

## CHAPTER 85

## DEPARTMENT OF TRANSPORTATION

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**85.01 Definitions.** In this chapter:

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

(2) "Office" means the office of the commissioner of transportation.

(3) "Rail property" means all fixed property, real or personal, used in operating a railroad.

(4) "Rail property improvements" means any property exclusive of land used in operating a railroad or including, without limitation because of enumeration, rails, ties, switches, trestles and bridges.

(5) "Railroad" means a railroad as defined in s. 192.15 (2) (e), a railroad company as defined in s. 192.50 (7) and a railroad as defined in s. 195.02 (1).

(6) "Railroad property" or "railroad or railway property" means rail property as defined in sub. (3).

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

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

**History:** 1971 c. 125; 1973 c. 90; 1977 c. 29; 1981 c. 347; 1983 a. 27 ss. 1332, 1333, 1339, 1344, 1345

**85.015 Transportation assistance contracts.**

All contracts entered into under this chapter to provide financial assistance in the areas of railroads, urban mass transit, specialized transportation, and harbors are exempt from ss. 16.70 to 16.75, 16.755 to 16.82 and 16.85 to 16.89.

**History:** 1981 c. 20.

**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, railroads, waterways, specialized transportation services, 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; 1981 c. 20

**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 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; 1981 c. 30

**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

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

(3) **GRANTS (a) Legislative findings.** The legislature finds that development of urban rail transit systems to serve urban areas of this state will enhance the welfare of all of the citizens of this state through conservation of fuel, enhancement of the development of alternative transportation modes and improvement of air quality. The legislature further finds that private capital is unavailable and local government resources are insufficient for development of urban rail transit systems. The legislature finds that providing grants for the development of urban rail transit systems is consistent with the state's support of other modes of mass transit and that the grant program authorized under this subsection is therefore a valid governmental function serving proper public purposes.

(b) **Authorized grants.** 1. Upon completion of a planning study under sub. (2), any county which includes the urban area may apply to the department for a grant for property acquisition for an urban rail transit system.

2. The department may make such grants from the appropriation under s. 20.395 (1) (bt) or (2) (bq).

**History:** 1979 c. 34; 1983 a. 27.

**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

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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.

(5) **ACCIDENT REPORT REQUIRED.** The department shall submit to the legislature, by January 1, 1989, a report on the number of traffic accidents in this state involving drivers 18 to 19 years of age, comparing the statistics for the period between July 1, 1980, and June 30, 1984, with the statistics for the period between July 1, 1984, and June 30, 1988. The department shall attempt to ascertain, using standard analytic techniques, the impact of the change in the legal drinking age, as defined under s. 125.02 (8m), the impact of the enactment of s. 346.63 (2m) on the accident rates for 18-year-old and 19-year-old drivers and the impact of the 21-year age distinction for border-state residents on enforcement procedures and accident rates during the time periods covered by the report, and the impact of similar policies on the accident rates in other states, and shall include this information in the report. This section does not apply after January 1, 1989.

**History:** 1973 c. 182; 1975 c. 200; 1977 c. 196 s. 131; 1979 c. 34 ss. 19, 21, 23, 24; 1983 a. 74

**85.075 Rail program rules.** The department shall adopt rules to carry out the railroad programs under ss. 85.08 to 85.09.

**History:** 1983 a. 27.

**85.08 Freight railroad assistance. (1) LEGISLATIVE FINDINGS.** The legislature finds that private capital and local governmental financial resources are unable to fully meet the transpor-

ation 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 shall administer the programs of financial assistance under this section for the purpose of assistance to or restoration of freight railroad service and shall maximize the use of available federal aid in conjunction with the allocation of state aid. The department may exercise those powers necessary to establish freight railroad assistance programs, including authority:

(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 acquisition, rehabilitation, construction 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 acquisition of transportation properties with other states and entering into leases jointly with other states affected thereby.

(4) **RAIL FERRY AND PLANNING GRANTS.** Upon its own initiative or upon application by a government agency, the department may make grants for the continuance or improvement of Lake Michigan rail car ferry services and may make grants for or conduct rail system and service studies.

(4m) **FREIGHT RAILROAD PRESERVATION LOANS AND GRANTS.** (a) *Purpose; findings.* The purpose of this subsection is to assist local governments in the preservation of freight 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 freight rail service. The legislature finds that freight 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 freight 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.

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

(c) *Railroad facilities acquisition grants.* The department may make grants to eligible applicants for the purpose of preserving freight rail service through the acquisition of rail property. The grant may be composed of state funds, federal funds, state property, or any combination of state funds, federal funds and state property. No grant for the acquisition of rail property improvements may exceed 80% of the acquisition cost. No grant for the acquisition of rail property exclusive of rail property improvements may exceed 100% of the acquisition cost. A grant may be made to an eligible applicant before or after abandonment of a railroad line as defined in s. 85.09(3). No grant may be made under this paragraph for the acquisition of rail property if the acquisition price exceeds an

amount deemed reasonable by the department. A grant of money made under this paragraph shall be paid from the appropriation under s. 20.395(2)(bq) or (bx). The department shall administer this program and shall have all powers necessary and convenient to implement this paragraph and par. (d), 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 and to prescribe the form, nature and extent of the information which shall be contained in applications.

3. To determine if the proposed rail service to be provided on the rail property acquired, rehabilitated or constructed with a grant under this paragraph or par. (d) has a likelihood of attaining and sustaining economic self-sufficiency and to employ such findings in the awarding of grants.

4. To determine if the rail property to be acquired with a grant under this paragraph offers satisfactory opportunity for alternate public use or recovery of public grant funds and to employ such findings in the awarding of grants.

5. 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.

6. To determine whether rail service is being continued and the required maintenance or improvement activities are being performed on a rail line for which a grant is made under this paragraph or par. (d). If rail service is discontinued or the grantee disposes of any portion of the rail property for which the grantee obtained a grant under this paragraph or par. (d), and the department does not approve the discontinuance or disposal, then the rail property for which the grant was obtained shall revert to the ownership and control of the department unless the department elects to accept repayment from the grantee of the full amount of all grants received from the department for the line.

7. To provide technical assistance to the eligible applicant and any railroad using the rail property in a manner deemed necessary by the department.

(d) *Railroad rehabilitation and construction grants.* The department may make grants to eligible applicants for the purpose of rehabilitating or constructing rail property improvements. Construction shall be limited to that which is required to continue rail service on a particular line or to provide alternative rail

service when a line has been abandoned. A grant under this paragraph may be composed of state funds, federal funds, state property, or any combination of state funds, federal funds and state property. No grant may exceed 80% of the costs of rehabilitation or construction. A grant may be made before or after abandonment of a railroad line as defined in s. 85.09 (3). A grant made under this paragraph shall be paid from the appropriation under s. 20.395 (2) (bq) or (bx).

(e) *Advance capital program for preabandonment rail 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 lines. Applications for advance capital and advances of capital for rehabilitating 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, unless the secretary determines that this restriction may be waived for a particular application. Capital advances under this paragraph shall be paid from the appropriation under s. 20.395 (2) (bq). The department shall administer the advance capital program for preabandonment rail 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) *Freight railroad emergency fixed facility repair loans.* The department may make loans to eligible applicants who are grantees under

par. (c) for the purpose of performing immediate limited emergency repairs necessary to keep an operating freight railroad line open at minimum safety and service levels. A loan may not be made under this paragraph unless the conditions requiring emergency repairs would prohibit the operation of trains. A loan may not be granted for a period of more than 6 months. The amount of a loan may not exceed the amount provided by the applicant as the local share of a grant under par. (c) unless the applicant obtains a repayment guarantee for any additional amount from the counties through which the line operates. A loan agreement shall provide for the payment of interest at commercial rates. A loan made under this paragraph shall be paid from the appropriation under s. 20.395 (2) (bq). The department shall administer the loan program and shall have all 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.
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 the loan application.
3. To collect and accept loan repayments and interest.

(g) *Exemption from bond requirements.* The secretary may exempt contracts involving the performance of labor or furnishing of materials for any public improvement or public work under the railroad rehabilitation and construction program of par. (d) or the advance capital program for preabandonment rail line stabilization under par. (e) from the performance and payment bond requirements of s. 779.14 if the secretary determines that:

1. Adequate guarantees or warranties are provided for by contract;
2. Adequate safeguards are provided by accounting and payment controls;
3. Adequate security is available;
4. Public benefits of proceeding with the project substantially outweigh the risk of waiving the performance and payment bond requirements of s. 779.14; and
5. The project cannot proceed in a timely and efficient manner unless the performance and payment bond requirements of s. 779.14 are waived in whole or in part.

**History:** 1977 c. 29, 418; 1979 c. 34 ss. 912 to 932, 2102 (52) (b); 1979 c. 221; 1981 c. 20; 1983 a. 27.

### 85.09 Acquisition of abandoned property. (1)

**DEFINITIONS.** As used in this section:

(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) **FIRST RIGHT OF ACQUISITION.** The department shall have the first right to acquire, for present or future transportation purposes, recreational purposes, scenic purposes or for the purpose of constructing a correctional institution, any property used in operating a railroad or railway including land 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 release from the department indicating that the first right of acquisition under this subsection will not be exercised. The department of health and social services may notify the department of transportation of its interest in specific railroad property or of its interest in railroad property in certain areas of the state. The department of transportation may not issue this written release for railroad property in which the department of health and social services has notified it of an interest unless the department of health and social services authorizes the release. 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) **DETERMINATION OF ABANDONMENT.** For purposes of this section, railroad or railway property shall be deemed abandoned if par. (a) or (b) applies:

(a) A certificate or approval of abandonment has been issued by the interstate commerce

commission or federal court or any other federal or state agency having jurisdiction over the railroad or railway property.

(b) A certificate or approval of abandonment is not required and the use of the 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) **ACQUISITION AND CONVEYANCE.** Upon its own initiative, the department may determine at any time whether the property of the railroad 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 any county or municipality in which the property is located, the department shall, subject to sub. (5) (b), 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 other transportation related purposes. 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. Subject to sub. (6), 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 transportation purposes, recreational purposes, scenic purposes or for the purpose of constructing a correctional institution, or to a railroad for continued railroad transportation operations

when the railroad has operated on the property for 5 years 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 transportation purposes, recreational purposes, scenic purposes, or for the purpose of constructing a correctional institution, 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 transportation purposes, recreational purposes, scenic purposes or for the purpose of constructing a correctional institution, the department may convey the property or such interest therein, subject to sub. (6). 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 from which the property was acquired shall have the next 6 months in which to exercise its opportunity to reacquire the property or interest therein.

**(4g) ACQUISITION; NEW METROPOLITAN CORRECTIONAL INSTITUTION.** (a) In this subsection, "new metropolitan correctional institution" has the meaning specified in s. 46.0435 (1).

(b) In any acquisition under this section for the purpose of constructing a new metropolitan correctional institution, the department of health and social services shall pay for the acquisition using a procedure agreed upon by the secretaries of health and social services and transportation. Section 32.25 need not be complied with in any such acquisition. The departments of transportation and health and social services may proceed under this section for the acquisition of property specified in s. 46.05 (1o).

**(4m) RELOCATION PLAN.** The department is exempt from s. 32.25 (1) if the department determines that acquiring railroad or railway property under this section will not result in any displaced persons as defined in s. 32.19 (2) (c). The department shall file a statement of its determinations with the department of industry, labor and human relations.

**(5) DUTIES OF RAILROADS AND OTHERS.** (a) Any railroad which places a rail line or portion of a line on a system diagram map shall within 60 days of such action provide to the department one legible copy of each map in the railroad's possession which shows property boundaries or engineering stations for the line involved. At the same time the railroad shall provide to the department all other pertinent information in its possession requested by the department relating to the title to the property covered by the line involved. The department shall determine the reasonable cost to the railroad of providing documents and information under this paragraph and shall reimburse the railroad in this amount. Any conveyance by the railroad made without providing the information required by this paragraph is void.

(b) Any state agency, railroad, county or municipality which requests the department to make a determination of abandonment status and public interest in acquisition of property under sub. (4) shall provide a formal legal description of the property which is the subject of the request. The department may decline to take action on requests which do not contain an adequate description of the property involved. When the department provides a release of its first right to acquire property, the state agency, railroad, county or municipality which receives the release shall within 90 days have the release recorded by the register of deeds for each county in which the property is located.

**(6) STATE RIGHTS SUBORDINATE TO FEDERAL LAW.** To the extent that the first or subsequent rights of acquisition under this section conflict with rights conferred by 49 USC 10905 (f) (4) or 10910 (h), the rights conferred by this section are subordinate to such federal rights and shall take effect only when consistent with 49 USC 10905 (f) (4) and 10910 (h).

**(7) RULES.** 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; 1981 c. 20; 1983 a. 27, 192.

**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 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.

**(3) PLANNING REQUIREMENTS.** (a) Except as provided in par. (c), no grant may be made under this section unless the eligible applicant submits information to the department regarding harbor projects for which the eligible applicant may request state aid under this section or federal aid, or both, during the next 3-year period. The information shall be submitted prior to the April 1 which precedes the fiscal year in which the eligible applicant seeks aid under this section.

(b) The department shall, by rule, establish the starting date of each 3-year period and the form, nature and extent of the notice required under par. (a).

(c) The department may waive the requirements under this subsection.

**History:** 1979 c. 34, 221, 355; 1981 c. 314; 1983 a. 27.

**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 depart-

ment 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. 16.965 (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 or other authority as defined in s. 345.28 (1) (a) for the cost of the development and operation of the traffic violation and registration program under ss. 341.08 (4m), 341.10 (7) and (7m), 341.63 (1) (c), 345.28 (4) and 345.47 (1) (d) based on the number of transactions processed by the local unit of government or other authority. No notices under s. 345.28 (4) submitted by an authority or under s. 345.47 (1) (d) submitted by the court may be processed by the department unless the local unit of government or other authority involved has paid the department the appropriate amount determined by the department under this section.

**History:** 1979 c. 221 s. 903x; 1981 c. 165; 1983 a. 330

**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.

**85.16 Department rules and forms.** (1) The secretary may make reasonable and uniform orders and rules deemed necessary to the discharge of the powers, duties and functions vested in the department. The secretary may also prescribe forms for applications, notices and reports required by law to be made to the department or which are deemed necessary to the efficient discharge of all powers, duties and functions.

(2) Any person violating an order, determination or rule adopted under chs. 84 to 86, 110, 114, 218 and 341 to 349 and not subject to another statutory penalty shall be required to forfeit not less than \$20 nor more than \$400.

**History:** 1983 a. 175 ss. 1, 3; 1983 a. 538

**85.17 Storage of highway salt.** (1) **DEFINITIONS.** In this section:



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(a) "Highway salt" means bulk quantities of a chloride intended for application to highways during winter months, and includes mixtures in any proportion of sand and chlorides.

(b) "Waters of the state" has the meaning specified under s. 144.01 (19).

(2) **STORAGE OF HIGHWAY SALT.** Every person who stores highway salt shall comply with the standards adopted under sub. (3).

(3) **STANDARDS.** The department shall adopt by rule standards for the storage of highway salt for the purpose of protecting the waters of the state from harm due to contamination by dissolved chlorides. The rule shall comply with ch. 160. The rule may include different standards for various types of chlorides, or for mixtures of sand and chlorides. The rule may not require the storage of mixtures of sand and chlorides in a building or structure. The rule may include different standards for various storage facilities and conditions, quantities of highway salt and times during the year when salt is stored. All standards under this section shall provide substantially similar protection for the waters of the state.

(4) **INFORMATION.** The department may collect and publish information relating to this section and distribute it to municipalities and persons subject to this section.

(5) **ENFORCEMENT.** (a) The department shall enforce this section.

(b) The department may enter and inspect, during regular business hours, places where highway salt is stored on private or public property.

(c) The department shall conduct periodic inspections, at least once annually, of each location where highway salt is stored, to ascertain compliance with this section.

(d) The department shall issue special orders directing and requiring compliance with the rules and standards of the department adopted under this section whenever, in the judgment of the department, the rules or standards are threatened with violation, are being violated or have been violated.

(e) The circuit court for any county where violation of such an order occurs has jurisdiction to enforce the order by injunctive and other appropriate relief.

(6) **PENALTY.** Any person who violates this section or any rule or order adopted under this section shall forfeit not less than \$10 nor more than \$1,000 for each violation. Each violation of this section or any rule or order under this section constitutes a separate offense and each day that a violation continues is a separate offense.

**History:** 1983 a 410; 1983 a 538 s 118.

**85.18 Groundwater protection.** The department shall comply with the requirements of ch. 160 in the administration of any program, responsibility or activity assigned or delegated to it by law.

**History:** 1983 a 410

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

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

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

(c) "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.

(d) "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.

(e) "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.

(f) "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.

(g) "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.

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

(i) "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.

(k) "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.

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

(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 and encouraging their effective and efficient operation.

(3) **ADMINISTRATION.** The department shall administer the urban mass transit operating assistance 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 may be effective for a period of more than one year in length and no such contract may be enforced 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 system provides 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.

(4m) **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) From the amounts appropriated under s. 20.395 (1) (bq), an amount equal to 35% of the

projected operating costs of each eligible applicant's urban mass transit system shall be allocated to each eligible applicant.

(e) If the amounts appropriated under s. 20.395 (1) (bq) are less than the percentages specified in par. (a), the allocations shall be made on a proportional basis.

(em) The sum of the state aid allocations made to each applicant under par. (a) may not exceed either:

1. Thirty-five percent of the audited operating expenses for the project year of the applicant's urban mass transit system; or

2. The nonfederal share of the audited operating deficit for the project year of the applicant's urban mass transit system.

(f) If more than one local public body contributes assistance to the operation of an urban mass transit system, the state aids allocated under this section shall be distributed among the contributors in accordance with any cost-sharing agreement that is filed with the department. If no agreement is filed, the aids shall be distributed among the contributors in proportion to their contributions.

(4s) **PAYMENT OF AIDS UNDER THE CONTRACT.** The contracts executed between the department and eligible applicants under this section shall provide that the state aid payment for the last quarter of the state's fiscal year shall be provided from the following fiscal year's appropriation under s. 20.395 (1) (bq).

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

(6) **PLANNING REQUIREMENT.** As a condition of eligibility to receive state aids, an applicant is required to annually prepare and submit to the department a 4-year transit development program, in the form and manner prescribed by the department. The rules adopted to implement this subsection shall be compatible with applicable federal regulations.

**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); 1981 c. 20 ss. 1202, 1204, 1205, 1207, 1232, 1232m, 1233; 1983 a. 27.

#### 85.21 Specialized transportation assistance program for counties. (1) **PURPOSE.**

The purpose of this section is to promote the general public health and welfare by providing financial assistance to counties 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.

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**(2) DEFINITIONS.** In this section:

(a) "Copayment" means the fee imposed on a person for the use of the specialized transportation service.

(b) "County proportionate share" means the amount allocated to a county under this section which is based on the total amount appropriated for purposes of this section 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.

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

(d) "Elderly person" means any individual age 65 or over.

(e) "Eligible applicant" means any county or agency thereof.

(f) "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.

(g) "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.

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

(a) To receive and review county plans for specialized transportation service assistance under this section 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.

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

(c) 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 par. (e). A contract under this section shall require the county to make a matching contribution of 20% of the contract amount and to furnish information determined necessary by the department for periodic program monitoring and year-end auditing and

evaluation. A contract may permit a county to hold aids received under this section on or after July 2, 1983, in trust, according to rules promulgated by the department, for the exclusive purpose of acquiring or maintaining equipment used for services authorized under this section. All aids held in trust, as well as any accumulated interest, not expended for the authorized purposes, shall be returned to the department for deposit in the transportation fund. Nothing in this paragraph entitles a county to any investment interest accumulated prior to the time the aid payment is actually received by the county.

(d) To encourage the transportation of elderly and handicapped individuals under the specialized transportation assistance program for medical, nutritional and work-related activities as the priority in the use of state funds.

(e) 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.

**(4) COUNTY PLAN PROVISIONS; COPAYMENTS.**

(a) The county shall establish the transportation of elderly and handicapped persons to medical, nutritional and work-related activities as the priority for the specialized transportation services.

(b) Specialized transportation services may at the discretion of the county be open to the general public on a space-available basis.

(c) 1. Beginning on January 1, 1983, the county shall require a copayment by the user of the specialized transportation service for all transportation except the transportation established as a priority under par. (a).

2. The county shall establish the amount of copayment required under subd. 1 and the method by which the copayment is collected from the user.

3. The county shall collect and incorporate into the county plan data regarding the purposes and activities for which individuals use the specialized transportation services.

(d) A county may not use aids provided under this section to support the regular route services of an urban mass transit system receiving state aids under s. 85.20. A county may use aids provided under this section to support subsystems of urban mass transit systems that provide special services to the elderly or the handicapped.

**History:** 1981 c. 20 ss. 1220m, 1221, 1221m, 1233m, 1234; 1981 c. 93; 1983 a. 27, 189.

**85.22 Specialized transportation assistance program for private nonprofit corporations.**

**(1) PURPOSE.** The purpose of this section is to promote the general public health and welfare by providing capital assistance to private, non-profit organizations providing transportation services to elderly and handicapped people.

**(2) DEFINITIONS.** In this section:

(a) "Eligible applicant" means any private, nonprofit organization that meets eligibility requirements for federal assistance under 49 USC 1612 (b) (2).

(b) "Elderly person" means any individual age 55 or older.

(c) "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.

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

(a) To receive and review annually applications for aid under this section and to prescribe the form, nature and extent of information which shall be contained in applications. Each applicant shall indicate whether the transportation services it provides or proposes to provide conflict with any transportation services being assisted under s. 85.21.

(b) 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.

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

(d) To audit the records of all private nonprofit organizations receiving aids under this section in accordance with generally accepted accounting principles and practices.

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

(f) To apply for and receive federal grants on behalf of eligible recipients.

(g) To establish an annual application cycle for the program.

**(4) AMOUNT AND USE OF AID.** Commencing with the highest ranked application and to the extent that state moneys are available, the department shall offer to each eligible applicant an amount of state aid such that the sum of federal and state aid received by an applicant does not exceed 80% of the estimated capital

project costs. State aids available under this section shall not be available for operating purposes.

**History:** 1981 c. 20 s. 1222.

**85.23 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:** 1981 c. 20 s. 1223.

**85.24 Ride-sharing assistance program. (1)**

**PURPOSE.** The purpose of this section is to promote the conservation of energy, reduce traffic congestion, improve air quality and enhance the efficient use of existing transportation systems by planning and promoting ride-sharing programs and providing technical and financial assistance to public and private organizations for the development and implementation of ride-sharing programs.

**(2) DEFINITIONS.** In this section, "ride sharing" means the use of a single motor vehicle by 2 or more persons for the purpose of commuting to and from their places of employment, and includes:

(a) Commuting to and from places of employment by means of a car pool, a van pool or mass transit.

(b) Commuting to and from an educational institution other than a high school for the purpose of attending classes.

**(3) ADMINISTRATION.** (a) The department shall be the lead state agency in ride-sharing activities and shall have all powers necessary to implement a state ride-sharing assistance program which shall include the coordination of ride-sharing activities in this state, the promotion and marketing of ride-sharing activities, the dissemination of technical information, the provision of technical and financial assistance to public and private organizations for the planning, development and implementation of ride-sharing programs, and the development and distribution of computer and manual matching systems.

(b) The department may apply for and receive federal grants on its own behalf or as requested on behalf of other private and public organizations.

(c) The department may administer a program for the distribution of any federal funds for ride sharing that are made available to the state.

**History:** 1981 c. 20.

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**85.30 Motorcycle, moped and motor bicycle safety program.** The department shall develop and administer a motorcycle, moped and motor bicycle safety program. The program shall include operational skills training, safety education and public awareness and such other elements as the department deems desirable. The safety education program for motor-driven cy-

cles shall include instruction as to the proper eye protection to be worn during hours of darkness. The department may make grants under this program for establishment of courses which further the aims of this program. The department shall adopt rules to implement this section.

**History:** 1981 c. 20; 1983 a. 243, 534, 538