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Joint Committee on Finance

Paper #647

Create Transportation Alternatives Program and Delete Related Grant Programs (DOT -- Local Transportation Assistance)

[LFB 2013-15 Budget Summary: Page 459, #3]

CURRENT LAW

The Department of Transportation has three programs that provide grants to local governments geared primarily toward nontraditional, transportation-related improvements, including the construction of facilities for pedestrians and bicycles, streetscaping improvements, and the preservation of historic transportation facilities. Those programs are: (a) the transportation enhancements grant program; (b) the bicycle and pedestrian facilities grant program; and (c) the safe routes to school grant program.

The transportation enhancements and bicycle and pedestrian facilities programs both use federal transportation enhancements funds, a subcategory of federal highway aid funds. Both programs provide grants for bicycle and pedestrian facilities, but the transportation enhancements program may also fund other projects, such as streetscaping and historic facility preservation or rehabilitation. Because of these similarities, the Department combines the two programs for the purpose of awarding and administering grants. Local project sponsors are responsible for paying the 20% nonfederal share for the use of the funds.

The safe routes to school program distributes federal safe routes to school funds, which may be used for infrastructure or non-infrastructure projects designed to improve pedestrian and bicycle safety in the vicinity of schools. There are no local match requirements for the use of these federal funds, although the Department requires local sponsors to pay for any amount by which projects exceed the grant award.

In 2012-13, federal funding allocated to these programs was, as follows: (a) \$6,251,600 for the transportation enhancements grant program; (b) \$3,720,000 for the bicycle and pedestrian facilities grant program; and (c) \$3,230,100 for the safe routes to school grant program.

GOVERNOR

Decrease funding by \$6,251,600 FED and \$1,682,600 SEG-L annually for the transportation enhancements grant program, by \$3,720,000 FED and \$680,000 SEG-L annually for the bicycle and pedestrian facilities grant program, and by \$3,230,100 FED and \$323,000 SEG-L annually for the safe routes to school grant program, to eliminate base FED and SEG-L (local match) funding for those programs. Delete all statutory references to the three programs and delete other obsolete statutory language related to a one-time grant program for traffic marking enhancements and one-time federal funding for a Milwaukee lakeshore walkway project.

Provide \$6,951,800 FED and \$1,738,000 SEG-L in 2013-14 and \$7,049,300 FED and \$1,762,300 SEG-L in 2014-15 in newly-created, FED and SEG-L appropriations for the transportation alternatives grant program. Create a continuing, SEG appropriation for the transportation alternatives program, with no funding provided in the 2013-15 biennium. Permit the Department to award transportation alternatives program grants to cities, villages, towns, or counties, consistent with federal regulations for the use of federal transportation alternatives funds. Specify that any project for which a grant is awarded must be commenced within four years from the date that the grant is awarded. Specify that, for the purposes of this provision, a planning project is considered commenced when a planning study is begun and an infrastructure project is commenced when construction is begun.

DISCUSSION POINTS

1. The most recent federal surface transportation authorization act, Moving Ahead for Progress in the 21st Century (MAP-21) eliminated transportation enhancements (TE) and safe routes to schools (SRTS) as separate federal aid categories, effective with federal fiscal year 2013. In place of these fund categories, MAP-21 created the transportation alternatives program (TAP) and fund category. The new program encompasses many of the activities that had been eligible for funds under the TE and SRTS programs. All activities eligible under SRTS, including infrastructure projects and non-infrastructure activities designed to encourage walking and bicycling to school, are also eligible for TAP funds. However, not all activities eligible for TE funds are eligible for TAP funds and TAP funds may be used on some activities that were not eligible for TE funds. The following lists show: (a) TAP-eligible activities that are the same or substantially similar to activities that were also eligible under the TE program; (b) TAP-eligible categories that are new or that encompass some types of activities that were eligible for TE funds, but that incorporate a significant expansion of applicability; (c) activities that are eligible for TAP funds that are narrowed in application compared to TE eligibility; and (d) activities that were eligible for TE funds, but that are not eligible for TAP funds.

TE Categories with Continued Eligibility under TAP (Same or Substantially Similar)

- Construction, planning, and design of on- and off-road facilities for bicyclists and pedestrians.
- Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users.

- Inventory, control, or removal of outdoor advertising.
- Construction of turnouts, overlooks, and viewing areas (could previously be done under a broader TE category for scenic and historic highway programs, now eliminated).

New or Expanded TAP-Eligible Activities Relative to TE Categories

- Transportation projects to achieve compliance with the Americans with Disabilities Act.
- Vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control.
- Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former interstate highways or other divided highways.
- Construction, planning, and design of infrastructure-related projects and systems that provide safe routes for non-drivers, including children, older adults, and individuals with disabilities, to access daily needs. (Similar to, but broader than SRTS eligibility, which is limited to projects geared toward safety of children in the vicinity of K-8 schools.)
- Any environmental mitigation activity. (Expands on TE eligibility, which was limited to mitigation to: (a) address water pollution due to highway runoff; and (b) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.)

TAP-Eligible Activities that Limit Applicability Relative to TE Categories

- Archaeological activities relating to impacts from implementation of a specific surface transportation project, as opposed to, under TE, archaeological planning and research related to surface transportation.
- Historic preservation and rehabilitation of historic transportation facilities, but not the following, which were eligible under TE: (a) operation of historic transportation facilities; or (b) historic preservation unrelated to historic transportation facilities.

TE-Eligible Activities Not Eligible for TAP funds

- Acquisition of scenic easements and scenic or historic sites.
- Scenic and historic highway programs (including tourist and welcome centers).
- Safety and educational activities for pedestrians and bicycles (except as allowed under SRTS eligibility rules).
- Landscaping and other scenic beautification.
- Transportation museums.

2. Generally, the eligibility rules for transportation alternatives funds would allow the state to fund most types of projects that were funded under the eliminated programs. However, community streetscaping projects, which have been funded under the state transportation

enhancements grant program, while allowed as an element of a larger pedestrian improvement project, are not eligible for transportation funds as a standalone project.

3. Under prior federal law, safe routes to schools program funds required no nonfederal match. Although projects previously eligible for safe routes to schools program funds continue to be eligible for transportation alternatives funds, the use of all transportation alternatives funds, like transportation enhancements funds, require a 20% nonfederal match. Under the state grant program, the local project sponsor would be responsible for paying the match.

4. Under the bill, eligible local sponsors would be counties, cities, villages, and towns. However, this would exclude some entities that are eligible project sponsors under the federal law, such as school districts, state natural resource agencies, and tribal governments (state transportation agencies are not eligible). In order to include any entity that is eligible for a grant under federal law and to automatically account for any future changes to the federal law, the bill could be modified to cross reference the statute with respect to eligible entities (Alternative B2a).

5. In addition to encompassing activities formerly funded under the TE and SRTS programs, the federal transportation alternatives program also encompasses funds previously distributed under a separate program for state recreational trails. Following past practice and federal rules, the Department intends to forward the portion of the TAP funds allocated to recreational trail programs to the Department of Natural Resources. In federal fiscal year 2013, the state will receive approximately \$2.2 million in recreational trail funds, which is similar to the amount received in the past. Those funds would not be distributed under the transportation alternatives program created under the bill.

6. Transportation alternatives program funds (as well as other federal highway aid categories) are distributed as "obligation authority" (sometimes called "apportionments" because they are apportioned to states by formulas enacted in multi-year authorization acts). Under MAP-21, the total obligation authority for the transportation alternatives program is less than the amounts authorized in the prior year for the eliminated programs. For Wisconsin, the amount of TAP apportionments received in federal fiscal year 2013 is about one-third less than the state's combined apportionments for the TE, SRTS, and recreational trails programs in the prior year.

7. Unlike the federal TE and SRTS programs, MAP-21 would require states to allocate a portion of TAP apportionments to different geographic areas of the state based on population, using three groupings: urbanized areas with a population greater than 200,000, urban areas with a population between 5,000 and 200,000, and areas with a population less than 5,000. Within the over 200,000 population grouping, each urban area receives its own allocation, while the allocations for the other two groupings are not designated for specific areas within the grouping. The population-based allocation requirements apply to 50% of the total TAP funds (minus the recreational trail set-aside), while the remainder is available to any area of the state. Each metropolitan planning organization serving an urbanized area with a population exceeding 200,000 is given authority to select projects, using a competitive process, for its area. The state Department of Transportation is responsible for establishing a competitive process for the distribution of other funds allocated to areas with a population under 200,000 and the funds that may be distributed to any area of the state.

8. Although the receipt of obligation authority allows the state to charge project costs in that particular federal program category, the total amount of federal highway aid that the state may spend in all categories is limited by appropriation acts passed by Congress, a total that is referred to as the "obligation limit." Since the state's obligation limit is typically somewhat less than the total amount of apportionments received in all federal aid categories, some apportionments will remain unused at the end of each federal fiscal year. In Wisconsin, it has been the practice to allocate federal aid among the state's FED appropriations based on an estimate of the state's obligation limit, not on the amount of federal aid apportionments received, since the obligation limit more closely represents the amount of spendable federal highway aid. Consequently, the state has not budgeted for the transportation enhancements and bicycle and pedestrian facilities programs based on the amount of transportation enhancements apportionments granted to the state. In 2011-12, the total amount of federal aid allocated to the two programs was \$9,971,600, but the state's transportation enhancements apportionment was \$20,084,900. Although the state could have budgeted up to the full transportation enhancements apportionment amount, this would require a reduction in the use of apportionments in some other federal highway aid category. Consequently the difference between the amount actually budgeted for the two programs and the TE apportionment does not represent a loss of the total amount of spendable federal highway aid, but, instead, a reduction in the amount of funding utilized for that particular category.

9. Because of the difference between total apportionments and the obligation limit, and because the federal law allows states to shift up to 50% of TAP apportionments to other federal categories (the portion of the total not allocated to areas based on population), the state has considerable flexibility in determining how much federal highway aid to budget for the transportation alternatives program. However, since the state's obligation limit for the two years of the biennium is not known, and since federal rules for the program have not been completed (particularly as it relates to the allocation of funds to areas of the state), the full extent of this flexibility is not known. While it is certain that the state could elect to increase the amount of federal funds allocated to the grant program, it is unclear whether funding could be reduced.

10. The funding for the transportation alternatives program in the bill is the same as the amount the Department included in its 2013-15 biennial budget request, and equals 1% of the Department's estimate of the state's total obligation limitation for federal fiscal year 2014 and 2015. In comparison to the proposed 1% of federal aid allocated to the transportation alternatives program, the combined federal funding allocated to the transportation enhancements, bicycle and pedestrian, and safe routes to schools programs in the 2011-13 biennium is 1.7% of the total of all federal highway aid appropriations in the biennium. Funding for the transportation alternatives program would be lower than the combined appropriation base for those three programs by \$6,249,900 in 2013-14 and by \$6,152,400 in 2014-15, a reduction of slightly less than 50%.

11. The Department's requested funding level for the transportation alternatives program was included within the context of a budget proposal in which funding for many programs was reduced. The Department's stated goal, in submitting its budget request, was to address funding needs for the state highway maintenance program and for the Hoan Bridge rehabilitation project without transportation tax and fee increases and while maintaining the use of bonding similar to the amount authorized in the 2011-13 budget. Achieving these objectives required several funding reductions, including: (a) a reduction of about one-third for the major highway development program; (b) an 8% reduction for the state highway rehabilitation program; and (c) reductions

ranging from 2% to 6% for various local highway and bridge assistance programs. In addition, less funding was proposed for the Zoo Interchange reconstruction project than had been planned, resulting in a two-year delay in the completion of that project.

12. Although the Governor accepted the Department's proposed funding level for the transportation alternatives program, funding for many of the other programs for which the Department had proposed reductions would be retained at or near the 2012-13 base level under the Governor's bill. Both the state highway rehabilitation and major highway development programs would be reduced by 1%, relative to the 2012-13 funding level, and additional funding was proposed for the Zoo Interchange with the goal of maintaining the currently scheduled completion date. Unlike the Department's budget request, no funding reductions would occur for local highway and bridge assistance programs.

13. Since other transportation programs were retained at or near the base funding level, some may make the case that the transportation alternatives program should also be funded at or near the funding level for the three eliminated programs, particularly since the grants under the program have consistently been in high demand. In 2010, the last time the Department solicited grant applications for the transportation enhancements and bicycle and pedestrian grant programs, the total funding requested was \$67 million, more than twice the \$32 million in funding available (for that grant cycle, the Department was distributing three years of available funding, plus unused carryover funding from prior years).

14. Providing the same level of funding as the three programs provided in 2012-13 would require funding increases of \$6,249,900 in 2013-14 and \$6,152,400 in 2014-15 (Alternative A2). Alternatively, in recognition that federal funding for transportation alternatives is less than what was provided for the eliminated federal programs, a modest decrease from the 2011-13 funding level would be expected. At \$12,100,000 annually (an increase, relative to the bill, of \$5,148,200 in 2013-14 and \$5,050,700 in 2014-15), the program would be funded at a level equal to 1.7% of the total federal highway aid estimate (Alternative A3). Compared to the combined appropriation base of the three eliminated programs, this would be a reduction of 8.3%.

15. The Governor's budget provides more funding for various highway and local assistance programs, relative to the Department's budget request, primarily by increasing the use of general fund- and transportation fund-supported bonding, and by supplementing traditional transportation fund revenues with revenues from the general fund and the petroleum inspection fund. If the Committee makes a decision to reduce the use of bonds and transfers from other funds, without adopting transportation tax or fee increases, it will be necessary to decrease the proposed funding for some programs. In this case, some may find it difficult to justify providing additional funding for the transportation alternatives program, relative to the Governor's proposed funding level.

16. The bill would eliminate the existing appropriations and statutory provisions for the transportation enhancements, bicycle and pedestrian facilities, and safe routes to schools grant programs, effective July 1, 2013, or the effective date of the budget act, whichever is later (Alternative B1). The complete elimination of these appropriations and programs could pose a problem for projects that have been approved, but not yet started or completed. As part of the Department of Administration's budget errata, the Department has recommended that the bill be

amended to include a nonstatutory provision specifying that any project already approved under one of the eliminated programs would retain eligibility under the transportation alternatives program, in accordance with the provisions of the program under which the project was approved. In addition, the recommended modification would specify that any unencumbered or unexpended funds be transferred from the eliminated appropriations to the transportation alternatives appropriations on the effective date of the bill (Alternative B2b).

17. Under the provisions of the bill, a transportation alternatives program project must be commenced within four years from the date that the grant was awarded. Although no such time limit applies to projects under the three programs that would be eliminated under the bill, the Department requested the four-year limit be included for the transportation alternatives grant program to ensure that either projects be started in a timely manner or the funding be made available for other purposes. The Department indicates that some projects approved under the three eliminated grant programs have not been started, even though more than four years have elapsed since the date of the grant award. In order to complete the eventual sunset of these programs, the bill could be amended to specify that the projects approved prior to the effective date of the bill must be commenced within four years of the award date or one year following the effective date of the bill, whichever is later (Alternative B2c). Under this approach, project sponsors that were awarded a grant more than four years ago would have one additional year following the enactment of the provision to begin the project, while other project sponsors would have a full four years from the award date to begin the project.

ALTERNATIVES

A. Funding Level

1. Approve the Governor's recommendation to decrease funding by a total of \$13,201,700 FED and \$2,685,600 SEG-L annually under the transportation enhancements, bicycle and pedestrian facilities, and safe routes to schools grant appropriations, and provide \$6,951,800 FED and \$1,738,000 SEG-L in 2013-14 and \$7,049,300 FED and \$1,762,300 SEG-L in 2014-15 in newly-created, FED and SEG-L appropriations for the transportation alternatives grant program.

2. Approve the Governor's recommendation to eliminate base funding for the three current appropriations, as in A1, but modify the bill by providing an additional \$6,249,900 FED and \$1,562,400 SEG-L in 2013-14 and \$6,152,400 FED and \$1,538,100 SEG-L in 2014-15 to provide a total of \$13,201,700 annually for making transportation alternatives grants, the same level of funding as was provided in 2012-13 for the three eliminated programs. [The FED increase under this alternative could also be provided with SEG funds, depending upon the availability of each funding source.]

ALT A2	Change to Bill Funding
FED	\$12,402,300
SEG-L	<u>3,100,500</u>
Total	\$15,502,800

3. Approve the Governor's recommendation to eliminate base funding for the three current appropriations, as in A1, but modify the bill by providing an additional \$5,148,200 FED and \$1,287,000 SEG-L in 2013-14 and \$5,050,700 FED and \$1,262,700 SEG-L in 2014-15 to provide \$12,100,000 annually for making grants, equal to approximately 1.7% of estimated federal highway aid. [The FED increase under this alternative could also be provided with SEG funds, depending upon the availability of each funding source.]

ALT A3	Change to Bill Funding
FED	\$10,198,900
SEG-L	<u>2,549,700</u>
Total	\$12,748,600

B. Program Structure

1. Adopt the Governor's recommendation to: (a) delete the transportation enhancements, bicycle and pedestrian, and safe routes to school programs and associated appropriations; (b) create a transportation alternatives program for making grants to counties, cities, villages, or towns, in compliance with federal regulations for the transportation alternatives program; and (c) specify that projects must commence within four years of the date of the grant award.

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

a. Identify the eligible applicants under the state grant program with a reference to federal law eligibility provisions.

b. Specify that any project approved under one of the eliminated programs would retain eligibility under the transportation alternatives program, in accordance with the provisions of the program under which the project was approved. Specify that any unencumbered or unexpended funds be transferred from the eliminated appropriations to the transportation alternatives appropriations on the effective date of the bill.

c. Specify that any projects approved under the three discontinued programs prior to the effective date of the bill must be commenced within four years of the date of the grant award or one year after the effective date of the bill, whichever is later, or the grant award will be rescinded.

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