



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #762

State Highway Maintenance and Traffic Operations (DOT -- State Highway Program)

[LFB 2003-05 Budget Summary: Page 426, #4 and Page 427, #5]

CURRENT LAW

The state highway maintenance and traffic operations program is responsible for a variety of activities related to the upkeep of state highways and highway rights-of-way, including the minor repair of pavements and bridges, snow plowing and ice removal, mowing and other vegetation management, and the maintenance of highway rest areas and waysides. Most of this work is performed by counties under contract with the state. In addition, the maintenance and traffic operations program (under changes made by 2001 Act 16) is solely responsible for the installation and repair of signs, highway lighting, pavement marking, traffic signals, and intelligent transportation systems (ITS), unless the installation or repair of these items (termed "traffic control items" in this paper) is incidental to a larger highway improvement project. If the installation or repair of traffic control items is incidental to another project, they may be funded from the highway improvement programs (state highway rehabilitation, southeast Wisconsin freeway rehabilitation, or major highway development).

The base budget for the highway maintenance and traffic operations program is \$171,885,000 SEG and \$1,194,000 FED.

GOVERNOR

Program funding. [Summary Item #4]. Provide \$3,327,100 SEG in 2003-04 and \$15,434,700 SEG in 2004-05 for the highway maintenance and traffic operations program.

Programmatic funding of traffic control items. [Summary Item #5]. Delete provisions, created by 2001 Act 16, that: (a) prohibited DOT from funding the installation, replacement,

rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation systems, unless such projects are incidental to the improvement of existing state trunk and connecting highways, from the state highway rehabilitation and southeast Wisconsin freeway rehabilitation appropriations; and (b) excluded these activities from the definition of "improvement" or "highway improvement" as they relate to highway construction activities, and, instead, included these activities under the program description for the highway maintenance program. Move a provision that authorizes the Department to contract with a private entity for services or materials associated with these activities (also created by Act 16) from a statutory section related to the state highway maintenance program to a newly-created, stand-alone section.

DISCUSSION POINTS

1. The item in the bill that would delete many of the Act 16 provisions related to the funding of stand-alone projects involving the installation and repair of traffic control items is summarized separately from the item that would provide additional funding for the maintenance and traffic operations program. Since the Committee's decisions on the former item may affect the Committee's decision on the funding issue, this paper discusses both items.

2. Prior to the passage of Act 16, DOT interpreted the statutory authority under the state highway rehabilitation program to allow for the installation of the traffic control items as stand-alone projects. The statutes specify that the state highway rehabilitation appropriations can be used for, among other things, "the improvement of existing state trunk and connecting highways." Prior to Act 16, the term "highway improvement" was defined, in a separate statutory section, to include "the construction, reconstruction, and the activities, operations and processes incidental to the building, fabricating or bettering a highway." Act 16 modified the definition of "highway improvement" to explicitly exclude the installation, replacement, rehabilitation, or maintenance of the traffic control items.

3. Prior to Act 16, the statutory authority for the maintenance and traffic operations appropriation allowed for the funding of traffic operations "such as...pavement marking, highway signing, traffic signalization and highway lighting." However, there was no provision that required these items to be funded exclusively from the maintenance and traffic operations appropriation. Consequently, if stand-alone projects involving the traffic control items could be interpreted as a "highway improvement" or as "activities, operations and processes incidental to the building, fabricating or bettering a highway," then funding these projects from the state highway rehabilitation program was within the legal authority of that program.

4. DOT indicates that historically there had been some overlap in the responsibilities of the state highway rehabilitation and maintenance and traffic operations appropriations (or their precursors). For instance, certain minor pavement repair projects, depending upon the particular circumstance, may have been done either by a private contractor through a competitive bidding process or by county crews through their maintenance contract with the state. In the former case,

state highway rehabilitation funds would be used, while the latter would use state highway maintenance funds. The overlap also applied to the funding of traffic control items. Over time, the Department's approach to funding these items, particularly pavement markings and highway signs, changed in such a way as to shift an increasing share of the responsibility of funding these items to the state highway rehabilitation program.

5. One reason for this shift is that the Department began to phase out the use of state crews to manufacture and install signs and pavement markings and, instead, used contractors for these tasks. In the case of pavement markings used on high-volume highways, this occurred partly because the technology used to apply markings changed. Rather than retool to adopt the longer-lasting markings that are now used on these routes, the Department began using contractors to do this work. As this work was increasingly put out to private bid, the responsibility for funding the work shifted to the state highway rehabilitation program.

6. Another reason for the shift was a change in the Department's approach to the installation of many of the traffic control items. As the state's federal highway aid increased during the late 1990s, the Department made the decision to use a part of the increase, through the state highway rehabilitation program, to make traffic control improvements on a system-wide or corridor basis, rather than as isolated, location-specific projects. For instance, the Department made the decision to install raised, center-line pavement markers along the state's 65-mile-per-hour freeways, through contracts funded from the state highway rehabilitation program. This was seen by the Department as a significant capital improvement and, therefore, an appropriate item to fund under the state highway rehabilitation program.

7. Unlike the other traffic control items, the implementation of intelligent transportation systems is a more recent development in transportation policy. The Department began a program to install intelligent transportation systems, such as ramp meters and traffic cameras, in the early 1990s, and funded these projects from the beginning from the state highway rehabilitation program. By shifting the funding of these projects to the maintenance and traffic operations appropriation, Act 16 created a responsibility for the maintenance program that it had not previously had. Because it was an emerging program, however, it also was not a prior responsibility of the state highway rehabilitation program.

8. Regardless of how the funding relationships for traffic control items evolved prior to the passage of Act 16, proponents of the Act 16 changes argued that the Legislature's historical understanding of programmatic responsibilities under the state highway program was that stand-alone traffic control projects should be funded exclusively from the maintenance and traffic operations appropriations and that the state highway rehabilitation program appropriations should be used for the funding of highway and bridge construction projects. The Act 16 provision formalized this viewpoint of the two program's responsibilities.

9. In connection with the statutory changes made in Act 16, the act transferred \$27,000,000 in 2001-02, which is the amount that DOT had indicated had been spent on stand-alone traffic control activities on an annual basis, from the SEG appropriation for state highway

rehabilitation to the SEG appropriation for state highway maintenance and traffic operations. No funding, however, was transferred in 2002-03. Instead, the Department was authorized to submit a request to the Joint Committee on Finance to transfer \$10,000,000 in 2002-03 between these appropriations for these functions. Instead of requesting a transfer in 2002-03, the Department requested a supplemental appropriation of \$10,000,000 for the highway maintenance and traffic operations appropriation, which was approved. Of this amount, the Department's request indicated that \$7.4 million would be used for traffic control items. This amount was also added to the 2002-03 base for the highway maintenance and traffic operations appropriation.

10. While the Act 16 provision added approximately \$27,000,000 in funding responsibilities for the maintenance and traffic operations appropriation beginning in 2002-03, the converse is true for the state highway rehabilitation appropriation. The funding responsibilities of the highway rehabilitation appropriation were reduced by approximately \$27,000,000, but the funding for the program was not reduced in 2002-03, thereby allowing that amount of funding to be spent on other program responsibilities.

11. With the provision of the \$10,000,000 supplement (\$7.4 million of which was for traffic control items), the Department was able to restore partial funding for some traffic control items. However, the amount of funding available for these items in 2002-03 remained approximately \$19.6 million below previous levels. To absorb this reduction in funding for traffic control items, the Department eliminated most funding for intelligent transportation systems and substantially reduced funding for traffic signals and lighting.

12. In its budget request, the Department asked that the appropriation for highway maintenance and traffic operations be converted from a biennial appropriation to a continuing appropriation, on the grounds that this change would help to facilitate the provision of traffic control items through this appropriation. Projects that are delivered through a competitive bidding process typically require several months of preparatory work. Occasionally, the bidding date for projects, or the approval of the contracts after the bids are received, is delayed for various reasons unrelated to the fiscal management of the program. In some cases, this delay may mean that the bid letting for a project is delayed from the end of one fiscal year into the following year. In recognition of these circumstances, the highway improvement appropriations (major highway development, state highway rehabilitation, and southeast Wisconsin freeway rehabilitation) are continuing appropriations, which allows the Department to commit funds in one fiscal year, but retain that funding if the obligation of the funds (the approval of the contract) is delayed until the following fiscal year. The Department argued that because the Act 16 changes required the maintenance and traffic operations program to assume the responsibility of letting contracts for traffic control items, a continuing appropriation for the program would facilitate the delivery of these projects, because it would eliminate the possibility that funds programmed for a project would lapse if the project was delayed past the end of a fiscal biennium. The bill does not include this part of the Department's request because many of the Act 16 changes were eliminated. If the Committee decides to retain the Act 16 changes, it may consider approving the Department's request to convert the maintenance and traffic operations appropriation to a continuing appropriation to allow the Department greater flexibility in the delivery of traffic control items through that appropriation.

13. The funding increases provided in the bill (\$3,327,100 in 2003-04 and \$15,434,700 in 2004-05) reflect the net effect of the following changes: (a) an increase of \$3,729,200 in 2003-04 and \$7,551,700 in 2004-05 to provide 2.5% annual inflationary increases, calculated on a base that excludes: (i) costs related to salaries and fringe benefits for state employees; and (ii) the \$10,000,000 supplemental appropriation that was provided for the program in 2002-03 and made part of the appropriation base by the Joint Committee on Finance; (b) a reduction of \$402,100 in 2003-04 and \$414,600 in 2004-05 to reflect a decision to fund 50% of DNR's car-kill deer program through a transportation fund appropriation and to reduce the budget for the maintenance and traffic operations program by a corresponding amount; and (c) an additional increase of \$8,297,600 in 2004-05, with the intent of compensating for increases in traffic volume and lane miles of state highways.

14. Although the bill would provide inflationary increases of 2.5% annually, current projections for inflation are somewhat lower. Global Insight, an economic forecasting firm, projects that the inflation rates in 2003-04 and 2004-05 will be 2.0% and 1.9%, respectively. As noted in the previous point, the inflationary adjustments in the bill were calculated on a base that excludes salary and fringe benefits costs and the \$10,000,000 supplement. Salary and fringe benefits are excluded from the calculation on the grounds that adjustments are provided for these costs through the pay plan supplement process. The \$10,000,000 was excluded from the base because the calculation in the bill was based on the Department's budget request, which was submitted before the \$10,000,000 supplement was provided. If the lower inflation projections are used and the \$10,000,000 supplement is included in the calculation, the increase for inflation provided in the bill could be reduced by \$545,800 in 2003-04 and \$1,283,600 in 2004-05.

15. Although the projected general rate of inflation is lower than the rates used to calculate the inflationary increases for the maintenance program, several of the major categories of expenses in the program have increased at a faster rate than the general inflation rate over the past several years, which may justify providing a larger inflationary adjustment. For instance, over the past ten years, the cost of labor has increased by about 42% and the cost of fuel has increased by about 66%, while the general inflation rate has increased only about 25% during that time.

16. It should be noted, however, that many programs are not provided inflationary adjustments on the basis of the programs' particular costs. In these cases, it may be the expectation that the program has to absorb the higher costs by finding ways to deliver services more efficiently or by reducing the amount of services provided. Furthermore, in the bill, many programs are either provided no inflationary increases or are subject to funding reductions.

17. In addition to the inflationary adjustment, the bill would provide an additional \$8,297,600 in 2004-05 for the program. The administration indicates that this amount was provided to enhance the state's ability to preserve the existing highway infrastructure. It was decided that the amount of base funding for the program, even if increased for inflation, would fall below the level necessary to maintain the highway system at the level desired by the administration. DOT indicates that the additional funding would be provided for counties to reflect a growth in the number of state highway lane miles and growing traffic levels.

18. Another justification for providing the additional \$8,297,600 may be that the Department's 2002-03 budget for the program includes approximately \$9.5 million in one-time savings (primarily from the deferral of certain projects) carried over from 2001-02, but which is not included in the 2002-03 appropriation base. Consequently, if only an inflationary increase were provided for the program in both years of the 2003-05 biennium, the real size of the Department's budget for the program would be about \$9.5 million lower annually than the budget in 2002-03.

19. Some have expressed a concern about the overall funding trends for the program, arguing that funding increases have not been sufficient to maintain the highway system as the amount of traffic and the number of lane miles in the system have grown. Some county commissioners, who are responsible for administering the state highway maintenance work done by county crews, have indicated that the failure of funding to keep pace with increasing costs in the maintenance program has required counties to curtail some maintenance activities, such as mowing, shoulder and ditch maintenance, and crack sealing. The commissioners note that some of the activities that are curtailed are preventive maintenance measures that, if not done, could lead to higher repair costs in the future.

20. As noted earlier, the Committee's decision on the funding for the program may depend upon the decision made on whether to approve the Governor's recommendation to eliminate the Act 16 changes related to the funding of traffic control items. The following points summarize the implications of the various possible decisions:

- Approving the Governor's recommendations to provide additional funding for the program and to delete the Act 16 provisions would allow the Department to increase expenditures for county-provided maintenance, as DOT has indicated, and would allow the Department to shift some of the expenditures on traffic control items to the state highway rehabilitation program. The Department has indicated that \$7.4 million of the base funding for maintenance and traffic operations would continue to be used for traffic control items (the portion of the \$10,000,000 supplement that was allocated for those purposes).

- Approving the Governor's recommendation to eliminate the Act 16 provision, but not providing additional funding for the maintenance and traffic operations program (either the inflationary adjustment, the additional \$8.3 million in 2004-05, or both) would not allow the Department the same flexibility to increase funding for county-provided maintenance, but would allow the Department to shift some of the responsibility of funding traffic control items to the state highway rehabilitation program.

- Retaining the Act 16 changes would require the maintenance and traffic operations appropriation to continue funding traffic control items. If additional funding is provided in conjunction with this decision, the Department's ability to continue funding these projects from the maintenance and traffic operations appropriation would be enhanced. The Department could, for instance, decide to use some or all of the additional \$8.3 million provided in 2004-05 for traffic control items. In this case, however, the level of funding available in that year for these projects would remain below the level of funding that DOT indicates had been spent on these activities prior

to the passage of Act 16. To the extent that the \$8.3 million is allocated to traffic control items, the Department would have to reduce the amount of that additional funding that is provided for county-provided maintenance.

- If the Act 16 changes are retained and the additional funding is not approved, the Department would not have funding available to provide increases for county-provided maintenance or to reallocate to traffic control items. Only the \$7.4 million that was allocated for traffic control items from the \$10,000,000 supplement would be available in each year for these items, unless the Department decides to reallocate funding from other maintenance functions.

ALTERNATIVES

A. Maintenance Funding

1. Approve the Governor's recommendation to provide \$3,327,100 SEG in 2003-04 and \$15,434,700 SEG in 2004-05 for the highway maintenance and traffic operations program.

2. Modify the Governor's recommendation by adopting one or more of the following alternatives:

a. Delete \$8,297,600 SEG in 2004-05 to remove the additional amount provided by the bill that the Department would provide to counties for routine maintenance activities to reflect increases in lane miles and traffic.

Alternative A2a	SEG
2003-05 FUNDING (Change to Bill)	- \$8,297,600

b. Delete \$545,800 SEG in 2002-03 and \$1,283,600 SEG in 2004-05 to reduce the amount provided for inflationary adjustments to reflect the actual projected inflation rates for the biennium, instead of the 2.5% annual rate assumed by the bill.

Alternative A2b	SEG
2003-05 FUNDING (Change to Bill)	- \$1,829,400

3. Delete provision.

Alternative A3	SEG
2003-05 FUNDING (Change to Bill)	- \$18,761,800

B. Funding of Traffic Control Items

1. Approve the Governor's recommendation to delete provisions, created by Act 16, that require DOT to fund the installation of highway signs, traffic signals, highway lighting, pavement markings, or intelligent transportation systems from the state highway maintenance and traffic operations appropriations, unless such projects are incidental to the improvement of existing state trunk and connecting highways.

2. Convert the state highway maintenance and traffic operations SEG appropriation from a biennial appropriation to a continuing appropriation.

3. Delete provision. This alternative would maintain current law (the Act 16 provisions) with respect to the installation of traffic control items.

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