

# Clearinghouse Rule 97-154

## CERTIFICATE

STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF TRANSPORTATION )

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

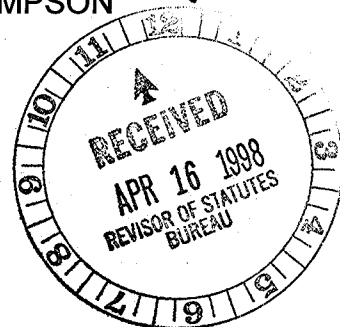
I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to the **Transportation Infrastructure Loan Program**, was duly approved and adopted by this Department on April 15, 1998.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 15 day of April, 1998.

*Charles H. Thompson*  
CHARLES H. THOMPSON  
Secretary



7-1-98

The Wisconsin Department of Transportation adopts an order to create ch. TRANS 512, relating to the Transportation Infrastructure Loan Program

**ORDER ADOPTING RULE**

**Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** s. 85.52(4), Stats., as created by 1997 Wis. Act 27

**STATUTES INTERPRETED:** s. 85.52, Stats.

**General Summary of Rule.** 1997 Wis. Act 27 enacted legislation for the implementation of a Transportation Infrastructure Loan Program to parallel the State Infrastructure Banks (SIBs), a pilot program authorized by Congress as a means to provide innovative uses of federal transportation funds to assist and enable states to expand and expedite transportation projects. A SIB acts like a bank and serves as a financial umbrella under which a variety of innovative finance techniques can be implemented. Similar to a bank, a SIB needs equity capital to get started, and equity capital is provided by federal highway and transit funds and matched with state funds. Once capitalized, the SIB will offer a range of possible loans and credit options--i.e., low-interest loans, loan guarantees, subsidies, etc.--used to finance transportation infrastructure and capital improvements.

Fiscally constrained transportation budgets have forced DOT to explore all possible funds to help supplement current transportation revenues. The SIB program was one funding mechanism available to explore and apply for additional revenues. SIBs provide one mechanism to help accelerate projects and provide improvements that will strengthen and enhance the local economy of Wisconsin communities. Wisconsin applied and was accepted into the SIB pilot program. Wisconsin was allocated \$1.5 million to initially capitalize its bank. The state will provide an additional \$375,000 as part of the SIB matching requirements.

This rule making will create ch. Trans 512 to provide the policies, procedures and screening criteria used to evaluate applicants for the Transportation Infrastructure Loan Program. The rule will specify who is eligible to participate in the program, and will set forth the types of transportation infrastructure and capital improvements allowable in the program.

**Fiscal Effect.** The Department estimates that there will be a fiscal impact on the liabilities or revenues for a county, city, village, town, Amtrak (as defined in s. 85.061(1)), a railroad (as defined in s. 85.01(5)), a private nonprofit organization that is an eligible applicant under s. 85.22(2)(am), or a transit commission created under s. 59.58(2) or 66.943. The Transportation Infrastructure Loan Program provides low interest loans to

these governments and eligible participants for the construction of local transportation infrastructure or other capital improvement projects. Upon completion of the transportation improvement, participants are required to repay the loan in full to the Department including any accrued interest.

**Final Regulatory Flexibility Analysis.** This rule will have no significant adverse impact on small businesses.

**Copies of Rule.** Copies of the rule may be obtained upon request, without cost, by writing to Dennis Leong, Chief, Economic Planning and Development Section, Bureau of Planning, Division of Transportation Investment Management, P. O. Box 7913, or by calling (608) 266-9910. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the rule will be provided to individuals at their request.

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### **TEXT OF RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by s. 85.52(4), Stats., as created by 1997 Wis. Act 27, the department of transportation hereby adopts an order creating a rule interpreting s. 85.52, Stats., relating to the transportation infrastructure loan program.

**SECTION 1.** Chapter Trans 512 is created to read:

### **CHAPTER TRANS 512**

### **TRANSPORTATION INFRASTRUCTURE LOAN PROGRAM**

**Trans 512.01 PURPOSE AND SCOPE.** (1) The purpose of this chapter is to establish a procedure for the administration of the transportation infrastructure loan program as provided in s. 85.52, Stats.

(2) The objective of the transportation infrastructure loan program is to establish a revolving loan fund, loan guarantees, interest rate subsidies, lease buy-back options and other financial leveraging instruments to assist communities in providing for

transportation infrastructure and capital improvements to preserve, promote and encourage economic development, or to improve and promote local and regional transportation efficiencies and mobility for Wisconsin communities.

(3) The department shall create within the transportation infrastructure bank a separate account to be designated as the highway account and a separate account to be designated as the transit account, each of which shall be designated solely to providing loans and other forms of financial assistance consistent with the national highway system designation act of 1995, P.L. 104-59 and s. 85.52, Stats.

**Trans 512.02 DEFINITIONS**. The words and phrases defined in ss. 85.52 and 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Economic development" means any of the following:

(a) Retention or creation of jobs in the state.

(b) Significant capital investment.

(c) Increased competitiveness of a Wisconsin business leading to increased sales or profits and significant contribution to the economy of this state.

(2) "Eligible applicant" means a county, city, village or town, Amtrak, as defined in s. 85.061(1), Stats., a railroad as defined in s. 85.01(5), Stats., a private nonprofit organization that is an eligible applicant under s. 85.22(2)(am), Stats., or a transit commission created under s. 59.58(2) or 66.943, Stats.

(3) "Mobility" means the efficient movement of people and commodities by various transportation and carrier modes.

(4) "Project" means a state infrastructure bank project eligible under s. 85.52, Stats., and P.L. 104-59 section 350, 109 Stat. 618-622.

(5) "Transportation efficiency" means an infrastructure or mobility improvement which does any of the following:

(a) Increases traffic mobility.

(b) Reduces traffic congestion.

(c) Reduces travel time.

(d) Reduces travel distance.

(e) Improves accessibility.

(f) Increases traffic circulation.

(g) Improves geometrics.

(h) Improves comfort and rideability of travelers.

(i) Increases mobility for elderly and disabled persons as defined in s. 85.22(2), Stats.

(j) Improves safety.

(k) Improves air quality.

**Trans 512.03 APPLICATION PROCEDURE.** Eligible applicants under this chapter may make application to the department at any time for funding. Application and funding cycles shall be established and publicly announced by the department. An application under this chapter shall be in a form as the department may require.

**NOTE:** Applicants may obtain an application and program packet by contacting Dennis Leong, Chief, Bureau of Planning, Economic Planning and Development Section, P. O. Box 7913, Room 901, Madison, WI 53707-7913.

**Trans 512.04 SCREENING CRITERIA.** Applications that meet the following screening criteria shall be evaluated for funding eligibility:

- (1) Whether the applicant is eligible.
- (2) Whether the project is eligible under P.L. 104-59 section 350, 109 Stat. 618-622.
- (3) Whether the applicant has the committed financial resources to complete the project.
- (4) Whether the project will be for a public purpose.
- (5) Whether the applicant certifies that funds from a loan under this chapter may not be used to pay overhead costs, replace funds from another source or refinance an existing debt.

**Trans 512.05 EVALUATION CRITERIA.** The department shall evaluate and rank the applications that are eligible for funding according to the following criteria:

- (1) Whether the project represents a prudent and productive investment of public funds.
- (2) The extent to which the project furthers economic development.
- (3) Whether the project is compatible and complementary to other intermodal transportation facilities.
- (4) Whether the project improves transportation efficiency and mobility.

(5) Whether the project accelerates the completion of a major highway project under s. 84.013, Stats.

(6) The degree to which the loan leverages other financial resources.

(7) Whether the project can be completed in a timely manner.

(8) The financial viability of the project.

(9) The security of any repayment stream.

**Trans 512.06 AGREEMENTS.** Successful applicants shall be required to enter into a negotiated agreement with the department. The agreement shall be signed by the secretary or his or her designee and an authorized representative of the eligible applicant. Loan repayments shall commence no later than 5 years after completion of the project. The duration of the loan may not exceed 30 years. The department shall charge interest at market rates, as determined by the department, to make the project that is the subject of the loan feasible, except when the applicant satisfies the secretary that interest would represent an undue hardship for the applicant.

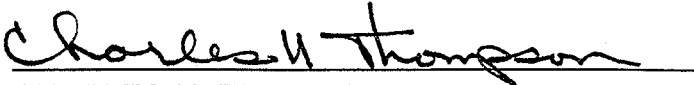
**Trans 512.07 REPORTING.** Each agreement shall include a periodic requirement to report on economic development, transportation efficiency, mobility, and other benefits as determined by the department. The report shall be prepared by the loan recipient.

**(END OF RULE TEXT)**

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**Effective Date.** This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 15 day of April, 1998.



CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation







## Wisconsin Department of Transportation



Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

April 16, 1998

Mr. Gary Poulson  
Deputy Revisor of Statutes  
131 West Wilson Street, Suite 800  
Madison, Wisconsin 53703

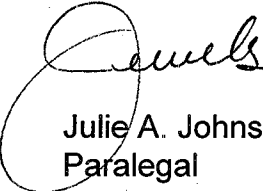
RE: **CLEARINGHOUSE RULE 97-154**

In the Matter of the Adoption of **TRANS 512**, Wisconsin Administrative Code,  
relating to the **Transportation Infrastructure Loan Program**.

Dear Mr. Poulson:

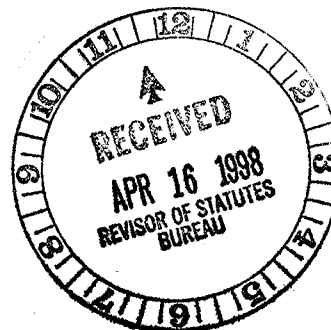
Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 97-154**, an administrative rule relating to the above-mentioned matter.

Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosures

cc: Gene Kussart  
Mike Goetzman  
Sandy Beaupre  
Jim Van Sistine  
Dennis Leong  
Andy Richards





# Wisconsin Department of Transportation



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Governor

Charles H Thompson  
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OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

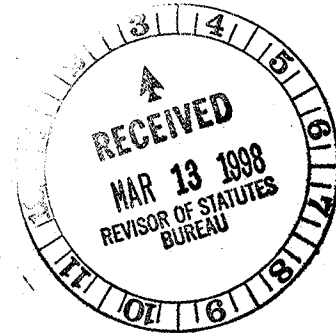
March 11, 1998

**FAXED**  
3-12-98

The Honorable Senator Kimberly Plache  
Chairman, Senate Transportation Committee  
Room 305  
100 North Hamilton  
Madison, Wisconsin 53707

The Honorable Representative David Brandemuehl  
Chairman, Assembly Committee on Highways & Transportation  
Room 317 North, State Capitol  
Madison, Wisconsin 53702

**RE: Proposed Administrative Rule  
Chapter Trans 512, Wisconsin Administrative Code  
Clearinghouse Rule No. 97-154**



Gentlemen:

The Wisconsin Department of Transportation is submitting the following germane amendments to Clearinghouse Rule 97-154, relating to the Transportation Infrastructure Loan Program:

**On page 3**, under Trans 512.01, Purpose and Scope, the Department is creating sub. (3) which reads:

(3) The department shall create within the transportation infrastructure bank a separate account to be designated as the highway account and a separate account to be designated as the transit account, each of which shall be designated solely to providing loans and other forms of financial assistance consistent with the national highway system designation act of 1995, P.L. 104-59, and s. 85.52, Stats.

**On page 7**, the last sentence of s. Trans 512.06 is repealed and recreated to read:

The department shall charge interest at or below market interest rates, as determined by the department, to make the project that is the subject of the loan feasible, except when the applicant satisfies the secretary that interest would represent an undue hardship for the applicant.

The first amendment, on page 3, was added to reflect the federal mandate for the Department to create two separate accounts within the SIB program, one for highway and one for transit eligible projects, and also to acknowledge our responsibility in complying with the federal mandates which specify how the funds will be invested and earnings deposited for each of the accounts.


The reason for the second amendment was that during the public comment period, there was a concern regarding the potential for offering very low or no interest loans and thereby inhibiting the growth of the infrastructure bank. This sentence was recreated to reflect the desire of the Department to have the option to charge interest on all loans in order to grow the fund over time beyond the initial capitalization stages of the program.

Accordingly, pursuant to §227.19(4)(b)3, Stats., the Department proposes the germane modifications to this proposed rule as shown on the attached redlined version. The preparation feature used shows the changes made by shading the new language and deleting the old language. Please replace pages 3 and 7 originally submitted with the attached replacement pages.

These germane amendments will extend the review period for both committees for an additional 10 working days, thereby expiring on March 27, 1998.

Thank you for your consideration of this proposal.

Sincerely,



Joe Maassen  
Deputy General Counsel

JM/JAJ/dim

cc: Terry Mulcahy  
Senator Richard Grobschmidt  
Representative Glenn Grothman  
Gary Poulson  
Jim Van Sistine  
Dennis Leong  
Andy Richards

**PART 2**  
**TEXT OF PROPOSED RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by s. 85.52(4), Stats., as created by 1997 Wis. Act 27, the department of transportation hereby proposes an order to create a rule interpreting s. 85.52, Stats., relating to the transportation infrastructure loan program.

**SECTION 1.** Chapter Trans 512 is created to read:

**CHAPTER TRANS 512**

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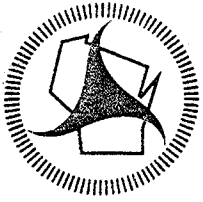
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**Trans 512.06 AGREEMENTS.** Successful applicants shall be required to enter into a negotiated agreement with the department. The agreement shall be signed by the secretary or his or her designee and an authorized representative of the eligible applicant. Loan repayments shall commence no later than 5 years after completion of the project. The duration of the loan may not exceed 30 years. ~~Interest shall be at or below market interest rates, as determined by the department, to make the project that is the subject of the loan feasible.~~ ~~The department shall charge interest at or below market interest rates, as determined by the department, to make the project that is the subject of the loan feasible, except when the applicant satisfies the secretary that interest would represent an undue hardship for the applicant.~~

**Trans 512.07 REPORTING.** Each agreement shall include a periodic requirement to report on economic development, transportation efficiency, mobility, and other benefits as determined by the department. The report shall be prepared by the loan recipient.

(END OF RULE TEXT)

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# Wisconsin Department of Transportation



Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

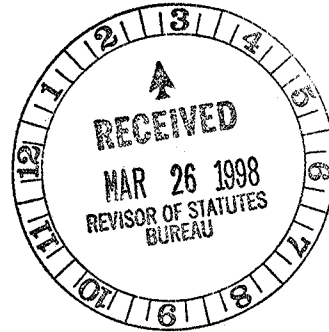
The Honorable Senator Kimberly Plache  
Chairman, Senate Transportation Committee  
Room 305  
100 North Hamilton  
Madison, Wisconsin 53707

March 25, 1998

**FAXED**  
3-25-98

The Honorable Representative David Brandemuehl  
Chairman, Assembly Committee on Highways & Transportation  
Room 317 North, State Capitol  
Madison, Wisconsin 53702

**RE: Proposed Administrative Rule  
Chapter Trans 512, Wisconsin Administrative Code  
Clearinghouse Rule No. 97-154**



Dear Senator Plache and Representative Brandemuehl:

The Wisconsin Department of Transportation is submitting its second germane amendment to Clearinghouse Rule 97-154, relating to the Transportation Infrastructure Loan Program, as follows:

**On page 7**, the last sentence of s. Trans 512.06 is amended to read:

The department shall charge interest at ~~or below~~ market interest rates, as determined by the department, to make the project that is the subject of the loan feasible, except when the applicant satisfies the secretary that interest would represent an undue hardship for the applicant.

Accordingly, pursuant to §227.19(4)(b)3, Stats., the Department proposes the germane modifications to this proposed rule as shown on the attached page. Please replace page 7 of our germane amendment submitted to you on 3-12-98 with the attached replacement page.

These germane amendments will extend the review period for both committees for an additional 10 working days, thereby expiring on April 10, 1998.

Thank you for your consideration of this proposal.

Sincerely,

*Joe Maassen*  
Joe Maassen  
Deputy General Counsel

JM/JAJ/dim

cc: Terry Mulcahy/Senator Richard Grobschmidt/Representative Glenn Grothman/Gary Poulson/  
Jim Van Sistine/Dennis Leong/Andy Richards

**Trans 512.06 AGREEMENTS.** Successful applicants shall be required to enter into a negotiated agreement with the department. The agreement shall be signed by the secretary or his or her designee and an authorized representative of the eligible applicant. Loan repayments shall commence no later than 5 years after completion of the project. The duration of the loan may not exceed 30 years. The department shall charge interest at ~~or below~~ market interest rates, as determined by the department, to make the project that is the subject of the loan feasible, except when the applicant satisfies the secretary that interest would represent an undue hardship for the applicant.

**Trans 512.07 REPORTING.** Each agreement shall include a periodic requirement to report on economic development, transportation efficiency, mobility, and other benefits as determined by the department. The report shall be prepared by the loan recipient.

**(END OF RULE TEXT)**

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