



## 2013 ASSEMBLY BILL 41

February 22, 2013 - Introduced by Representatives RIPP, BALLWEG, BERNIER, BILLINGS, BROOKS, DOYLE, ENDSLEY, KRUG, MARKLEIN, MURSAU, A. OTT and SPIROS, cosponsored by Senators PETROWSKI, TIFFANY, JAUCH and SHILLING. Referred to Committee on Transportation.

1     **AN ACT to create** 20.395 (2) (ec) and 84.182 of the statutes; **relating to:** creating  
2             a local freight bridge program, providing an exemption from emergency rule  
3             procedures, granting rule-making authority, and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

This bill creates a local freight bridge improvement program administered by the Department of Transportation (DOT). Under the program, DOT reimburses counties, cities, villages, and towns (political subdivisions) for the improvement, rehabilitation, or reconstruction of local bridges on highway routes that provide access, for heavy vehicles transporting freight, to or from freight origin or destination points. Under the bill, a "heavy vehicle" is a vehicle that is legally operating at a gross vehicle weight exceeding 80,000 pounds. Under the program, DOT reimburses political subdivisions for eligible costs of local bridge projects, but the political subdivision has responsibility for all project costs and reimbursement is limited to not more than 90 percent of total eligible project costs. To be eligible for reimbursement under the program, a local bridge project must be performed under contract, awarded on the basis of competitive bidding. DOT must, by rule, prescribe the form of the application, establish the process for submitting applications, and establish the procedures and criteria for evaluating applications, determining which costs are eligible for reimbursement, ranking applications when the number of applicants or aggregate project costs exceed available funding, and providing reimbursement. However, these rules must contain specified provisions. Until permanent rules are promulgated, DOT may operate the program using emergency rule authority.

**ASSEMBLY BILL 41**

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

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

1           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2 the following amounts for the purposes indicated:

	<b>2013-14</b>	<b>2014-15</b>
<b>20.395 Transportation, department of</b>		
(2) LOCAL TRANSPORTATION ASSISTANCE		
(ec) Local freight bridge program;		
state funds	GPR    A    5,000,000	5,000,000

8           **SECTION 2.** 20.395 (2) (ec) of the statutes is created to read:  
9           20.395 (2) (ec) *Local freight bridge program; state funds.* From the general  
10 fund, the amounts in the schedule for the local freight bridge program under s.  
11 84.182.

12           **SECTION 3.** 84.182 of the statutes is created to read:  
13           **84.182 Local freight bridge program. (1) DEFINITIONS.** In this section:  
14           (a) "Access route" means any route involving highways under the jurisdiction  
15 of one or more political subdivisions that is used for the transportation of freight to  
16 the freight's destination point or used to access the freight's point of origin for  
17 purposes of transporting the freight.  
18           (b) "Heavy vehicles" means vehicles or vehicle combinations operated in  
19 compliance with ch. 348 that have a gross vehicle weight exceeding 80,000 pounds.

**ASSEMBLY BILL 41**

1 (c) "Local bridge" means a bridge that is not on the state trunk highway system  
2 or on routes of the state trunk highway system designated as connecting highways  
3 under s. 86.32.

4 (d) "Local bridge project" means a project for the improvement, rehabilitation,  
5 or reconstruction of a local bridge and may include planning, design, and engineering  
6 work as well as necessary approach work for the bridge.

7 (e) "Political subdivision" means any city, village, town, or county.

8 **(2) PROGRAM.** The department shall administer a local freight bridge program  
9 to facilitate the improvement, rehabilitation, or reconstruction of local bridges on  
10 highway routes that provide access, for heavy vehicles transporting freight, to or  
11 from freight origin or destination points. Under the program, the department shall  
12 reimburse political subdivisions for eligible costs of local bridge projects in  
13 accordance with sub. (3) and rules of the department.

14 **(3) REIMBURSEMENT; PROJECTS UNDER CONTRACT.** (a) From the appropriation  
15 under s. 20.395 (2) (ec), the department shall reimburse political subdivisions for  
16 eligible costs of local bridge projects, consistent with rules promulgated under sub.  
17 (5). All costs of local bridge projects are the responsibility of the applicable political  
18 subdivision, but at the completion of such a project, the political subdivision may  
19 apply to the department for reimbursement of not more than 90 percent of total  
20 eligible costs of the project.

21 (b) Costs of a local bridge project are eligible for reimbursement under this  
22 subsection only if the local bridge project was performed under contract, awarded on  
23 the basis of competitive bidding.

24 **(4) APPLICATIONS.** (a) Any political subdivision may apply to the department  
25 for reimbursement of eligible costs under this section.

**ASSEMBLY BILL 41****SECTION 3**

1 (b) The department shall, by rule, prescribe the form of the application, except  
2 that the application shall require the applicant to provide all of the following  
3 information as it relates to the proposed local bridge project identified in the  
4 application:

5 1. A description of the local bridge project for which the application is made,  
6 including identification of any local bridge to be improved, rehabilitated, or  
7 reconstructed as part of the project and the type of work to be performed, a statement  
8 as to whether the proposed local bridge project would allow the bridge to  
9 accommodate heavier vehicles, identification of any access route for which the local  
10 bridge is relevant, an estimate of the total cost of the local bridge project, and an  
11 estimate of the timeline for the local bridge project with alternative scenarios  
12 depending on whether or not reimbursement is provided under this section for the  
13 project.

14 2. A description of the applicable access route used, at the time of the  
15 application, by vehicles transporting freight, including identification of the  
16 applicable origin or destination of the freight, identification of highway names or  
17 numbers, mileage between key points along the access route, and the total mileage  
18 of the access route.

19 3. A description of the applicable access route that heavy vehicles would utilize  
20 if the proposed local bridge project were not completed, with a comparison to the  
21 access route described in subd. 2. This description shall include the same types of  
22 information specified in subd. 2., but as it pertains to the different route identified  
23 under this subdivision.

24 4. A description of the applicable access route that heavy vehicles would utilize  
25 if the proposed local bridge project were completed, with a comparison to the access

**ASSEMBLY BILL 41**

1 route described in subd. 2. This description shall include the same types of  
2 information specified in subd. 2., but as it pertains to the different route identified  
3 under this subdivision.

4 5. Information about the types of vehicles that use the access route described  
5 in subd. 2., as of the time of the application, including average gross vehicle weight  
6 and axle weights, if available, as obtained from inspection reports, traffic data, or  
7 local industry officials.

8 6. A description of the types of vehicles that are expected to be replaced by  
9 heavy vehicles if the proposed local bridge project were completed and a description  
10 of these replacement heavy vehicles, including average gross vehicle weight and axle  
11 weights as well as axle spacing.

12 **(5) PROCEDURES AND CRITERIA.** (a) The department shall, by rule, establish the  
13 process for submitting applications under this section and the procedures and  
14 criteria for evaluating applications, determining which costs are eligible for  
15 reimbursement, ranking applications when the number of applicants or aggregate  
16 project costs exceed available funding, and providing reimbursement under this  
17 section. Subject to par. (b), in evaluating and ranking applications and providing  
18 reimbursement under this section, the department may consider any criteria  
19 determined to be pertinent by the department, including impacts of the project on  
20 freight-intensive industries and facilities, local needs, local economic impacts,  
21 environmental impacts, and other factors.

22 (b) The rules under par. (a) shall require the department, in evaluating and  
23 ranking applications and providing reimbursement, to consider all of the following:

**ASSEMBLY BILL 41****SECTION 3**

1           1. The extent to which, if heavy vehicles are expected to replace other vehicles  
2 on any applicable access route, there would be a resulting change in the number of  
3 vehicle miles traveled and vehicle payload-ton miles on the access route.

4           2. Assuming heavy vehicles will replace other vehicles as described in subd. 1.,  
5 the difference in the number of vehicle miles traveled and vehicle payload-ton miles  
6 on the applicable access route if the proposed local bridge project is completed in  
7 comparison to the same information if the local bridge project is not completed.

8           3. Estimates of highway system user benefits and impacts, public agency  
9 benefits and impacts, and net benefits and impacts following the general  
10 methodology of the department's Wisconsin Truck Size and Weight Study, dated  
11 June 15, 2009, and using the information described in subds. 1. and 2. For purposes  
12 of this subdivision, the department may consider benefits in terms of monetary  
13 savings and impacts in terms of monetary expenditures. Highway system user  
14 benefits and impacts may include changes in transportation costs for motor carriers,  
15 shippers, and others, as well as highway safety considerations. Public agency  
16 benefits and impacts may include changes in pavement wear and bridge  
17 improvement costs attributable to the vehicles, including heavy vehicles.

**SECTION 4. Nonstatutory provisions.**

18           (1) PROPOSED PERMANENT RULES. The department of transportation shall submit  
19 in proposed form the rules required under section 84.182 (4) (b) and (5) (a) of the  
20 statutes, as created by this act, to the legislative council staff under section 227.15  
21 (1) of the statutes no later than the first day of the 4th month beginning after the  
22 effective date of this subsection.

23           (2) RULE-MAKING EXCEPTIONS FOR PERMANENT RULES.  
24

**ASSEMBLY BILL 41**

1           (a) Notwithstanding section 227.135 (2) of the statutes, the department of  
2           transportation is not required to present the statement of the scope of the rules  
3           required under section 84.182 (4) (b) and (5) (a) of the statutes, as created by this act,  
4           to the governor for approval.

5           (b) Notwithstanding section 227.185 of the statutes, the department of  
6           transportation is not required to present the rules required under section 84.182 (4)  
7           (b) and (5) (a) of the statutes, as created by this act, in final draft form to the governor  
8           for approval.

9           (c) Notwithstanding section 227.137 (2) of the statutes, the department of  
10          transportation is not required to prepare an economic impact report for the rules  
11          required under section 84.182 (4) (b) and (5) (a) of the statutes, as created by this act.

12          (d) Notwithstanding sections 227.14 (2g) and 227.19 (3) (e) of the statutes, the  
13          department of transportation is not required to submit the proposed rules required  
14          under section 84.182 (4) (b) and (5) (a) of the statutes, as created by this act, to the  
15          small business regulatory review board and is not required to prepare a final  
16          regulatory flexibility analysis for those rules.

17          (3) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,  
18          the department of transportation shall promulgate the rules required under section  
19          84.182 (4) (b) and (5) (a) of the statutes, as created by this act, for the period before  
20          the effective date of the permanent rules promulgated under section 84.182 (4) (b)  
21          and (5) (a) of the statutes, as created by this act, but not to exceed the period  
22          authorized under section 227.24 (1) (c) of the statutes, subject to extension under  
23          section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and  
24          (3) of the statutes, the department is not required to provide evidence that  
25          promulgating a rule under this subsection as an emergency rule is necessary for the

**ASSEMBLY BILL 41****SECTION 4**

1 preservation of public peace, health, safety, or welfare and is not required to provide  
2 a finding of an emergency for a rule promulgated under this subsection.  
3 Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department is  
4 not required to prepare a statement of the scope of the rules promulgated under this  
5 subsection or present the rules to the governor for approval.

6 (4) POSITION AUTHORIZATION. The authorized FTE positions for the department  
7 of transportation are increased by 0.4 GPR position, to be funded from the  
8 appropriation under section 20.395 (2) (ec) of the statutes, as created by this act, to  
9 administer the local freight bridge program under section 84.182 of the statutes, as  
10 created by this act.

11 **SECTION 5. Effective dates.** This act takes effect on the first day of the 4th  
12 month beginning after publication, or on the 2nd day after publication of the 2013-15  
13 biennial budget act, whichever is later, except as follows:

14 (1) SECTION 4 (1), (2) and (3) of this act takes effect on the day after publication.

15 (END)