



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0254/4
ARG:sac:rs

DOA:.....Byrnes, BB0240 - Change maintenance definition and add appropriation

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

HIGHWAYS

Under current law, DOT is responsible for maintenance of the state trunk highway system. DOT may perform highway maintenance or it may contract with counties, municipalities, or private contractors to provide highway maintenance services on state trunk highways. General maintenance activities include snow and ice control, interim repair of highway surfaces, vegetation management, and other operations, activities, and processes required on a continuing basis for the preservation of state highways. Maintenance activities also include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, and intelligent transportation systems (specialized systems, such as roadway detector loops, closed circuit television, variable message signs, or ramp meters, used to improve efficiency or safety). Under current law, "highway improvements" include construction, reconstruction, and rehabilitation of highways and processes incidental to building or bettering highways, but do not include maintenance and specifically do not include the installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, pavement markings, or intelligent transportation

systems unless incidental to a highway improvement project. Under current law, highway improvements and highway maintenance are generally funded from different DOT appropriations.

This bill creates new state, federal, and local appropriations that provide funding for state highway maintenance activities performed by counties, municipalities, or private contractors under contract with DOT. The bill also makes changes with respect to which highway operations and activities are considered highway improvements and which are considered highway maintenance, which affects the source of funding for these operations and activities. However, under the bill, some highway operations and activities, such as maintenance for roadside improvements and private contractor maintenance, can be funded from more than one appropriation. Under this bill, highway maintenance activities no longer include, and highway improvements no longer exclude, the installation, replacement, or rehabilitation of traffic control signals and intelligent transportation systems, but maintenance of traffic control signals and intelligent transportation systems are still considered maintenance activities. The bill limits DOT's expenditure, from certain highway improvement appropriations, of moneys for the installation, replacement, or rehabilitation, not incidental to another highway improvement, of traffic control signals and intelligent transportation systems to a total of \$20,000,000 in any fiscal year. Under the bill, highway improvements include highway operations or activities that are life-cycle or investment driven and that are based on an asset management philosophy in which taking action adds service life by preventing or delaying deterioration of highway system functionality, unless these operations or activities are specifically described by statute as maintenance. The bill also eliminates statutory references to "general" maintenance activities and statutory references to and descriptions of "special" maintenance activities.

Under current law, if DOT contracts with a county or municipality to perform maintenance on state trunk highways, DOT must pay the county or municipality the actual cost of performing the maintenance work based on the itemized and verified accounts submitted by the county or municipality to DOT for the work.

This bill allows DOT and the county or municipality to agree to a payment method and terms other than that required by current law, including payment according to a contract price for maintenance services rather than payment for the actual cost of the maintenance.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.395 (3) (aq) of the statutes is amended to read:

20.395 (3) (aq) *Southeast Wisconsin freeway megaprojects, state funds.* As a continuing appropriation, the amounts in the schedule for southeast Wisconsin freeway megaprojects under s. 84.0145 and for the purpose specified in s. 84.017 (3). This paragraph does not apply to the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway lighting, or pavement markings, or to the maintenance of traffic control signals or intelligent transportation systems, unless incidental to a southeast Wisconsin freeway megaproject.

SECTION 2. 20.395 (3) (ax) of the statutes is amended to read:

20.395 (3) (ax) *Southeast Wisconsin freeway megaprojects, federal funds.* All moneys received from the federal government for southeast Wisconsin freeway megaprojects under s. 84.0145 and for the purpose specified in s. 84.017 (3), for such purposes. This paragraph does not apply to the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway lighting, or pavement markings, or to the maintenance of traffic control signals or intelligent transportation systems, unless incidental to a southeast Wisconsin freeway megaproject.

SECTION 3. 20.395 (3) (cq) of the statutes is amended to read:

20.395 (3) (cq) *State highway rehabilitation, state funds.* As a continuing appropriation, the amounts in the schedule for improvement of existing state trunk and connecting highways; for improvement of bridges on state trunk or connecting highways and other bridges for which improvement is a state responsibility, for necessary approach work for such bridges and for replacement of such bridges with at-grade crossing improvements; for the construction and rehabilitation of the national system of interstate and defense highways and bridges and related

appurtenances; for ~~special maintenance~~ activities under s. 84.04 on roadside improvements; for bridges under s. 84.10; for the bridge project under s. 84.115; for payment to a local unit of government for a jurisdictional transfer under s. 84.02 (8); for the disadvantaged business demonstration and training program under s. 84.076; for the purpose specified in s. 84.017 (3); for the transfers required under [1999 Wisconsin Act 9](#), section [9250 \(1\)](#) and [2003 Wisconsin Act 33](#), section [9153 \(4q\)](#); and for the purposes described under [1999 Wisconsin Act 9](#), section [9150 \(8g\)](#), [2001 Wisconsin Act 16](#), section [9152 \(4e\)](#), and [2007 Wisconsin Act 20](#), section [9148 \(9i\) \(b\)](#) and [\(9x\)](#). This paragraph does not apply to any southeast Wisconsin freeway megaprojects under s. 84.0145, to any southeast Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major highway projects under s. 84.013, or to the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway lighting, or pavement markings, or to the maintenance of traffic control signals or intelligent transportation systems, unless incidental to the improvement of existing state trunk and connecting highways.

SECTION 4. 20.395 (3) (cr) of the statutes is amended to read:

20.395 (3) (cr) *Southeast Wisconsin freeway rehabilitation, state funds.* As a continuing appropriation, the amounts in the schedule for rehabilitation of southeast Wisconsin freeways, including reconstruction and interim repair of the Marquette interchange in Milwaukee County. This paragraph does not apply to the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway lighting, or pavement markings, or to the maintenance of traffic control signals or intelligent transportation systems, unless incidental to rehabilitation of southeast Wisconsin freeways. No moneys may be encumbered from this appropriation account after June 30, 2011. Notwithstanding s. 20.001 (3)

(c), any unencumbered balance in this appropriation account on July 1, 2011, shall be transferred to the appropriation account under par. (cq) except that the amount specified in [2011 Wisconsin Act 32](#), section [9148 \(7f\) \(a\)](#), shall be transferred to the appropriation account under par. (aq).

SECTION 5. 20.395 (3) (cv) of the statutes is amended to read:

20.395 (3) (cv) *State highway rehabilitation, local funds.* All moneys received from any local unit of government or other source for the specific information sign program under s. 86.195; for improvement of existing state trunk and connecting highways; for improvement of bridges on state trunk or connecting highways and other bridges for which improvement is a state responsibility, for necessary approach work for such bridges and for replacement of such bridges with at-grade crossing improvements; for the construction and rehabilitation of the national system of interstate and defense highways and bridges and related appurtenances; for ~~special maintenance~~ activities under s. 84.04 on roadside improvements; for the bridge project under s. 84.115; for the railroad and utility alteration and relocation loan program under s. 84.065; for the purpose specified in s. 84.017 (3); and for the disadvantaged business demonstration and training program under s. 84.076, for such purposes. This paragraph does not apply to any southeast Wisconsin freeway megaprojects under s. 84.0145 or to any southeast Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major highway projects under s. 84.013.

SECTION 6. 20.395 (3) (cx) of the statutes is amended to read:

20.395 (3) (cx) *State highway rehabilitation, federal funds.* All moneys received from the federal government for improvement of existing state trunk and connecting highways; for improvement of bridges on state trunk or connecting highways and other bridges for which improvement is a state responsibility, for

necessary approach work for such bridges and for replacement of such bridges with at-grade crossing improvements; for the construction and rehabilitation of the national system of interstate and defense highways and bridges and related appurtenances; for ~~special maintenance~~ activities under s. 84.04 on roadside improvements; for the bridge project under s. 84.115; for the purpose specified in s. 84.017 (3); and for the disadvantaged business demonstration and training program under s. 84.076; and all moneys received under [2003 Wisconsin Act 33](#), section [9153 \(4q\)](#); for such purposes. This paragraph does not apply to any southeast Wisconsin freeway megaprojects under s. 84.0145 or to any southeast Wisconsin freeway rehabilitation projects under s. 84.014 that also qualify as major highway projects under s. 84.013.

SECTION 7. 20.395 (3) (cy) of the statutes is amended to read:

20.395 (3) (cy) *Southeast Wisconsin freeway rehabilitation, federal funds.* All moneys received from the federal government for rehabilitation of southeast Wisconsin freeways, including reconstruction and interim repair of the Marquette interchange in Milwaukee County, for such purposes. This paragraph does not apply to the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway lighting, or pavement markings, or to the maintenance of traffic control signals or intelligent transportation systems, unless incidental to rehabilitation of southeast Wisconsin freeways. No moneys may be encumbered from this appropriation account after June 30, 2011. Notwithstanding s. 20.001 (3) (c), any unencumbered balance in this appropriation account on July 1, 2011, shall be transferred to the appropriation account under par. (cx) except that the amount specified in [2011 Wisconsin Act 32](#), section [9148 \(7f\) \(c\)](#), shall be transferred to the appropriation account under par. (ax).

SECTION 8. 20.395 (3) (eq) of the statutes is amended to read:

20.395 (3) (eq) *Highway maintenance, repair, and traffic system management and operations, state funds.* As a continuing appropriation, the amounts in the schedule for the maintenance and repair of roadside improvements under s. 84.04, state trunk highways under s. 84.07, and bridges that are not on the state trunk highway system under s. 84.10; for permit issuance and other highway operations, including the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway lighting, and pavement markings, and the maintenance of traffic control signals and intelligent transportation systems, under ss. 84.04, 84.07, 84.10, and 348.25 to 348.27 and ch. 349; ~~for the grant under 2005 Wisconsin Act 25, section 9148 (3f)~~; and for the disadvantaged business demonstration and training program under s. 84.076. This paragraph does not apply to special routine maintenance activities under s. 84.04 on roadside improvements performed by county highway committees or municipalities under contract with the department as provided in s. 84.07 (1).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 9. 20.395 (3) (es) of the statutes is created to read:

20.395 (3) (es) *Routine maintenance activities, state funds.* As a continuing appropriation, the amounts in the schedule for routine maintenance activities performed under contract with the department as provided in ss. 84.06 (2) (a) and 84.07 (1).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 10. 20.395 (3) (ev) of the statutes is amended to read:

20.395 (3) (ev) *Highway maintenance, repair, and traffic system management and operations, local funds.* All moneys received from any local unit of government or other sources for the maintenance and repair of roadside improvements under s. 84.04, state trunk highways under s. 84.07, and bridges that are not on the state trunk highway system under s. 84.10; for signing under s. 86.195; for highway operations such as permit issuance, pavement marking, highway signing, traffic signalization signal and intelligent transportation system maintenance, and highway lighting under ss. 84.04, 84.07, 84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business demonstration and training program under s. 84.076; for such purposes. This paragraph does not apply to ~~special routine maintenance activities under s. 84.04 on roadside improvements performed by county highway committees or municipalities under contract with the department as provided in s. 84.07 (1).~~

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 11. 20.395 (3) (ew) of the statutes is created to read:

20.395 (3) (ew) *Routine maintenance activities, local funds.* All moneys received from any local unit of government or other sources for routine maintenance activities performed under contract with the department as provided in ss. 84.06 (2) (a) and 84.07 (1), for such purposes.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 12. 20.395 (3) (ex) of the statutes is amended to read:

20.395 (3) (ex) *Highway maintenance, repair, and traffic system management and operations, federal funds.* All moneys received from the federal government for the maintenance and repair of roadside improvements under s. 84.04, state trunk

highways under s. 84.07, and bridges that are not on the state trunk highway system under s. 84.10; for permit issuance and other highway operations, including the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals~~, highway lighting, and pavement markings, and the maintenance of traffic control signals and intelligent transportation systems, under ss. 84.04, 84.07, 84.10, and 348.25 to 348.27 and ch. 349; and for the disadvantaged business demonstration and training program under s. 84.076; for such purposes. This paragraph does not apply to ~~special routine maintenance activities under s. 84.04 on roadside improvements performed by county highway committees or municipalities under contract with the department as provided in s. 84.07 (1).~~

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 13. 20.395 (3) (ey) of the statutes is created to read:

20.395 (3) (ey) *Routine maintenance activities, federal funds.* All moneys received from the federal government for routine maintenance activities performed under contract with the department as provided in ss. 84.06 (2) (a) and 84.07 (1), for such purposes.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 14. 84.06 (1) of the statutes is renumbered 84.06 (1) (intro.) and amended to read:

84.06 (1) DEFINITIONS. (intro.) In this section,

(a) Subject to par. (b), “improvement” or “highway improvement” includes construction, all of the following:

1. Construction, reconstruction, rehabilitation, and processes incidental to building, fabricating, or bettering a highway or street, ~~but not maintenance. The terms do not include the,~~

(b) 2. The installation, replacement, rehabilitation, or maintenance of highway signs, traffic control signals, highway lighting, or pavement markings, or the maintenance of traffic control signals or intelligent transportation systems, unless incidental to building, fabricating, or bettering a highway or street.

SECTION 15. 84.06 (1) (a) 2. of the statutes is created to read:

84.06 (1) (a) 2. Highway operations or activities that are life-cycle or investment driven and that are based on an asset management philosophy in which taking action adds service life by preventing or delaying deterioration of highway system functionality.

SECTION 16. 84.06 (1) (b) (intro.) and 1. of the statutes are created to read:

84.06 (1) (b) (intro.) “Improvement” or “highway improvement” does not include any of the following:

1. Maintenance activities described in s. 84.07 (1).

SECTION 17. 84.06 (13) of the statutes is created to read:

84.06 (13) CERTAIN EXPENDITURES LIMITED. The department may not encumber or expend, from the appropriations under s. 20.395 (3) (aq), (cq), and (cr), more than a total of \$20,000,000 in any fiscal year for the installation, replacement, or rehabilitation, not incidental to another highway improvement, of traffic control signals and intelligent transportation systems.

SECTION 18. 84.07 (1) of the statutes is amended to read:

84.07 (1) ~~STATE EXPENSE; WHEN DONE BY COUNTY OR MUNICIPALITY~~ ROUTINE MAINTENANCE. The Subject to sub. (1r), the state trunk highway system shall be

maintained by the state at state expense. The department shall prescribe by rule specifications for such maintenance and may contract with any county highway committee or municipality to have all or certain parts of the work of maintaining the state trunk highways within or beyond the limits of the county or municipality, including interstate bridges, performed by the county or municipality, and any county or municipality may enter into such contract. ~~General maintenance~~ Maintenance activities include the application of protective coatings, the removal and control of snow, the removal, treatment and sanding of ice, interim repair of highway surfaces and adjacent structures, and all other operations, activities and processes required on a regular, continuing basis for the preservation of the highways on the state trunk system, and including the care and protection of trees and other roadside vegetation and suitable planting to prevent soil erosion or to beautify highways pursuant to s. 66.1037, and all routine measures deemed necessary to provide adequate traffic service. ~~Special maintenance activities include the restoration, reinforcement, complete repair or other activities which the department deems are necessary on an individual basis for specified portions of the state trunk system.~~ Maintenance activities also include the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals,~~ highway lighting, and pavement markings, and the maintenance of traffic control signals and intelligent transportation systems. The department may contract with a private entity for services or materials or both associated with the installation, replacement, rehabilitation, or maintenance of highway signs, ~~traffic control signals,~~ highway lighting, and pavement markings, and the maintenance of traffic control signals and intelligent transportation systems.

***NOTE: This is reconciled s. 84.07 (1). This SECTION has been affected by drafts with the following LRB numbers: LRB-0254 and LRB-0161. In this draft, I added text from LRB-0161.

SECTION 19. 84.07 (2) of the statutes is renumbered 84.07 (2) (a) and amended to read:

84.07 (2) (a) ~~When~~ Except as provided in par. (b), when any county or municipality maintains the state trunk highways within or beyond the limits of the county or municipality, including interstate bridges, in compliance with the arrangement with the department, the department shall pay the actual cost of the maintenance, including the allowance for materials and the use of county or municipal machinery and overhead expenses agreed upon in advance. ~~The~~ Except as provided in par. (b), the payments shall be made upon presentation by the county highway committee or municipal clerk of a properly itemized and verified account. ~~The~~ For payments made under this paragraph, the county highway committee or municipal clerk shall present the itemized accounts for ~~general~~ maintenance work no later than one month following the period during which the work is performed.

SECTION 20. 84.07 (2) (b) of the statutes is created to read:

84.07 (2) (b) When any county or municipality maintains the state trunk highways within or beyond the limits of the county or municipality, including interstate bridges, in compliance with the arrangement with the department, the department and the county or municipality may agree to a payment method and terms other than that specified in par. (a), including payment according to a contract price for maintenance services rather than payment of the actual cost of the maintenance.

(END)