



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #595

### Local Supplemental Grant Program (Transportation – Local Transportation Assistance)

[LFB 2021-23 Budget Summary: Page 572, #1]

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#### CURRENT LAW

The Department of Transportation (DOT) administers several local transportation assistance programs to provide funding to a variety of local road and bridge construction and rehabilitation projects, including (a) the local roads improvement program, which funds capital improvements on existing county, municipal, and town roads; (b) the surface transportation program, which funds several types of capital projects, including those on roads and highways classified as "arterials" or "major collectors", bridges, bicycle, pedestrian, transportation planning, and environmental mitigation; and (c) the local bridge improvement assistance program, which funds bridges not on state trunk highways or connecting highways.

#### DISCUSSION POINTS

##### Background

1. As part of 2019 Act 9, the 2019-21 biennial budget act, an appropriation was created to provide \$90.0 million GPR to local governments for projects eligible under the local roads improvement program discretionary component. Through a veto, the Governor decreased the \$90.0 million GPR appropriation to instead provide \$75.0 million GPR to local governments for grants to fund multimodal transportation projects, including roads, bridges, transit, bicycle, pedestrian, rail, and harbor projects, rather than exclusively using the funding for local road improvement projects. The Department of Transportation (DOT) received over 1,600 applications with total funding requests of almost \$1.5 billion for the multimodal project program. In March, 2020, the Governor announced awards to 152 local governments. Subsequently, in a July 10, 2020, decision in *Bartlett v. Evers, 2020 WI 68*, the Wisconsin Supreme Court found the Governor's veto unconstitutional. As a result, the

provisions were restored as passed by the Legislature, which resulted in the one-time \$90.0 million GPR being provided exclusively for local roads improvement projects.

2. Of those 152 projects that would have been awarded funds under the multimodal program, 140 projects were able to be funded through the local roads improvement program supplement reinstated by Court's decision, while the six of the remaining 12 were eligible to be funded through other local transportation assistance programs (the remaining six are still having their eligibility or alternative funding sources evaluated). The nearly \$1.5 billion in requested amounts and the eventual awarded amounts, by DOT region, are shown in the below table.

**TABLE 1**

**2019-20 Local Supplement**

<u>DOT Region</u>	<u>Requested</u>	<u>Awarded</u>
Southwest	\$396,768,400	\$23,892,900
Northwest	278,988,700	22,300,500
North Central	216,368,100	15,893,500
Northeast	287,152,500	15,738,300
Southeast	<u>293,926,900</u>	<u>11,707,500</u>
Total	\$1,473,204,600	\$89,532,800

**Funding Amount and Source**

3. Given the number of applications and the amount of funding requested for the 2019-21 grant program, demand appears to continue to exist for additional funding to supplement the state's existing local highway infrastructure programs in the 2021-23 biennium. The Governor recommends providing one-time funding of \$75.0 million SEG in 2021-22 for a newly-created local supplemental grant program to again provide additional funding for grants to reimburse local governments for local transportation-related infrastructure projects. The recommendation would modify the existing continuing GPR appropriation to instead provide the funding for the program from a SEG appropriation. The recommendation would also repeal the provisions related to the one-time, GPR-funded, local road improvement discretionary supplemental grant program created for the 2019-21 biennium. The Department would be required to solicit and provide grants until all appropriated funds have been expended.

4. Since the 2005(06) property tax year, the Department of Revenue (DOR) has administered a levy limit program that restricts the year-to-year increases in county and municipal property tax levies. During the early years of the levy limit program, some minimum annual growth in levies was allowed. However, the current levy limit program prohibits any county, city, village, or town from increasing its "base" levy, or prior year actual levy, in any year by more than the percentage change in the local government's January 1 equalized value due to new construction, less improvements removed, between the previous year and the current year, but not less than zero

percent. Some exclusions or adjustments are also applied.

5. While the local levy limit has assisted in limiting property tax increases for taxpayers, such limits can affect local governments' ability to raise sufficient revenues each year, especially for slower growing communities. Some local officials contend that stagnant county and municipal aid payments, combined with local levy limits, affect local governments' ability to both fund their operations and carry out needed capital improvements. With some limitations, as cost increase and infrastructure erodes, local governments must identify sources of funding that supplement property tax levies. As one source of funding, local governments have taken on increased levels of debt to finance capital improvements. Between 2005 and 2009, total outstanding debt of all local governments has increased by 55.3%, and at an average annual rate of 2.9% for counties and 3.3% for municipalities. In comparison, the Consumer Price Index has increased by 30.9% in total and at an average annual rate of 1.9% over the same period.

6. While they need to demonstrate and convince their electors of the need, local governments do have the ability to ask voters at referendum for additional resources through the property tax levy. However, approving a county or municipal levy increase to rehabilitate or reconstruct highway infrastructure through a vote of electors may be more difficult than passing similar referenda for facility improvements for other local governments, such as school districts. For example, asking for a levy increase at referendum to fund a needed road, street, or related capital improvement may have only limited appeal to voters. Unlike improvements to government-wide facilities that are used by, or associated with, the overall community, some municipal and county capital improvements, such as improvements to specific sections of local roads, can affect only voters benefiting most from the improvement. As a result, support for the improvement and the related referendum may be more limited, which can make local governments reluctant to go to referendum and more inclined to finance such improvements with debt.

7. Given the apparent demand for local transportation infrastructure, as well as the existing levy limit requirements, providing additional one-time local transportation funding may be needed for local governments to carry out needed improvements and prevent further deterioration of their transportation infrastructure. The Governor recommended providing \$75 million SEG in 2021-22 for a local supplemental grant program. [Alternative A1]

8. As shown in the earlier table, demand for the \$90 million Act 9 funding far outweighed the amount of funding available. Providing the same \$90 million in funding as Act 9 would show a continued level of state commitment to help local governments meet the demand for local infrastructure funding. Although the Act 9 program was funded through GPR, there have been concerns in past biennia regarding utilizing GPR from the general fund for transportation projects. In addition, the transportation fund receives an annual GPR transfer from the general fund, which are estimated to total \$92.8 million in the 2021-23 biennium. Considering the existing support from the general fund for transportation programs, some may prefer to use SEG funding from the transportation fund for a local grant program in the 2021-23 biennium. [Alternative A2]

9. While the 2019-21 budget increased revenues to the transportation fund, the coronavirus pandemic has dampened the impact of those revenue increases to the fund, as well as to ongoing base level revenues. Thus, in compiling his 2021-23 budget, the Governor recommends, under Assembly

Bill (AB) 68/Senate Bill (SB) 111, significant reductions to the base funding level for the state highway rehabilitation (SHR) program and the southeast Wisconsin freeway megaprojects program. This recommendation freed up SEG funding to fund the local supplement program, as well as providing other SEG funding increases to general transportation aid, transit programs, state highway maintenance, and to the State Patrol. The Governor recommends replacing the SEG funding for the two state highway programs with \$318.5 million in SEG-supported general obligation bonds for the SHR program (\$278.5 million) and the megaprojects program (\$40.0 million).

10. In an earlier action, the Committee adopted the adjusted base level funding amounts as the starting point for its 2021-23 transportation budget actions under Assembly Substitute Amendment 1 (ASA 1) to AB 68/Senate Substitute Amendment 1 (SSA 1) to SB 111. This action reinstated the base level SEG funding for the state highway improvement programs, and all other DOT programs. As a result, expenditures from the transportation fund are significantly higher than under the Governor's recommendations. The Committee has also already taken action to reduce transportation fund appropriations, including adopting standard budget adjustments and reestimates of sum sufficient debt service appropriations that reduced appropriations by \$46.5 million in 2021-22 and \$31.4 million in 2022-23. Despite these earlier actions and slightly higher estimated revenues, the estimated 2022-23 ending balance for the transportation fund is estimated at -\$32.3 million under the ASA 1/SSA 1. Additional reductions to base level funding, and/or the authorization of bonding in lieu of SEG funding for the state highway improvement program would be needed to balance the fund in the 2021-23 biennium under the substitute amendments. Further, this projected negative balance is prior to providing funding to any of the Governor's 2021-23 biennial budget recommendations, including the \$75.0 million local supplement program. Thus, under current estimates, the availability of transportation fund revenues to fund above-base transportation programming for this local supplemental grant program may be limited.

11. The state transportation fund provides funding for a variety of state operations, like Division of Motor Vehicles services and State Patrol, as well improvements and maintenance of the state's highway infrastructure. In addition, the fund provides SEG monies for the local transportation operations primarily through general transportation aids and mass transit operating assistance as well as for a variety of local infrastructure improvement programs. Several of these programs have received SEG funding increases in recent biennia. Such SEG funding from the transportation fund that is allocated or committed to local programs, especially on an ongoing basis, reduces the amount of SEG funding available to fund DOT operations and the state highway improvement program. The question then arises as to whether the state's transportation fund has the financial ability to support both local highway infrastructure and the state highway infrastructure.

12. While revenues are expected to be higher in the biennium compared to last biennium, primarily due to the fully implemented title and registration fee increases enacted under 2019 Act 9, the pandemic has dampened the anticipated amount of revenue growth to the fund in the biennium relative to the revenues projected during 2019 Act 9 deliberations. In addition, funding a large, one-time SEG program, or ongoing SEG increases to local programs, as the Governor recommends, means fewer SEG resources would be available to fund the state transportation operations and the maintenance and improvement of the state highway infrastructure. As a result, as the Governor recommends, bonding will likely have to be used in lieu of SEG "cash" to fund state highway

improvement program projects in order to maintain the needed level of investment in the system. While some level of SEG bonding is necessary to fund long term highway infrastructure improvements, heavy reliance on additional bonding in the state highway improvement program due to limited SEG funds being available, whether as a result of limited revenue growth to the fund, or the significant use of available SEG funding for other purposes, will continue to be a concern. Heavy reliance on bonding will again inevitably lead to the dilemma that the debt service to be repaid on those bonds will result in less SEG funding available for ongoing programming going forward.

13. This is of particular concern when bonds are used to fund state highway rehabilitation projects as recommended by the Governor. The use of bonds, which are a long-term capital financing option, often does not align well with the shorter expected useful life of improvements to rehabilitated highway facilities. Accordingly, bonds issued for state highway rehabilitation projects have historically been issued under shorter terms. As a result, the principal amount borrowed is typically repaid more quickly and overall interest costs are typically lower than the standard 20-year bond terms issued for transportation infrastructure projects.

14. Thus, if substantial SEG increases for local infrastructure improvements, general transportation aid and transit aid continue to be provided each biennium the availability of SEG needed to carry out the state highway program and DOT's other responsibilities will be limited. Similar to the Governor's recommendations, this will likely result in the need for additional borrowing in the state highway programs in order to backfill the SEG that is no longer available to that program.

15. Considering the 2021-23 local and state demands for transportation funding and the somewhat dampened revenues due to the coronavirus pandemic, there may be concerns regarding providing a significant amount of one-time SEG funding towards to fund local infrastructure. Providing available funding would limit the amount of SEG funding available for the state highway improvement program, and increase the reliance on bonding to program demands for that program. Similar to Act 9, the Committee could again provide one-time GPR to fund the local program supplement to help address another portion of local demand for transportation infrastructure funding, either at the amount recommended by the Governor (\$75 million) [Alternative A3] or the amount allocated last biennium under Act 9 (\$90 million) [Alternative A4].

### **Federal Coronavirus Funding**

16. The American Rescue Plan Act (ARPA) was enacted on March 11, 2021, and created a Local Fiscal Recovery Fund (LFRF). Every local government in Wisconsin will receive a payment from the LFRF. Local governments have through December, 2024, to expend these funds. Table 2 below shows the estimated LFRF amounts that will be received by units of local government in Wisconsin.

**TABLE 2**

**Local Fiscal Recovery Fund Allocations  
(\$ in Millions)**

Towns	\$160.2
Villages	97.6
Cities	<u>929.4</u>
Total	\$1,187.1
Counties	\$1,129.2

17. In general, LFRF monies may be used to respond to the coronavirus pandemic or its negative economic impacts, to make investments in certain broadband, sewer, or water (including storm water) infrastructure, or to provide premium pay for essential workers. LFRF monies may also be used for the provision of government services, to the extent of the "revenue loss" experienced by local governments due to the COVID-19 public health emergency. Guidance from the U.S. Treasury defines government services broadly as including maintenance or pay-go funding of infrastructure, which can include roads. Thus, if a "revenue loss" can be demonstrated by a local unit of government in a year, that governmental unit has greater flexibility as to how they can use the LFRF monies in that year. Treasury guidance also provides a method for calculating "revenue loss" for the purposes of using LFRF monies for the provision of government services, in addition to providing a definition of general revenue for the purpose of this calculation. General revenue is defined to include revenues collected by a recipient government and generated from its underlying economy, as well as other types of revenue that are available to support government services, including intergovernmental revenue transfers between state and local governments.

18. "Revenue loss" is to be calculated by comparing the government's actual revenue to a counterfactual trend, representing revenues that would have been expected in the absence of the pandemic. When calculating the counterfactual trend, recipient governments will use a growth adjustment equal to the greater of 4.1% annually, or the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency. Each recipient government is to calculate its own "revenue loss" for the purpose of determining the amount of LFRF funds that may be used to fund government services each year. The calculation of the annual loss in revenue is to be completed as of December 31 beginning in 2020, and each year thereafter through 2023. If any carryover LFRF monies remain at the end of each year, and if a "revenue loss" can be demonstrated in a subsequent year, local governments could again use those LFRF monies for the provision of government services up to the amount of "revenue loss" shown in that year.

19. Hence, if their LFRF funds remain available, and an annual "revenue loss" can be demonstrated each year, local governments could use these funds to fund government services, including road infrastructure improvements, for up to four years, or until the funds are exhausted. Given annual levy limits, and the varied level of growth among Wisconsin counties and municipalities, it is likely that many local governments could demonstrate a "revenue loss" under this calculation (meaning their annual revenue would grow at less than 4.1% each year). As a result, the

availability of these funds could lessen the need for the state to provide additional local road funding at this time. Further, because any additional state aid that is provided would be included as intergovernmental revenue for the purposes of calculating "revenue loss", it would likely reduce the amount of "revenue loss" a local government could demonstrate. In turn, the additional state aid could reduce the amount of LFRF monies available to local governments to use more broadly for the provision of government services, such as road infrastructure improvements. As a result, the Committee may choose not to provide any state funding for a local supplemental grant program at this time. [Alternative A5]

### **Allocation of Local Project Funding**

20. The Governor recommends that eligible projects include projects eligible for funding under the local roads improvement program entitlement and environmental review components, local bridge program, interstate bridge program, costs related to jurisdictional transfers of bridges, or the federal transportation alternatives set-aside, which includes a variety of smaller-scale projects such as pedestrian and bicycle facilities, recreational trails, historic preservation, and environmental mitigation. Eligible applicants would be cities, villages, towns, counties, tribal governments, a combination of those entities, or an eligible applicant for the federal transportation alternatives set-aside, including: (a) regional transportation authority; (b) a transit agency; (c) a natural resource or public land agency; (d) a school district, local education agency, or school; (e) a tribal government; (f) a nonprofit entity responsible for the administration of local transportation safety programs; and (g) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization or a state agency) that the State determines is consistent with the federal transportation alternatives set-aside program goals.

21. Recognizing the significant demand for multimodal projects given the requests for funding shown in Table 1, under a 2021-23 local supplemental program the Committee could choose to define eligible projects as recommended by the Governor. This would allow for a variety of transportation projects to receive funding, including projects for local roads, bridges, and pedestrian and bicycle facilities. [Alternative B1]

22. Under 2019 Act 9, the Legislature limited the types of projects to those projects that would be eligible for program funding under the current law local roads improvement program discretionary component, and the funding was allocated under the same percentages as under the current law discretionary component as follows: (a) 35.6%, or \$32,003,200 for county projects; (b) 25.4%, or \$22,847,400 for municipalities; and (c) 39.1%, or \$35,149,400 for towns. The Legislature also specified that notwithstanding local roads improvement program cost-sharing requirements, that a required local project cost match of 10% of total project costs would apply to projects submitted for funding under the GPR appropriation. DOT was required to solicit project applications for this funding, beginning in the first year of the appropriation until the funds appropriated have been expended.

23. The Committee may want to provide additional funds to local governments for transportation projects, but may want to allocate the funding in the manner it did under the Act 9 program. Under this alternative, those projects receiving funding would be same type of projects

eligible under the current law local roads improvement program discretionary component, with the funding allocated under the same percentages as the current law local road improvement program discretionary program. The allocation of the funding would be approximately 35.6% for county projects, 25.4% for municipalities, and 39.1% for towns. [Alternative B2]

**ALTERNATIVES**

**A. Funding Level and Source of Funding**

1. Provide \$75,000,000 SEG in 2021-22 for a local supplemental grant program to provide grants to reimburse local governments for eligible projects.

ALT A1	Change to Base
SEG	\$75,000,000

2. Provide \$90,000,000 SEG in 2021-22 for a local supplemental grant program to provide grants to reimburse local governments for eligible projects.

ALT A2	Change to Base
SEG	\$90,000,000

3. Provide \$75,000,000 GPR in 2021-22 for a local supplemental grant program to provide grants to reimburse local governments for eligible projects.

ALT A3	Change to Base
GPR	\$75,000,000

4. Provide \$90,000,000 GPR in 2021-22 for a local supplemental grant program to provide grants to reimburse local governments for eligible projects.

ALT A4	Change to Base
GPR	\$90,000,000

5. Take no action.

**B. Allocation of Local Project Funding**

1. Specify that eligible projects include projects eligible for funding under the local roads improvement program entitlement and environmental review components, local bridge program, interstate bridge program, costs related to jurisdictional transfers of bridges, or the



federal transportation alternatives set-aside, which includes a variety of smaller-scale projects such as pedestrian and bicycle facilities, recreational trails, historic preservation, and environmental mitigation.

Define eligible applicant to be city, village, town, county, a combination of those entities, or an eligible applicant for the federal transportation alternatives set-aside, including: (a) regional transportation authority; (b) a transit agency; (c) a natural resource or public land agency; (d) a school district, local education agency, or school; (e) a tribal government; (f) a nonprofit entity responsible for the administration of local transportation safety programs; and (g) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a metropolitan planning organization or a state agency) that the State determines is consistent with the federal transportation alternatives set-aside program goals.

Modify the existing continuing GPR appropriation created in 2019 Act 9 and repeal the provisions related to the one-time local road improvement discretionary supplemental grant program created for the 2019-21 biennium. Require DOT to solicit project applications for this funding, beginning in the first year of the appropriation until the funds appropriated have been expended.

2. Similar to 2019 Act 9, limit the types of projects to be funded from the local supplement program to those projects that would be eligible for program funding under the current law local roads improvement program discretionary component. Further, allocate the funding under the same percentage as under the current local roads improvement program discretionary component, approximately as follows: (a) 35.6% for county projects; (b) 25.4% for municipalities; and (c) 39.1% for towns. Specify that notwithstanding the existing local road improvement program cost-sharing requirements, that a required local project cost match of 10% of total project cost would apply to project submitted for funding under the local supplement program. Require DOT to solicit project applications for this funding, beginning in the first year of the appropriation until the funds appropriated have been expended. [This would extend the provisions for the one-time local supplement program in the 2019-21 to the 2021-23 biennium. Some statutory modifications to the existing appropriation and subsections may need to be made accordingly.]

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