

CR 83-155

C E R T I F I C A T E

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STATE OF WISCONSIN )  
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DEPARTMENT OF TRANSPORTATION )

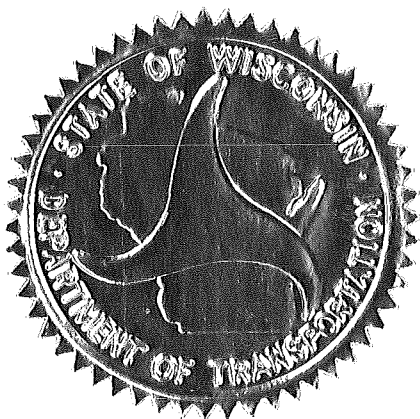
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TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the Department, do hereby certify that the annexed administrative rule relating to the state program of financial assistance to counties providing transportation services for the elderly and handicapped was duly approved and adopted by this Department on November 15<sup>th</sup>, 1983.

I further certify that the annexed 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 here-  
onto set my hand and affixed the  
official seal of the Department  
at the Hill Farms State Office  
Building in the City of Madison,  
Wisconsin, this 15<sup>th</sup> day of  
November, 1983.



*Lowell B. Jackson*  
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LOWELL B. JACKSON, P.E.  
Secretary  
Wisconsin Department of  
Transportation

2-1-84

IN THE MATTER OF THE REPEAL OF :  
 SEC. TRANS 1.03(2)(i); THE AMEND- :  
 MENT OF TRANS 1.03(2)(g), 1.03(2) :  
 (h), 1.05(1), 1.06(3), 1.06(4) :  
 AND 1.07(1); THE REPEAL AND RE- :  
 CREATION OF TRANS 1.05(2); AND :  
 THE CREATION OF TRANS 1.03(4), :  
 1.05(5), 1.08(2)(c) AND 1.09 RE- :  
 LATING TO THE STATE PROGRAM OF :  
 FINANCIAL ASSISTANCE TO COUNTIES :  
 PROVIDING TRANSPORTATION SERVICES :  
 FOR THE ELDERLY AND HANDICAPPED :

ORDER  
 ADOPTING  
 RULE

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Analysis Prepared by the  
Wisconsin Department of Transportation

General summary of rule. Chapter Trans 1, Wis. Admin. Code, establishes rules under which the Department of Transportation administers the program of financial aid to counties for the provision of specialized transportation services for the elderly and handicapped which was created by s. 85.21, Stats. 1983 Wisconsin Act 27 amended s. 85.21, Stats., to permit counties to hold aids in trust beyond the end of a calendar year. Previously, the law required that aids received for a particular year be expended or encumbered within that same year making it difficult to plan and accomplish the purchase of capital equipment and to perform major maintenance and repair of existing equipment. The Department proposes to create rules establishing the conditions under which counties may retain aids from one annual allocation year for expenditure in future years. Counties will be required to submit a plan detailing for what specific purposes the funds are being accumulated. Although the funds need not be physically segregated from other county funds, a separate accounting system will be required, and reports must be submitted annually. The funds may be invested but interest must be added to the fund. The state will retain an interest in equipment purchased or maintained with funds held in trust.

In addition, the Department proposes amendments which will make the public hearing requirement more effective, reduce the frequency of required county board action in the application process, and require more formal arrangements between counties and third party service providers.

Sections 1, 2, 3 and 4 of these proposed rule changes make necessary modifications to Trans 1.03 to reflect the fact that aids may now be accumulated in trust for future expenditures and need not be encumbered in the year the aid is received to permit future expenditure for authorized purposes.

Section 5 makes a technical change to reflect the fact that the Legislature amended s. 85.21 to increase the required county matching contribution from 10 to 20% of the state aid received. The section is further amended to make clear that this matching contribution is not to be reduced because some aid is carried over for expenditure in a future year.

Section 6 repeals the section on the use of encumbered aids and creates instead the regulations under which state aid may be held in trust for future purchase or maintenance of equipment. The regulations require that the county board approve the creation of an account for this purpose and that accurate and detailed records be kept by the county on the amounts of aid retained in trust and eventual expenditures from the account. The funds need not be segregated from other county monies, but if the retained aid is invested then interest must be credited to the trust fund. The rule establishes a uniform method of calculating interest attributable to the retained aid. The county will need to propose a plan for the use of the retained funds for approval by the department and may use the retained aid only to purchase transportation equipment or to perform major repairs or maintenance which cannot be planned for as part of normal operating expenses. The amount of \$300 was felt to be a reasonable figure for the purpose of distinguishing between ordinary operating expenses and repairs which need to be planned for in advance and require the accumulation of funds from year to year to accomplish.

Section 7 creates a new section which establishes the state's continuing interest in capital equipment purchased or maintained with money held in trust to accomplish the Legislature's directive that the funds be used exclusively for the purchase or maintenance of equipment used for services under s. 85.21, Stats.

Section 8 adds a plan for the use of aids held in trust to the other information which must be submitted with aid applications.

Section 9 reduces the need for direct county board involvement in the annual application process by eliminating the need for a new board resolution each year. Resolutions granting continuing authority for application preparation to a specific agency or individual will be acceptable.

Section 10 amends Trans 1.07(1) to require that the public hearing conducted by each county be held at least two weeks prior to submitting its application for aid to help assure that meaningful consideration is given to public comments made at the hearings.

Section 11 creates a new requirement that aid recipients make an annual report to the Department of Transportation on the use of the trust fund authorized by s. 85.21(3)(c), Stats.

Section 12 is created to require that agreements with third parties to provide specialized transportation services under s. 85.21, Stats., must be in writing.

Authority for rule. Section 85.21(3), Stats., authorizes the Department to administer a state specialized transportation assistance program. Sections 110.06(1) and 227.014, Stats., grant the Department general rulemaking authority. In addition, new s. 85.21(3)(c), Stats., created by 1983 Wisconsin Act 27, requires that the Department establish rules for the retention of state aids in trust for future purchase and maintenance of equipment under this program.

Fiscal Estimate. No significant fiscal effect on county revenues or liabilities will be caused by the creation or amendment of rules as here proposed. The statutory changes which require department rulemaking do not change the amount of aid available to counties but merely permit a longer period for expenditure of the aid. The only fiscal effect reflected in these rules was caused by legislative action amending s. 85.21(3)(c), Stats., to increase the amount of matching funds which a county must provide from 10% to 20% of allocated aid.

Preparation. This analysis was prepared by Barbara Bird, Office of General Counsel, Wisconsin Department of Transportation, Room 103B Hill Farms State Office Building, P.O. Box 7910, Madison, Wisconsin 53707, telephone (608) 266-8810.

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RULE TEXT

Pursuant to authority vested in the department of transportation by ss. 85.21(3)(c), 110.06(1) and 227.014, Stats., the department of transportation hereby amends and creates rules interpreting s. 85.21, Stats., as follows:

SECTION 1. Trans 1.03(2)(g) is amended to read:

Trans 1.03(2)(g) Perform or purchase in-service training related to transportation service; or

SECTION 2. Trans 1.03(2)(h) is amended to read:

Trans 1.03(2)(h) Purchase capital equipment for transportation service; ~~and~~ .

SECTION 3. Trans 1.03(2)(i) is repealed.

SECTION 4. Trans 1.03(4) is created to read:

Trans 1.03(4) Allocated aid shall be used by a county to pay only for eligible expenses incurred during the calendar year in which the aid was allocated, unless the aid is held in trust for expenditure at a later date under s. Trans 1.05(2). Any aid which is not expended or held in trust shall be refunded to the department by June 30 following the end of the calendar year in which the aid was allocated.

SECTION 5. Trans 1.05(1) is amended to read:

Trans 1.05(1) A county applying for its allocated aid shall make a matching cash contribution equal to ~~±~~ 20% of the aid for which it applies. No in-kind services, no federal or state categorical financial aids and no passenger revenue shall be allowed as part of the matching contribution. The matching contribution shall be an auditable item in the county's system of accounts. The matching contribution shall be expended in an amount equal to 20% multiplied by the sum of the amount of aids which have been expended plus the amount of any aids retained under sub. (2).

SECTION 6. Trans 1.05(2) is repealed and recreated to read:

Trans 1.05(2) A county may retain and hold in trust all or part of the allocated aid which it receives in 1983 and subsequent years for the purchase or maintenance of transportation equipment according to the following rules:

(a) The county board of supervisors shall by resolution authorize the establishment of an account in which aids retained in trust shall be deposited and accounted for separately from

current aids and receipts from other sources. A county may not delegate its authority to hold unexpended aids in trust to any other organization or person. A copy of the resolution shall be provided to the department.

(b) All of the assets in a county's trust fund shall be expended; a county may not establish a permanent minimum balance. The balance of aid held in trust shall be consistent with the plan established under par. (f).

(c) A county need not physically segregate the cash in its trust fund from other county funds and may pool aids held in trust with other county funds for investment in such manner as the county is authorized to invest its funds. Any interest earned by aid held in trust shall be added at least annually to the trust fund. Interest shall be determined from the average annual rate of return for all funds with which the aid is invested and the average monthly balance of aid held in trust during the year.

(d) Counties shall maintain records showing the dates and amounts of deposits to the trust fund; the dates, amounts and purposes of expenditures from the fund; and interest earned by the fund.

(e) Aid may be held in trust only for the purpose of acquiring or maintaining transportation equipment used in services covered by this chapter. Individual bills for maintenance or repairs costing less than \$300 and the cost of repairs covered by warranties are not eligible for payment with aid held in trust.

(f) Expenditures of aid from a county's trust fund shall be made according to a plan approved by the department. A county's

plan for the use of its trust fund shall indicate for what purpose the fund is being accumulated; identify what pieces of equipment the county proposes to acquire, replace or maintain with aids held in trust; identify who is or will be the owner of the equipment; and indicate the dates and amounts of planned expenditures. A plan may be amended with the department's approval at any time.

(g) A county may make grants from its trust fund to other local governments and private nonprofit organizations which provide specialized transportation services. No grants may be made to private individuals. The grants may not exceed the amount of eligible expenses actually incurred.

SECTION 7. Trans 1.05(5) is created to read:

Trans 1.05(5) A county shall reimburse the department for its share of the value of equipment which is sold or removed from specialized transportation service prior to the end of its useful life unless the sales proceeds are spent for specialized transportation projects approved by the department.

SECTION 8. Trans 1.06(3) is amended to read:

Trans 1.06(3) Applications shall be made in a form and manner prescribed by the department. Applications shall include, but not be limited to, a project description, a project budget, a plan for allocated aid held in trust, and such other relevant information as the department may require to effectively evaluate the proposal. In addition, the application shall include formal comments on the proposed project(s) by appropriate county agencies such as committees or commissions on aging and boards created under ss. 51.42 and 51.437, Stats.

SECTION 9. Trans 1.06(4) is amended to read:

Trans 1.06(4) Each county application shall also include a resolution of the county board ~~authorizing~~ which authorizes the preparation of the application by a specified individual, ~~appropriating~~ or agency in county government and authorizes the obligation of funds for the county's matching share ~~required-under s.-Trans-1.057-and-authorizing.~~ The resolution may also authorize a specific individual to sign the state aid contract on behalf of the county. If a resolution from a previous year grants continuing authority to an individual or agency to prepare applications, the annual application shall also include a copy of the county budget showing the appropriated matching share.

SECTION 10. Trans 1.07(1) is amended to read:

Trans 1.07(1) PUBLIC HEARING. (1) A county applicant is required to conduct a public hearing so that interested persons in the county may be informed of the proposed project and have an opportunity to express their views before the application is submitted to the department. The applicant shall include in its application a brief description of the hearing and a summary of the views expressed at the hearing. Any written statements presented ~~at~~ for the public hearing record shall be submitted to the department along with other documentation ~~from~~ concerning the hearing. The public hearing shall be held not less than 14 days prior to the date on which a county submits its application.



SECTION 11. Trans 1.08(2)(c) is created to read:

Trans 1.08(2)(c) A report on a trust fund permitted under s. Trans 1.05(2) which shows the opening balance, additions, deductions and end of year balance.

SECTION 12. Trans 1.09 is created to read:

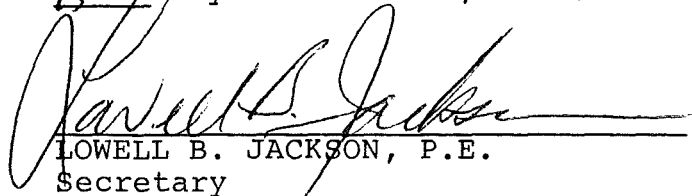
Trans 1.09 THIRD PARTY CONTRACTS. A county may not use aids under this chapter to purchase service from, nor make grants to third parties without a contract, agreement, purchase of service order or other legal equivalent. Grants or purchases of services costing \$100 or less and expense reimbursement arrangements for volunteers are exempt from this requirement. Third party contracts shall be available for inspection by the department upon request.

(End of Rule Text)

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This rule shall take effect on the first day of the month following publication as provided in s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin, this  
15<sup>th</sup> day of November, 1983.

  
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LOWELL B. JACKSON, P.E.  
Secretary  
Wisconsin Department of  
Transportation