34.

**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.

**85.07 Highway safety coordination. (1)**

**DUTIES.** The secretary, under the direction of the governor, shall coordinate the highway safety activities of the various agencies of state government; evaluate and make recommendations to the governor with respect to program proposals submitted by state agencies and political subdivisions for federal and state funds in conjunction with the federal highway safety program; advise the governor on matters relating to highway safety and the implementation of the federal highway safety program in this state; and assist governmental units and private organizations in the planning and execution of programs relating to highway safety.

(2) **COUNCIL ON HIGHWAY SAFETY.** The council on highway safety shall confer with the secretary or the secretary's designee on matters of highway safety and with respect to the functions of the secretary, under the direction of the governor, and shall advise the secretary on such matters. The council shall meet with the secretary or the secretary's designee at least once each quarter.

(3) **INFORMATION; REPORTS; RECOMMENDATION.** The secretary shall furnish all information requested by the governor or by any member of

the legislature, and shall report biennially in accordance with s. 15.04 (1) (d), including therein a report relating to the implementation of the comprehensive highway safety program in this state. This report shall include but not be limited to:

(a) Current statistical information on motor vehicle accidents, injuries and deaths and their related causation factors.

(b) The implementation of highway safety performance standards promulgated by the state or federal government.

(c) A general accounting of all state or federal funds expended in implementing the comprehensive highway safety program.

(d) Recommendations for additional legislation, programs and funds necessary for the effective implementation of a comprehensive highway safety program.

(4) **BICYCLE RULES.** The department shall publish literature setting forth the state rules governing bicycles and their operation and shall distribute and make such literature available without charge to local enforcement agencies, safety organizations, and schools and to any other person upon request.

History: 1973 c. 182; 1975 c. 200; 1977 c. 196 s. 131; 1979 c. 34 ss. 19, 21, 23, 24.

**85.08 Elderly and handicapped, rail and rural public 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 co-

operation 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 COMMUTER 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 rail commuter services. The department shall maximize the use of such available federal aids to assist in preserving rail ferry and rail commuter services wherever feasible and appropriate.

**(4m) RAIL PRESERVATION 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) *Grant program for rehabilitation and purchase of rail property improvements.* The department may make grants to eligible applicants for the purposes of rehabilitating or purchasing rail property improvements. Grants made under this paragraph shall be for 80% of the cost of the rehabilitation or purchase of the rail property improvements. The grants may be made either prior to or after the issuance of a certificate of public convenience and necessity by the interstate commerce commission permitting abandonment of a rail branch line. Grants made under this paragraph shall be paid from the appropriation under s. 20.395 (2) (dq). The department shall administer the grant 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 grants which are made to eligible applicants.

2. To receive and review applications for grants under this paragraph and to prescribe the form, nature and extent of the information which shall be contained in applications.

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

4. To determine whether or not rail service is being continued or the required maintenance and improvement activities are not performed

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on a rail line by the applicant. If rail service is not continued or the required maintenance and improvement activities are not performed on a rail line by the applicant or if the applicant disposes, without the approval of the department, of any of the improvements for which the applicant has obtained a grant under this paragraph, the rail property improvements for which the grant was obtained shall revert to the department.

5. To coordinate this program with acquisition of rail right-of-way under s. 85.09.

(d) *Grant program for rail branch line operating assistance.* The department may make grants to eligible applicants for the purpose of reimbursing eligible applicants for moneys expended to continue rail service that has a likelihood of economic self-sufficiency or that is economically the least expensive transportation to provide. The grant may not exceed 50% of the operating deficit of the continued rail service. Grants may be made for a period of no more than 3 years from the beginning date of the initial grant. If the department determines that the continued rail service involved has made substantial progress toward economic self-sufficiency in the 3-year period, the department may make grants for an additional period of no more than 3 years from the closing date of the final grant of the initial 3-year period. The department shall administer the rail branch line operating assistance grant 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 grants which are made to eligible applicants and to prescribe the form, nature and extent of the information which shall be contained in the applications.

2. To receive and review applications for grants under this paragraph, to determine whether a rail service has a likelihood of economic self-sufficiency or is the least expensive transportation to provide and to make and execute grant agreements with eligible applicants.

3. To establish objective criteria for demonstrating that the rail service involved has made substantial progress toward economic self-sufficiency.

4. To determine the operating deficit of the continued rail service by determining the amount by which the total eligible operating expenses incurred in operating the rail branch line exceed the amount of revenue attributable to the branch line. Expenses of maintenance, including accelerated maintenance necessary to meet minimum track safety standards established in the grant agreement, may be consid-

ered by the department as eligible operating expenses.

(e) *Advance capital program for pre-abandonment rail branch line stabilization.* Upon request of one or more eligible applicants, the department may negotiate and enter into agreements with eligible applicants, railroads, or rail users, or any combination of the foregoing, to advance capital on behalf of eligible applicants for purposes of rehabilitating rail branch lines. Applications for advance capital and advances of capital for rehabilitating branch line rail property improvements may not be made if an abandonment or discontinuance application is pending on the line or portion of line, or the line or portion of line on which the rail property improvements are located has been designated by the railroad to the interstate commerce commission on its system diagram map as anticipated to be the subject of an abandonment or discontinuance application within a 3-year period following the date of the application or the date the advance of capital is scheduled. The department shall administer the advance capital program for preabandonment rail branch line stabilization and shall have all powers necessary and convenient to implement this paragraph, including the following powers:

1. To establish standards and schedules for rail branch line rehabilitation in the advance capital agreement.

2. To establish the level and period of rail service to be provided by the railroad in the advance capital agreement.

3. To negotiate and establish the financial participation required of eligible applicants, railroads, rail users, or any combination of the foregoing, in the advance capital agreement.

4. To require all or part of the capital advanced to the railroad be reimbursed to the contributors on the basis of use of the improved rail branch line, revenues attributable to the line, or other terms as determined by the department in the advance capital agreement.

(f) *Grant program for rail right-of-way purchase.* Upon application by an eligible applicant, the department may, if it deems advisable, make a grant or grants to the applicant to purchase right-of-way. No grant may be made under this paragraph for the purchase of right-of-way if the purchase price exceeds the department's assessment of the value of the right-of-way. If rail service is not continued on a rail line by the applicant or if the applicant disposes, without the approval of the department, of any of the right-of-way for which an applicant obtained a grant or grants under this paragraph, the right-of-way for which the grant or grants had been obtained shall revert to the department. Grants made under this paragraph shall

be paid from the appropriation under s. 20.395 (2) (cq).

(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 amount allocated to a county under this subsection which is based on 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 and which provides for a minimum base amount for each county, 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) **SPECIALIZED TRANSPORTATION ASSISTANCE PROGRAM FOR PRIVATE NONPROFIT CORPORATIONS.** (a) *Purpose.* The purpose of this subsection is to promote the general public health and welfare by providing capital 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 that meets eligibility requirements for federal assistance under 49 USC 1612 (b) (2).

2. "Elderly person" means any individual age 55 or older.

3. "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.

(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 annually applications for aid under this subsection and to prescribe the form, nature and extent of information which shall be contained in applications. Applicants shall indicate whether the transportation services it provides or proposes to provide conflict with any transportation services being assisted under sub. (5).

2. To establish criteria for evaluating all applications and for placing each application in a statewide priority ranking for distribution of available federal and state moneys.



3. To make and execute agreements with eligible applicants to provide for the undertaking of transportation services to the elderly or the handicapped.

4. To audit the records of all private nonprofit organizations receiving aids under this subsection in accordance with generally accepted accounting principles and practices.

5. To require private nonprofit organizations receiving aids under this subsection to furnish information deemed necessary by the department.

6. To apply for and receive federal grants on behalf of eligible recipients.

7. To establish an annual application cycle for the program.

(d) *Amount and use of aids.* Commencing with the highest ranked application and to the extent that state moneys are available, the department shall offer to each eligible applicant receiving federal assistance, an amount equal to the nonfederal share of the estimated capital project costs. For those eligible applicants not receiving federal assistance, and to the extent that state moneys are available, the department shall offer an amount equal to the estimated capital project costs. State aids available under this subsection shall not be available for operating purposes.

(7) **RURAL PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.** The department may administer a program for the distribution of rural public transportation aids made available to the state under section 18 of the urban mass transportation act of 1964, as amended, or under any similar federal act.

*History:* 1977 c. 29, 418; 1979 c. 34 ss 912 to 932, 2102 (52) (b); 1979 c. 221

### 85.09 Acquisition of abandoned property.

(1) **DEFINITIONS.** As used in this section:

(a) "Railroad" has the meaning designated under s. 195.02 (1).

(b) "Railway" means a corporation described in s. 193.01.

(c) "State agency" means state departments and independent agencies.

(d) "System diagram map" means the map required under federal law to be filed with the department by the railroad operating in this state that indicates rail lines in the process of abandonment, rail lines the railroad expects to abandon and the rail lines that are under study by the railroad for possible abandonment in the future.

(2) The department shall have the first right to acquire, for present or future transportation, recreational or scenic purposes, any property used in operating a railroad or railway including rights-of-way and rails, ties, switches,

trestles, bridges and the like located thereon, which has been abandoned. Acquisition may be by gift, purchase or condemnation in accordance with the procedure under s. 32.05. No person owning such abandoned property, including any person to whom ownership reverts upon abandonment, may convey or dispose of any abandoned property without first obtaining a written statement from the department indicating that it does not intend to exercise its right to acquire the property. No railroad or railway may convey any such property prior to abandonment if that property is part of a rail line shown on the railroad's system map as in the process of abandonment, expected to be abandoned or under study for possible abandonment unless the conveyance or disposal is for the purpose of providing continued rail service under another company or agency. Any conveyance made without obtaining such release is void. The department's first right of acquisition under this subsection does not apply to any railroad property declared by the department to be abandoned before January 1, 1977. The department may acquire any abandoned property under this section regardless of the date of its abandonment.

(3) For purposes of this section, railroad or railway property shall be deemed abandoned if:

(a) A certificate or approval of abandonment has been issued by the interstate commerce commission or any other federal or state agency having jurisdiction over the abandonment of such property and operations have been terminated in accordance with the certificate or approval; or

(b) Such certificate or approval of abandonment is not required and the use of such property for railroad or railway purposes has been discontinued with the intent not to resume. Intent not to resume may be inferred from circumstances including, but not limited to, the following:

1. If the property is not used for railroad purposes for 2 consecutive years.

2. If the facilities on the property are removed or rendered unfit for service.

3. If the property is used for other than railroad purposes.

(4) Upon its own initiative, the department may determine at any time whether the property of the railroad or railway is abandoned, and whether it is in the best interest of the state to acquire such property. Within 90 days after being requested by any state agency, any railroad or railway, or any county or municipality in which the property is located, the department shall make a determination of the abandonment status and, if found to be abandoned, shall determine whether it is in the best interest of the public to acquire the property. If it is determined to acquire the property or any part or

interest therein, the department shall, within 180 days of the determination of its abandoned status, or the interstate commerce commission's final order permitting the abandonment, or the termination of any efforts to negotiate an agreement for continual operation of rail service on the line, whichever occurs last, determine the fair market value of the property and acquire the property at a price deemed reasonable by the department or make a relocation order under s. 32.05. In making its determination, the department shall consider long-range potential for use of such property for restoration of railroad service and for public transit. The department shall solicit the opinions of appropriate state agencies, affected counties and municipalities and other interested persons. The department shall give due consideration to an expressed desire by a state agency or an affected county or municipality to acquire, in whole or in part, the property under consideration. All or part of any interest in abandoned property acquired by the department under this section or under s. 66.941 (7), 1975 stats., may be subsequently conveyed to another state agency or a county or municipality for transportational, recreational or scenic purposes, and the department may make such conveyances for such purposes. Any determination of the department under this section that property is not abandoned shall not preclude the undertaking of a subsequent investigation and determination concerning the same property or any portion thereof. If at any time subsequent to the acquisition of property under this section the department determines that the property is not suitable for transportational, recreational or scenic purposes, or that the property or any interest therein may be conveyed to any other person on terms which are not inconsistent with the potential use of the property for transportational, recreational or scenic purposes or which yield a benefit, including financial benefits, to the state which outweighs the benefit derived from the property if used for transportational, recreational or scenic purposes, the department may convey the property or such interest therein. The department shall give notice of its intention to make the conveyance, and state and local units of government shall have the first 6 months in which to exercise their opportunity to acquire the property or interest therein. The railroad or railway from which the property was acquired shall have the next 6 months in which to exercise their opportunity to acquire the property or interest therein. The department may adopt such rules as it deems necessary to accomplish the purposes of this section.

**History:** 1977 c. 29, 418; 1979 c. 34 s. 1018

### 85.095 Harbor assistance program. (1)

**DEFINITIONS.** In this section:

(a) "Eligible applicant" means a county, municipality, town or agency thereof or a board of harbor commissioners organized under s. 30.37.

(b) "Harbor improvements" means any dock wall repair and maintenance, construction of new dock walls, dredging of materials from a harbor or the placement of dredged materials in containment facilities.

**(2) ADMINISTRATION.** The department, in consultation with the Wisconsin coastal management council created under s. 14.019, shall administer the harbor assistance program and shall have the following powers:

(a) To make grants for the purpose of reimbursing eligible applicants for moneys expended to make harbor improvements and to fund other harbor assistance and improvement projects. The amount of a grant may not exceed 80% of the moneys expended by the eligible applicant for harbor improvements.

(b) To establish criteria for evaluating applications for harbor assistance grants in order to provide for the disbursement of grants. In establishing these criteria, the department shall consult with the department of business development and shall give priority to applicants based on the amount of tonnage and water born transportation handled in the harbor.

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

(d) To direct, with the approval of the governor, that state debt subject to the limitations in s. 20.866 (2) (uv) be contracted in accordance with ch. 18 to fund harbor improvements and other harbor assistance and improvement projects.

**History:** 1979 c. 34, 221, 355

### 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

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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. 16.965 (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; 1979 c 175 s 53.

**85.13 Cost of traffic violation and registration program.** The department shall develop a system for charging local units of government for the cost of the development and operation of the traffic violation and registration

program under ss. 341.08 (4m), 341.10 (7) and 345.47 (1) (d) based on the number of transactions processed by the local unit of government. No notices under s. 345.47 (1) (d) submitted by the court may be processed by the department unless the local unit of government involved has paid the department the appropriate amount determined by the department under this section.

History: 1979 c 221 s. 903x

**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.