



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 30, 2009

Joint Committee on Finance

Paper #765

Southeastern Wisconsin Transit Capital Assistance Program (DOT -- Local Transportation Assistance)

[LFB 2009-11 Budget Summary: Page 606, #1]

CURRENT LAW

A major transit capital improvement project is defined as a project that has a total cost of more than \$5 million and involves any of the following: (a) the construction of a separate roadway designated for use by buses or other high-occupancy modes of travel; (b) the initial construction or expansion of a light rail transit system; or (c) the initial construction or expansion of a commuter rail transit system. No major transit capital improvement project may be constructed unless the project has been enumerated in the statutes. To date, no such projects have been enumerated.

A light rail mass transit system may not be constructed in Milwaukee County unless the Milwaukee County board authorizes the system's construction by resolution and the resolution is ratified by the electors of Milwaukee County at a referendum held at the next general election. No such projects have been approved to date.

GOVERNOR

Authorize \$100,000,000 in general obligation borrowing to provide grants to the Southeast regional transit authority (RTA), which would be created under the bill, for capital improvements under a newly-created southeast Wisconsin transit capital assistance program. Create a sum sufficient appropriation from the transportation fund to pay debt service on any bonds or to make payments on any agreement or ancillary arrangement entered into related to any bonds issued under the program. Specify that any debt associated with the bonding authority would have to be incurred by December 31, 2020.

Require DOT to develop and administer a southeast Wisconsin transit capital assistance program. Allow DOT to administer the program without promulgating rules. Require DOT to do all of the following in administering the program:

- a. prescribe the form of grant applications and the nature and extent of information to be provided with these applications, and establish an annual application cycle for receiving and evaluating applications;
- b. establish criteria and standards for grant eligibility for transit capital improvement projects; and
- c. establish criteria and standards for evaluating and ranking applications and for awarding grants.

Allow DOT to award grants to the Southeast RTA only if all of the following apply: (a) the RTA is eligible under federal law to be a public sponsor for a project that receives federal funding; and (b) the RTA receives funds from a dedicated local revenue source for capital and operating costs associated with providing transit services. Require the RTA to specify the project for which the grant funds are being requested. Specify that DOT may not accept grant applications after December 31, 2015.

Prohibit the Southeast RTA from including a project in a grant application that: (a) is a major transit capital improvement project that has not yet been enumerated in state statutes; or (b) involves the construction of a light rail system in Milwaukee County that has not yet received the necessary local authorizations required by current law.

Limit any single grant awarded under the program to the lesser of \$50,000,000, 25% of the total project cost, or 50% of the portion of the total project cost not funded with federal aid. Specify that DOT may award a grant to the Southeast RTA only if all of the following apply:

- a. The project for which the grant is to be awarded has received any approval to proceed required by the appropriate federal agency. Specify that such federal approval to proceed would be required by December 31, 2012, for any project utilizing federal interstate cost estimate (ICE) substitute project funding and for any project resulting from the Milwaukee Downtown Transit Connector Study of the Wisconsin Center District.
- b. The number of revenue hours of transit service provided in the area serviced by the Southeast RTA at the time of the grant application is not less than that provided in 2001 by any local unit of government.

DISCUSSION POINTS

Southeast Regional Transit Authority

1. Other provisions in the bill would allow the governing boards of Milwaukee County, Kenosha County, or any municipality in Racine County east of Interstate 94 to create a Southeast

RTA. The governing board of the counties of Ozaukee, Racine, Washington, and Waukesha, or any municipalities in these counties could join the Southeast RTA after it is created. This RTA would replace the current Southeastern Wisconsin Regional Transit Authority.

2. For purposes of the grant program, the bill would define "southeast Wisconsin" as the geographical area comprising Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha counties. However, none of Walworth County would be included in the allowable jurisdictional area of the Southeast RTA created under the bill. In order to make the geographic area of the grant program consistent with the Southeast RTA proposal, the bill could be modified to remove Walworth County from the definition of the "southeast Wisconsin" geographic area under the proposed grant program (Alternative 2c).

3. If the Committee chooses not to adopt the Governor's recommendation to create a Southeast RTA, but creates and funds the mass transit capital assistance grant program, the reference to the Southeast RTA as the only eligible grant recipient would have to be deleted.

Major Southeast Wisconsin Transit Projects

4. In Southeast Wisconsin, two major capital investments in transit are currently being studied: the Kenosha-Racine-Milwaukee (KRM) commuter rail project and the Milwaukee Connector project. The proposed KRM project would be a 33-mile long commuter transit service on the Union Pacific North line that currently runs between Chicago and Kenosha. The proposed Milwaukee Connector project is currently under a second phase of study and the types of transit services under consideration include a bus rapid transit system with fixed routes that extend outward from downtown Milwaukee and a fixed rail modern streetcar for circulating passengers in downtown Milwaukee.

5. The KRM project would involve new transit service that would extend to Milwaukee's Amtrak station, with potential intermediate stops in Kenosha, Somers, Racine, Caledonia, Oak Creek, South Milwaukee, and Cudahy-St. Francis. The service would consist of 14 weekday trains in each direction between Kenosha and Milwaukee. In addition, certain trains could also run to and from Waukegan, IL. The proposed service would be coordinated with the existing Metra commuter rail service to allow for timed transfers at Kenosha or Waukegan with Metra trains to and from Chicago.

6. One benefit of a KRM commuter rail line extension would be the creation of an additional transportation and economic link between Milwaukee, Racine, Kenosha, and other communities in southeastern Wisconsin and northeastern Illinois. The project could provide a transportation alternative to freeway travel in the area, which is becoming increasingly congested. Proponents of commuter rail in this corridor contend that it could provide economic growth and development opportunities for communities along the rail line. The project could also make a larger number and a wider array of job opportunities accessible for the area's labor market. The project has support from several major employers in the area and the commerce associations of Kenosha, Racine, and Milwaukee, who wish to access that labor market to a greater extent.

7. The estimated construction cost of the current KRM proposal is \$200 million and recent estimates of the net operating costs associated with the project have ranged from \$10.9 million to \$14.7 million annually. During deliberations on the 2007-09 biennial budget, the following funding plan was outlined for the capital costs of the project: (a) \$100 million in Federal Transit Administration (FTA) new starts funding; (b) \$18.0 million to \$27.0 million from the Federal Highway Administration's congestion mitigation and air quality improvement program; and (c) \$36.5 million to \$41.0 million each in state and local funds.

8. The initial phase of the Milwaukee Connector study, which began in 2000, evaluated transit improvements in and around downtown Milwaukee. The study grew out of earlier studies dating from the early 1990s. The study looked at the creation of a transit connector system to link people through public transit to some of the new and existing attractions in and around downtown Milwaukee. The new attractions included the convention center, professional baseball stadium, art museum addition, and the development of the riverwalk area and downtown housing options. A partnership was formed with the Wisconsin Center District, the Metropolitan Milwaukee Association of Commerce, and the city and county to conduct the study. This initial phase of the study generally focused on two transit lines making up 11-12 miles of service, with the routes running from Miller Park to UW-Milwaukee and from Fond du Lac Avenue through downtown Milwaukee and out to the Third Ward.

9. A second phase of the study, which is currently underway, is being funded using \$9.5 million from the FTA. The transit service under review includes a bus rapid transit system, which involves a bus lane or roadway that is exclusively built for, or dedicated to, bus travel. Such systems often have dedicated stations that passengers walk up to and can involve vehicles with multiple doors that resemble trains. Service is often frequent and passengers are allowed to choose between express and local routes. The bus rapid transit corridors under study include: (a) from Bayshore Town Center in Glendale south via 27th Street to Northwestern Mutual's Franklin Campus; (b) from the University of Wisconsin-Milwaukee south to downtown and west to the Milwaukee County Research Park; and (c) from Midtown Center to downtown and south to General Mitchell International Airport. In addition, the study will examine a downtown streetcar loop, which would run from the downtown intermodal station east to the Summerfest grounds, north to Yankee Hill, west to Park East, and then south to the downtown intermodal station..

10. The Connector study indicates the following relative to the costs of the transit service being studied:

"The project cost will depend on what is built. At this point, without knowing the routes and vehicles that will be selected, we cannot estimate cost. One option being considered by the project steering committee is to apply for federal transit funds through FTA's Small Starts program, which would limit the total project costs to \$250 million."

In addition, no estimates of the annual operating costs for the system have been completed. However, during the initial Connector study phase, it was indicated that portions of the new service could replace the existing bus service in these areas, which would mean the new service would supplant some of the costs of the existing Milwaukee County Transit System (MCTS) service in

these areas. Further, it is not clear who would operate the Connector service. However, if the operator is a political subdivision, the operator could be eligible for state assistance under the state's mass transit operating assistance program when the system is operational.

11. Under the proposed grant program, the Southeast RTA could not include a major transit capital improvement project that has not yet been enumerated in state statutes in a grant application. Given the current law criteria for such projects, it is likely that both the proposed KRM commuter rail project and the proposed Milwaukee Connector project would have to be enumerated in the statutes before the projects could be constructed using state funds. While the bill would not enumerate either project, the Committee could enumerate one, or both, of these projects (Alternatives 2e and 2f).

12. In addition, a light rail mass transit system may not be constructed in Milwaukee County unless the Milwaukee County board authorizes construction of the light rail system by resolution and the resolution is ratified by the electors of Milwaukee County. The downtown Milwaukee streetcar route that is being reviewed under the current Connector study would likely be subject to this requirement.

Existing Concerns Relative to Transit in Southeast Wisconsin

13. For at least several years, local officials within the proposed Southeast RTA have disagreed on the public transportation priorities for their individual counties and in the region as a whole. For example, each of past three biennial budgets have included funding to complete the planning necessary to ready the KRM project for the FTA approval that is necessary for the project to proceed into preliminary engineering, yet the project application has yet to be forwarded to FTA. Similarly, the initial Milwaukee Connector study was initiated in 2000, and the projects being considered have been discussed locally for several years. However, recently, the project's scope has widened and additional study is being done.

14. While these local transit projects have been discussed, \$91.6 million in remaining federal funding, which was originally authorized in 1990 and could be used for such projects, has yet to be expended. In 1990, Congress authorized \$241 million in federal Interstate Cost Estimate (ICE) funds to complete the remaining segments of the interstate highway system, which included a transitway project along I-94 in Milwaukee and Waukesha counties that had been planned at one time. A federal provision was created in 1991 to allow the Governor, after working with local officials, to submit a request to use the ICE funds on a substitute project. In 1999, the Governor entered into an agreement with the county executive of Milwaukee County and the mayor of Milwaukee on the use of the remaining ICE funds. As part of this agreement, \$91.6 million in funds were reserved for the projects recommended as the result of the first phase of the Milwaukee Connector study. However, as mentioned earlier, a second phase of the Connector study is currently underway and one of its listed goals is to determine how to best utilize these funds.

15. Recently, as part of the federal 2009 appropriations bill, Congress directed the Federal Highway Administration (FHWA) to work with the appropriate state and local parties to expeditiously award the ICE funds that still remain available to Milwaukee. Congress indicated that

FHWA should work for the disposition of these funds under a resolution that would allot 40% (\$36.64 million) of the funds for Milwaukee County to purchase energy efficient buses and 60% (\$54.96 million) for the downtown Milwaukee fixed rail circulator (Milwaukee Connector).

16. During the period of time that the KRM and the Milwaukee Connector projects have been planned and discussed, the Milwaukee County Transit System has made several reductions to their transit service due to significant budget shortfalls. According to a study by the UW-Milwaukee Center for Economic Development, MCTS has experienced annual revenue shortfalls in recent years that have resulted in significant service reductions. Aside from farebox revenues, MCTS's annual revenues primarily come from state and federal funding, and county property tax levies. These revenues have not kept pace with increasing operating expenses associated with high fuel and employee benefit costs. As a result, the report indicates that MCTS has had to reduce its service by 180 miles, or 18.8%, from 2001 to 2007. During the same period, the Southeastern Wisconsin Regional Planning Commission (SEWRPC) indicates that MCTS system fares have increased by 30%. SEWRPC also estimates that MCTS could be required to reduce service by an additional 35% over the next five years. According to SEWRPC, other systems in the region have also reduced service and increased fares since 2000, and could see an additional 20% to 25% reduction in service over the next five years.

17. MCTS has also deferred bus purchases and other capital investments by deciding to use federal transit capital funds for annual bus operations. A 2006 report from the Joint Legislative Committee on Transportation Needs and Financing ("Road to the Future Committee"), indicated that an additional \$20.1 million in annual operating funding would be needed to restore the service reductions made since 2001 to MCTS service. Given the status of existing transit service in the region, it may be difficult to get FTA approval for federal funding of any rail transit project in the region until some or all of the region's bus service is restored or replaced.

18. The outstanding issues relative to transit have made it difficult for local leaders to decide on a direction for public transportation in southeastern Wisconsin. The proposed capital assistance grant program could be seen as an incentive for local officials to resolve these outstanding issues, by making resolution of these issues a condition of the grant funding. As indicated below, the proposed program could provide the region with \$100 million in transit capital grants, if the following issues, which would be addressed by the Governor's recommendations, are resolved.

Should an RTA for Southeast Wisconsin be created?

- The Governor recommends the creation of a Southeast RTA.
- The Southeast RTA created under the bill would be the only eligible applicant for a grant under the program.

Should a major transit capital project in southeast Wisconsin be undertaken given recent transit service cuts in the region?

- DOT could only award the Southeast RTA a grant if the number of revenue hours of

transit service provided in the area serviced by the RTA at the time of the grant application is not less than that provided in 2001 by any local unit of government.

Should a dedicated local funding source be created for transit in the region?

- DOT could not award the Southeast RTA a grant unless the RTA receives funds from a dedicated local revenue source for capital and operating costs associated with providing transit services.

- The Governor recommends providing the Southeast RTA board the authority to impose up to 0.5% sales and use taxes with the RTA's jurisdictional area.

Who should be the local sponsor for any project requiring FTA approval?

- DOT could award a grant to the Southeast RTA only if the RTA is eligible under federal law to be a public sponsor for a project that receives federal funding.

- The Governor's Southeast RTA recommendations would require that, no later than one year after the creation of a Southeast RTA, the authority would have to submit an application to FTA to enter the preliminary engineering phase of the federal new starts grant program for the KRM commuter rail link.

How will federal interstate cost estimate funds be expended?

- Under the proposed grant program, a grant could only be awarded to a project that utilizes federal ICE substitute project funding or for any project resulting from the Milwaukee Connector study, if that project receives federal approval to proceed by December 31, 2012.

Size and Scope of Proposed Program

19. DOT included a similar transit capital assistance grant program cost in its agency budget request. That grant program could have been used to fund any eligible transit capital cost in the region. The bill does not specify the types of capital improvement that could be funded under the grant program, but would provide DOT with broad authority to determine the type of projects to be funded and the criteria for ranking the projects. Under the program envisioned in its budget request, DOT indicated that the grants could be used to fund the KRM or Milwaukee Connector study projects, or other system development projects, such as express or regional bus service, upgrades to local streets, intersections, and signal systems that would facilitate the smoother flow of transit services, and the construction of park-and-ride lots with convenient transit access. If the Committee determines that the Legislature should have additional oversight with regard to the type, and ranking, of the transit capital improvements to be funded under the proposed grant program, DOT could be required to promulgate rules related to the program (Alternative 2i).

20. While the program could fund other transit capital improvement projects, the proposed KRM commuter rail project and the Milwaukee Connector study projects are the only projects in the region that are currently proposed that would warrant the need for \$100 million in

funding. As mentioned earlier, existing costs estimates for the KRM commuter rail project indicate that the cost of the project could exceed \$200 million. At such a cost, the most the KRM project could receive under the proposed state grant program would be \$50 million. No current estimates exist on cost of the Milwaukee Connector study project, but the state share would be limited to \$50 million. If the Committee is concerned about the overall bonding level included in the bill, a decision could be made to establish the grant program and set the initial bonding level at \$50 million in order to make it possible for one of the projects to receive state funding in the biennium (Alternative 2a). Additional funding could be provided in future biennia, as the second, or any other, project moves forward.

21. Creating a grant program at this time to provide state funding for mass transit capital improvements in southeast Wisconsin would indicate that the state is willing to make a commitment to major transit improvements in the region. The state's commitment of funding for such projects could have a positive impact on any decision made by the FTA, under its federal funding approval process. Further, as mentioned earlier, the program may provide the incentive needed for local officials to work together on regional basis to solve the public transportation issues in the region and move forward on the proposed projects. The deadlines established by the bill could serve as further motivation to resolve remaining issues surrounding these projects.

22. Other areas of the state also have transit service expansions and transit capital investments that are in the planning stages. Dane County is currently studying the possibility of commuter rail in the county, as well as other capital improvements, such as additional park and ride facilities on the Madison urban area's outer rim. Also, the extension of the Illinois Metra commuter rail system into Rock County has been studied. The Committee could amend the proposed program to allow other areas of the state to compete for this funding (Alternative 2d). Such competition could provide further incentive for the different areas of the state to work to expedite the resolution of any local issues that may be impeding decisions on any transit capital improvements in their region. If the Committee chooses to open up to the grant program to other areas of the state, a project the size of the Dane County commuter rail project or the Rock County Metra extension would have to be enumerated in statute before it could receive any grant funding (Alternatives 2g and 2h).

23. Given the number of issues that would need to be resolved before any of the projects currently contemplated could receive state funding under the bill, it is likely that any bond issuance would occur late in the biennium, or in a subsequent biennium. Therefore, no debt service on the bonds would be expected in 2009-11. It would be possible for the bonds to be issued for planning related to a transit capital project that is to be constructed. However, using bond proceeds for project planning could be prove problematic if the bonds are issued on a tax exempt basis and the project is never constructed. According to DOA Capital Finance, tax exempt bonds can be issued for planning of a public project, but if that project is not constructed, those bonds would lose their tax exempt status.

24. Once they are fully issued, debt service on the bonds would be an estimated \$8,000,000 annually from the transportation fund. Most transportation fund revenues are generated from highway user fees, such as fuel taxes, vehicle registrations, and drivers' licenses. Some may

question whether revenues generated from highway users should be used to pay for capital improvements for transit service. In addition, public transportation is often touted as having more general public benefits, such as providing transportation options to those without autos, reducing the nation's fuel consumption, and improving the environment. Some have contended that, due to these more general benefits, transit capital improvements should be financed using the state's general fund.

25. Conversely, federal, state, and local governments have been increasingly viewing public transportation as part of a balanced, multimodal transportation system that can work to generate benefits for all area residents, including highway users. For example, some contend that public transit can reduce traffic congestion and the need for additional highway infrastructure in a region and, therefore, that the transportation fund is a reasonable source of funding for capital investments in transit.

26. Any program that has both a transportation-related purpose and a general, public interest purpose could be funded from either fund, and advocates of either position can offer plausible arguments in support of their position. However, the decision on which fund to use typically rests more on the relative importance that one places on other uses of the two funds. For instance, advocates of greater spending for highway infrastructure are likely to make the case that the responsibility for funding the debt service on bonds issued under the proposed transit capital assistance grant program belongs with the general fund, since that decision would allow more funding to be used on highway infrastructure. Likewise, advocates of a particular general fund program may take the opposite position because it would allow more general fund revenues to be spent on that particular program. If the Committee decides to make more funding available for other transportation programs, but agrees with the Governor's recommendation to create the transit capital improvement program, the bill could be modified to fund the program from the general fund (Alternative 2b).

ALTERNATIVES

1. Approve the Governor's recommendation to create a southeast Wisconsin transit capital assistance program and authorize \$100,000,000 in general obligation borrowing to provide grants to the Southeast RTA for transit capital improvements. Create a sum sufficient appropriation from the transportation fund to pay debt service on any bonds or to make payments on any agreement or ancillary arrangement entered into related to any bonds issued under the program.

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

a. delete \$50,000,000 in bonding for the transit capital improvement grant program (\$50,000,000 would remain);

ALT 2a	Change to Bill
	Funding
BR	- \$50,000,000

- b. delete the sum sufficient appropriation from the transportation fund to pay debt service on the proposed bonds or to make payments on any agreement or ancillary arrangement entered into related to any bonds issued under the program and add these bonds to the uses of the existing general fund debt service appropriation for transportation-related bonds (this would switch debt service from SEG to GPR);
 - c. remove Walworth County from the list of counties to be included in the "southeast Wisconsin" geographical area under the program;
 - d. extend the ability to apply for and receive transit capital assistance grants to any RTA, county, or municipality;
 - e. enumerate the KRM commuter rail project in the state statutes as a major transit capital improvement project;
 - f. enumerate the project resulting from the Milwaukee Downtown Transit Connector study of the Wisconsin Center District in the state statutes as a major transit capital improvement project;
 - g. enumerate the Dane County commuter rail project in the state statutes as a major transit capital improvement project;
 - h. enumerate the Rock County commuter rail extension project in the state statutes as a major capital improvement project; and /or
 - i. delete the ability of DOT to administer the program without promulgating administrative rules and, instead, require the Department to promulgate such rules.
3. Delete the Governor's recommendation.

ALT 3	Change to Bill
	Funding
BR	- \$100,000,000

Prepared by: Al Runde