



Metro Transit

Chuck Kamp, Transit General Manager

Suite 201
1245 East Washington Avenue
Madison, Wisconsin 53703
Administrative Office: 608 266 4904
Customer Information: 608 266 4466
www.mymetrobus.com

Date: April 13, 2011

To: Joint Finance Committee Members
Wisconsin State Legislature

From: Chuck Kamp, GM
Metro Transit, Madison

Chuck Kamp
4/13/11

Subject: 2011-13 Biennial Budget

On behalf of Metro Transit, a department of the City of Madison, I offer the following suggestions regarding the 2011-13 State Budget. First, I recommend that you keep public transit operating assistance funding in the state segregated transportation budget where it has been for decades, not the state general fund as proposed in the budget. The former provides a more stable and reliable source of funding for transit, and appropriately is balanced with other transportation priorities. The latter is a less appropriate source for transit funding in that transit will be balanced with education, health services, and other non-transportation needs.

Second, I recommend a 5% increase in state transit operating assistance, not a 10% decrease. With gas prices rising, Metro is seeing increases in ridership in early 2011 (5% through February, and rising). Our fuel costs this year will be over \$1 million more than 2010 because of large increases in oil and gasoline costs. Investments in transit are needed now more than ever as families balance their budgets by driving less and using transit more with gas prices projected to rise above \$4 per gallon. State performance audits and studies show Wisconsin transit systems

April 13, 2011

Page 2

return over \$3 to the economy for every \$1 of investment, and that we perform better than our peers across the nation. Madison's bus system, for example, has a 19% lower cost per ride and 41% better ridership productivity than our national peers. 50% of our riders use transit to get to jobs, and another 33% use it to get to school, to prepare for being contributing members of society.

Third, the binding referendum required for RTA's in the proposed budget is acceptable.

Thank you for the opportunity to share suggestions to the 2011-13 biennial budget. If you have any questions, please don't hesitate to contact me at 608-266-4904.

From: Gavin, Michelle [GavinM@ci.beloit.wi.us]
Sent: Monday, April 25, 2011 4:14 PM
To: 'Forbeck, Helen'
Cc: 'Mumma, Dave'; 'Greg Seubert'; 'Anita Connelly'; Kamp, Charles
Subject: Request for Representative Baldwin - Regarding the Federal Transit Administration, "13c" and 2011 Wisconsin SB10/AB 10/Act 10
Attachments: 110216LFB_transit_memo.pdf; WURTAhandoutfinal_1.pdf; 13c_Transit Employee Protections.pdf; RE: City of Beloit- Beloit Transit System Testimony to the Joint Finance

The Honorable Tammy Baldwin
2446 Rayburn HOB
Washington, D.C. 20515

Dear Representative Baldwin:

On behalf of the Wisconsin Urban and Rural Transit Association (WURTA), and also the City of Beloit, I am asking for your assistance on a matter relating to the Wisconsin Senate Bill 10 / Assembly Bill 10 / 2011 Wisconsin Act 10 (the "Act"), and how these relate to a specific provision contained within the Federal Transit Act, 49 U.S.C. 5333(b), also known as Section 13(c). As you are aware, the Walker Administration is currently enjoined from further implementation of the "Act", pending the final outcome of a current lawsuit. Meanwhile, WURTA members, including the City of Beloit and the City of Madison, are already deeply involved in budget preparations for calendar year 2012; and while a favorable outcome of the of the legal action permanently enjoining the Governor from implementing the labor provisions of Wisconsin Act 10 may be possible; it is far from likely. An action by the Court vacating the injunction or simply forcing the Walker Administration to re-pass Act 10 following legally acceptable procedures would deal a tremendous financial blow to Wisconsin's public transit systems, many of which rely on Federal Transit Operating Assistance for up to 1/3 of their annual operating budgets.

At stake is \$46.7 million in federal funding for transit properties across the state. More about that later in this email, and in the attached documents.

To date, WURTA and its members have sought counsel on this matter from the Federal Transit Administration (FTA) Region V Office in Chicago, and to date have not been provided a complete enough reaction so that we can satisfactorily address questions posed to us from our state Legislators and others. Unfortunately, in the absence of such guidance, we cannot provide satisfactory and technically accurate responses. Absent a review of the applicable portions of the Federal Regulations, we're left "guesstimating", and at the same are faced by proponents of this legislation with a number of platitudes, none of which are realistic or supported by facts.

To date, our Republican state legislators have provided us only the following sampling of reassurances regarding our expressed concerns related to the Act, and how it may affect federal funding:

"Don't worry about this," or
"We're working on this," or
"The Governor will write a letter to the FTA, and work things out, or
"One of your colleagues tells us this isn't a big deal."

We, WURTA, and the City of Beloit are greatly concerned that this has all the raw material of in fact being a "very big deal," contrary to the vague and dismissive assurances from these same legislators.

As a matter of background, I have attached several documents for your review. One is a "white paper" ("13c_Transit_Employee_Protections"), prepared by the Legislative Committee of WURTA - an "executive summary" of how this proposed legislation may impact public transit properties in Wisconsin in relation to Federal funding.

I have also attached some additional information, including a letter ("110216LFB_transit_memo") from Al Runde, Fiscal Analyst, the Wisconsin Legislative Fiscal Bureau (WiLFB) to State Representative Tamara Grigsby on February 16, 2011, and his analysis on the impact of the proposed legislation. Also contained at the end of that same document is a letter, also dated February 16, 2011, from the Director of the US Department of Labor's, Office of Labor - Management Standards (OLMS) that outlines the his reaction to the (at that time proposed) legislation. Last

is an handout from WURTA ("WURTAhandoutfinal") that provides an overview on the role of Transit in Wisconsin.

We realize that the FTA does not want to embroil itself in state politics in Wisconsin, and to be blunt, that is not what we've been asking for. We are only asking for technical answers to the following:

In the event that public transit employee's collective bargaining rights are restricted as provided in WI 2011 Act 10:

1. What are the probable effects on Wisconsin transit grantees with unionized public employees, and;
2. What "special procedures" as provided in 29CFR Part 215.3(a)(2), which sets-up USDOL's administrative procedures for processing applications under Federal Transit law (49USC Chapter 53 Section 5333 (b)) can or will USDOL use in considering applications where "...states or political subdivisions are subject to legal restrictions on bargaining with employee organizations...", and what information will grantees need to supply to comply with the "special procedures"?

In the absence of clear guidance to date from the FTA, and faced only with the attached reactions from the WILFB and the USDOL, it's time to escalate this massive issue to the realm of reality. As we understand, public transit in Wisconsin stands to lose \$46.7 million in federal funding, and we're at a loss to explain to our detractors how likely of a threat we face.

We thank you for your continued and long-standing support of public transit in Wisconsin, and hope you will consider assisting us in obtaining comprehensive FTA guidance on this matter.

Very truly yours,

Michelle Gavin
Director of Transit
City of Beloit
1225 Willowbrook Rd
Beloit, WI 53511
(608) 364-5704
gavinm@ci.beloit.wi.us
www.beloittransit.com

From: Rep.Loudenbeck [Rep.Loudenbeck@legis.wisconsin.gov]
Sent: Friday, April 15, 2011 5:56 PM
To: Gavin, Michelle
Subject: RE: City of Beloit- Beloit Transit System Testimony to the Joint Finance

Michelle – I am also going to send this to the transportation committee chair, the speaker of the assembly and the governor's office. I have been working with all of them in addition to the chair of the joint finance committee.

Thank you so much for your thoughtful, detailed and professional input.

Amy Loudenbeck
Representing Wisconsin's 45th Assembly District
(608) 266-9967
rep.loudenbeck@legis.wi.gov

From: Gavin, Michelle [mailto:GavinM@ci.beloit.wi.us]
Sent: Friday, April 15, 2011 5:46 PM
To: Budget Comments
Cc: Rep.Loudenbeck; Sen.Cullen; Arft, Larry; Botts, David M.; Forbeck, Helen
Subject: City of Beloit- Beloit Transit System Testimony to the Joint Finance

Senator Alberta Darling, Co-Chair
Representative Robin Vos, Co-Chair
Members of the Joint Committee on Finance

Dear Members of the Joint Finance Committee:

The City of Beloit is greatly concerned that the current Budget Proposal currently being considered (AB 40/SB 27), particularly if added to the effects of AB 10 will devastate the transit service we provide for our citizens.

Please see attached ("Beloit Transit Testimony to JFC April 2011 re: Budget") for the funding implications as proposed by the proposed Budget and also SB/AB 10. Please note the assumptions, and there are admittedly several, not the least of which is that I'm having to base this on this year's budget. Please also note that these scenarios are in fact optimistic, and do not factor in many important variables such as a loss in local levy contribution, which is essentially guaranteed, or increases in the cost of fuel and other commodities. I have also attached some additional information regarding public transit in Wisconsin, including an analysis of the "13c" issue, the economic benefits derived from public transit, and other issues facing this portion of our infrastructure.

Fuel prices are the second largest component of the costs of operating a transit system, behind only personnel. These costs have increased about one third since the beginning of 2011, with no end in sight. And, as these costs go up, so does demand for our service, putting more financial demands on a municipality that has reduced its expenditures on transit over the past few years because it was already feeling the effects of the economic downturn.

The increase in fuel costs, however, is not as threatening to the health of the Beloit Transit System as the likely loss of federal transit aid over the next few years. While the amount allocated to our system for the this year and next is being determined in Washington, those figures may be meaningless because SB/AB

10 appears to violate Section 13(c) of the Federal Transit Act and could make all Wisconsin transit properties ineligible for Federal aid. Right now, Federal Support covers about 32% of our operating costs, and a reduction in service to cover this loss would mean our service would be unable to provide the peak hour service required by our work riders and students.

On top of these problems, the proposed budget cuts state aid to Wisconsin Transit Systems by 10 percent in 2012 and an additional 10% in 2013. Our state aid, similar to the federal assistance, covered about 28 per cent of our operating costs in 2010. So, the reductions called for in the budget bill will require us to cut service at a time when the demand for transit is growing and individuals are looking to us to provide a cost-effective alternative to rising gasoline prices.

Just when things couldn't look any worse for transit in Wisconsin, after the 10% reduction in state aid, the remaining transit funding is then raided out of the transportation fund and then transferred to the already overburdened general fund. The transportation fund in Wisconsin has historically been used to fund a variety of modes of transportation—roads, airports, transit, rail, harbors—to give all modes of transportation in the state funding from a dedicated source.

The removal of transit from this fund basically is a decision by the Administration to say that the buses and shared-ride taxi programs that transport millions of people annually are not transportation programs and instead should be regarded as a general obligation such as police, fire, corrections, human services and local government aids.

This move comes at a time when the Governor proposes increasing funding to the transportation fund then limiting the amount of revenues available to the general fund. We cannot understand why, at a time when we need to keep our existing roads and bridges safe, and, find ways to help Wisconsin citizens maintain their mobility (while dealing with increasing fuel costs), this budget devastates transit and local road funding.

We need to invest in our existing transportation network, including transit, not only to preserve our existing infrastructure, but also because this makes sound fiscal sense. Every dollar invested in public transit in Wisconsin provides three to four dollars in economic return to the State, far surpassing that of even new highway construction. Transit also creates jobs: I can assure you that not having adequate public transit is a significant consideration for employers considering relocation. To illustrate, please refer to the attached handout called "WURTAhandoutfinal". You'll see support for public transit from business leaders such as Tim Sheehy, President of the Greater Milwaukee Area Chamber of Commerce:

"Public transportation is 'table stakes'. Businesses simply expect that it will be there in communities where they are considering locating."

Ironically, when I was chaperoning my son's class on a tour of the Capitol recently, it was pointed out that when the Capitol was built nearly a century ago, ten years after public transit began operating in Beloit, transportation was considered one of the four critical elements in the history of the State. To that end, a mural commemorating various elements of transportation is displayed on the ceiling of the North Hearing Room. It's incomprehensible to think that we'd move the State so far backwards regarding this economic force that shaped Wisconsin into what it is today. I've attached my own picture of that mural to this email.

Finally, all areas of Wisconsin are served by transit, with properties in over two-thirds of our State's counties. The current proposal will make it impossible for us to meet the needs of the over 300,000 passengers who use Beloit Transit System's service annually.

Respectfully,

Michelle Gavin

Director of Transit - City of Beloit

1225 Willowbrook Rd Beloit, WI 53511

(608) 364-5704 gavinm@ci.beloit.wi.us

**PUBLIC TRANSIT EMPLOYEE PROTECTIONS
PURSUANT TO
SECTION 13(c) OF THE URBAN MASS TRANSPORTATION ACT OF 1964**

Prepared by the Wisconsin Urban and Rural Transit Association Legislative Committee

History of Transit System Ownership in Wisconsin

Most public transit systems in Wisconsin and throughout the U.S. were once privately owned bus companies. Beginning in the 1960's, private bus companies struggled to remain profitable. Some went out of business, while others sought financial assistance from the municipalities in which they operated.

Municipal intervention required the creation of organizational structures to facilitate asset ownership, employ existing personnel, fulfill labor contract obligations, enable access to public funding and protect local taxpayer investment.

In Wisconsin, many financially troubled private bus companies became municipal operations. Municipalities took ownership of the assets, transitioned private employees to public employment and assumed existing financial obligations, such as employee pensions. As municipal employees, state labor laws governed their employment.

A few municipalities (Milwaukee, Waukesha and Racine) decided to preserve the private bus company, but publicly fund the purchase of assets and ongoing operating expenses. They were able to avoid the transition of private employees to public employment and they retained existing private pensions. As private employees, federal labor laws governed their employment.

Public Transit Employee Protections - Section 13(c)

The federal transit program was initiated in the 1960's to help fund the purchase of transit capital assets. The program was expanded later to provide assistance for ongoing transit operations. Federal funding played a critical role as municipalities intervened to own and/or operate bus companies.

To become eligible for federal funding, municipalities were required to negotiate employee protection agreements with private sector employee unions, pursuant to Section 13(c) of the Urban Mass Transportation Act of 1964. These "13(c) agreements" remain in effect today. Municipalities must certify with each grant application that they will comply with the requirements of 13(c) including: preserving employee rights and benefits; continuing their collective bargaining rights; protecting them against a worsening of their employment conditions; assuring jobs for employees of acquired mass transit systems; providing priority of reemployment if the employee is laid off or his job is eliminated; and providing paid training.

All transit grants are reviewed for 13(c) compliance by both the U.S. Department of Labor and the national or international union representing the employees funded by the grant. Local bargaining units may provide input, but the ultimate decision as to 13(c) compliance occurs at the federal level. If either party deems that transit worker rights have been diminished or their position worsened, funding is denied until the issues in question are resolved.

Budget Adjustment Bill Impact on Transit Employee Protections - Section 13(c)

The Budget Adjustment Bill substantially diminishes collective bargaining rights and modifies conditions of employment for municipal transit workers. Although the State has the authority to implement such changes, municipalities will be forced to violate Section 13(c) requirements and they will become ineligible for federal transit funding when existing labor agreements expire. It is important to note that Wisconsin transit systems have not yet applied for federal operating assistance grants for 2011. When the Budget Adjustment Bill becomes law, transit systems without existing labor agreements will be denied federal funding for this budget year, unless adequate alternative employee protective arrangements can quickly be negotiated and approved by both the U.S. Department of Labor and the national or international union representing local employees. Without the award of federal funding, remaining state and local funds will be exhausted by mid-year. As labor agreements expire and transit systems become ineligible, the funding distribution methodology designated in Section 85.20 of Wisconsin Statutes will ensure that the loss of funding for one transit system will be shared equally by all others in that funding tier. The financial impact may dictate higher passenger fares, reduced services or the elimination of public transit entirely in communities throughout Wisconsin.

Collective Bargaining and Section 13(c) in Other States

The key to maintaining compliance with the collective bargaining requirements of 13(c) is to preserve the employee collective bargaining rights that were in place when 13(c) agreements were negotiated. Some states have never allowed collective bargaining for transit employees. They are in compliance with 13(c) because the status of collective bargaining rights has remained unchanged. The same is true for employers that maintain a non-union workforce. Some states have unilaterally eliminated collective bargaining rights for state employees, but the law change did not impact municipal transit employees. Other states have unilaterally eliminated collective bargaining rights for municipal employees, but federally funded transit workers were exempted from the impact of the law.

The “Memphis Plan”

The Legislative Fiscal Bureau (LFB) analyzed the impact of the Budget Adjustment Bill and noted that privately owned transit systems such as Milwaukee would be unaffected by changes to Wisconsin’s collective bargaining laws. Additionally, the LFB document contains a letter from the U.S. Department of Labor that refers to the creation of a “Memphis Plan” as a means to avoid losing federal transit funding.

The “Memphis Plan” refers to the consolidation of three unprofitable private bus companies some 40 years ago. After a protracted process, a single transit system emerged that was privately operated but publicly funded – much like the Milwaukee County Transit System. The unionized workforces in both Memphis and Milwaukee are employed by private companies and their employment is governed by federal labor laws. Milwaukee County Transit System employees are unaffected by changes to Wisconsin’s collective bargaining laws because they are not public employees.

Discussion regarding the creation of a “Memphis Plan” in today’s context is somewhat misleading. The Memphis/Milwaukee situations were public sector interventions that preserved 13(c) rights and privileges for private employees by maintaining the status quo. Workers continued their employ with the same private firms with the assistance of public funding. Restructuring a publicly owned transit system to create a private model is a very different proposition. It would require the transition of employees from one employer to another, from public employment to private employment, while preserving their 13(c) rights and privileges.

In order to create a private model, retain collective bargaining rights and maintain eligibility for federal funding, a municipality would have to seek the services of a private management firm and pay them a fee to operate transit services. The competitive bid process is estimated to require eight to twelve months to complete. The private firm could hire all new employees, but 13(c) agreements entitle displaced workers the payment of displacement allowances as a consequence. Faced with paying wages for displaced employees for up to six years, municipalities would likely require the management firm to retain existing employees. The private firm would then negotiate with the local union to transition public employees to private employment. 13(c) protections will ensure that existing wages, benefits and working conditions for all affected employees are preserved. Some existing benefits, such as pensions, may be difficult to replicate. Private employees would no longer be eligible to participate in the Wisconsin Retirement Fund, and an alternative pension plan with similar benefits may not be available.

The creation of a private transit model will not happen quickly. The procurement process, subsequent negotiation with labor unions and possible legal challenges may take several years to complete. In the mean time, transit systems will lose eligibility for federal funding as labor agreements expire.

There is little incentive from a cost perspective to seek the creation of a private transit model. Wages and benefits for most employees will be unchanged, while the incurrence of new contractor management fees and the loss of municipal support services will likely increase transit operating expenses. Additionally, the oversight responsibility required for state and federal grantees will remain, while the task may be more difficult to perform.

The creation of a private transit model seems to serve but one purpose – to exempt federally funded transit employees from state labor laws and preserve their collective bargaining rights. The endeavor will be time consuming, it will require the investment of considerable human capital and the result may mean greater cost for transit users and taxpayers.

The same outcome – to exempt federally funded transit employees from state labor laws and preserve their collective bargaining rights – could be achieved more simply through legislative action.



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

February 16, 2011

TO: Representative Tamara Grigsby
Room 307 West, State Capitol

FROM: Al Runde, Fiscal Analyst

SUBJECT: Impact of Local Collective Bargaining Changes under SS SB 11 on Federal Transit Aid

As requested, this memorandum provides information on the federal requirements related to local collective bargaining agreements between local units of government and transit workers. The memorandum also provides information as to whether the state's federal transit funding could be impacted by the proposed changes in local collective bargaining laws included under Special Session Senate Bill 11 (SS SB 11).

Special Session Senate Bill 11

SS SB 11 would make various changes to municipal employees' collective bargaining rights currently provided them under the municipal employee relations act (MERA). Specifically the bill would prohibit municipal employers from collectively bargaining with a general municipal employee with respect to any factor or condition of employment except wages. This would be a significant change to the number of factors or conditions of employment on which municipal employees are allowed to collectively bargain.

Existing Transit Funding

In 2010, transit systems in the state received \$60.9 million in federal operating transit aid as follows: (a) \$21.3 million for Tier A-1 (Milwaukee County); (b) \$7.1 million for Tier A-2 (Madison); (c) \$19.1 million for Tier B systems (systems serving populations between 50,000 and 200,000); and (d) \$13.4 million for Tier C systems (systems serving populations less than 50,000).

In addition, in 2010, the state received specific capital funding of: (a) \$5.6 million for new and replacement buses; (b) \$1.3 million in fixed guideway modernization funding; (c) \$1.4 million

in transportation planning funds; (d) \$2.3 million in federal elderly and disabled aid; and (e) \$2.4 million in federal job access reverse commute program funding.

US Department of Labor Collective Bargaining Protections for Transit Workers

The U.S. Department of Labor indicates the following relative to federal labor law and the collective bargaining rights of transit workers (see attachment):

"...federal statute requires that employee protections, commonly referred to as "protective arrangements" or "Section 13(c) arrangements" must be certified by the Department of Labor and in place, before federal transit funds can be released to a mass transit provider."

As a general rule, federal labor law (under US Code 49 Section 13(c)) protects transit employees who may be affected by federal transit funding. It requires the continuation of collective bargaining rights, and protection of transit employees' wages, working conditions, pension benefits, seniority, vacation, sick and personal leave, travel passes, and other conditions of employment. It also requires paid training or retraining for employees affected by federal assistance.

Section 13(c) requires the continuation of any collective bargaining rights that were in place when the employer started receiving federal funds. However, if transit employees did not have the right to bargain collectively at the time their employer began receiving federal funds, section 13(c) does not grant that right. Where transit employees do not have the right to bargain collectively, but have the right to meet and confer or present grievances under state law or as an ongoing practice, section 13(c) mandates that these practices must continue. The section 13(c) arrangement is not a collective bargaining agreement and does not create a collective bargaining relationship where one does not already exist.

These protections are typically developed and agreed to by the transit employees' representative, union, and the grant applicant. If this agreement meets the requirements of section 13(c), the Department will certify the protections. The Department only mandates specific protections when the parties are unable to agree, or the negotiated provisions do not satisfy the requirements of section 13(c). If the transit employees are not represented by a union, the Department certifies a standard "non-union" protective arrangement.

The Department usually certifies subsequent grants to the same transit provider based on protective arrangements that are already in place. However, the Department's guidelines allow the parties to change the existing protective arrangements if a party submits an objection that "raises material issues that may require alternative employee protections," or "concerns changes in legal or factual circumstances that may materially affect the rights or interests of employees". If the Department finds that an objection is sufficient, it directs the parties to renegotiate the provisions of the protective arrangements that are at issue. The Department will certify the newly negotiated protective arrangements provided they meet the requirements of section 13(c). If the parties are unable to reach agreement, the Department will determine the appropriate arrangements, after all

sides have had the opportunity to submit written views and arguments.

Impact on Federal Funding

Relative to Section 13(c) would affect only those transit systems that are unionized and would involve the collective bargaining rights in place at the time the federal transit aid was first received. Most bus transit systems in the state are staffed by unionized transit workers. In addition, a few of the Tier C shared-ride taxi systems may involve unionized workers.

According to information from the U.S. Department of Labor, the proposed changes in collective bargaining rights included under SS SB 11 could impact the ability of unionized transit systems in the state to receive existing federal transit aid, unless actions are taken to protect the collective bargaining rights of their employees (see the attached memo from Mr. John Lund). If the federal Department of Labor makes the determination that the changes in local transit worker collective bargaining rights resulting from the collective bargaining changes under SS SB 11 affect the continuation of collective bargaining rights, and protection of transit employees' wages, working conditions, pension benefits, seniority, vacation, sick and personal leave, travel passes, and other conditions of employment, the Federal Transit Authority could not provide federal transit funding under these provisions.

Currently, Milwaukee County contracts with a private, nonstock corporation known as Milwaukee County Transport Service, Inc. (MCTS) to provide transit services in Milwaukee County. MCTS is the transit system that is eventually provided federal transit aid and is responsible for obtaining the required certification from the U.S. Department of Labor regarding the 13(c) requirements. According to MCTS, its transit workers are employed directly by MCTS and those workers bargain collectively with the MCTS management and not Milwaukee County. Therefore, the proposed changes to the current law collective bargaining rights under MERA likely do not apply to MCTS transit workers, or any other state transit system under a similar ownership arrangement and federal transit funding to such systems would not likely be affected.

In addition, many shared-ride taxis systems, which also receive federal transit operating assistance, are privately owned and operated. In 2010, these systems served 40 nonurbanized areas in state with populations of 50,000 or less. These systems generally contract with the local municipalities for the provision of transit service. As a result, such systems would also not likely be affected by the proposed changes to municipal employee collective bargaining rights included in SS SB 11.

As indicated earlier, the state received \$73.9 million federal transit funding in 2010. Approximately \$22.5 million of this funding was for the Milwaukee urbanized area. Other non-specific funds may also go to Milwaukee urbanized area. In addition, in 2010, shared-ride tax systems received \$4.8 million in federal transit aid. Therefore, \$27.3 million in the state's federal transit aid would not likely be affected by the changes in SS SB 11. However, the remaining \$46.6 million to Tier A-1, Tier B, and Tier C bus systems could potentially be withheld from state transit

systems under the federal 13(c) provisions as a result of the changes to municipal collective bargaining under SS SB 11, unless further actions are taken.

The state and those transit systems that receive federal transit aid directly have yet to apply for their federal fiscal year 2011 federal transit funding. The state applies for aid for those nonurbanized systems serving areas of 50,000 in population or less. All other systems apply directly to FTA for their annual federal funding. At the time of the application for federal funding, each applicant has to certify that the 13(c) collective bargaining provisions have been met. FTA then provides the certifications to the U.S. Department of Labor for their review and for public comment.

I hope this information is helpful. Please contact me if you have any further questions.

AR/le
Attachments

ATTACHMENT 1

49 U.S.C. 5333(b) (also known as Section 13(c) of the Federal Transit Act)

(1) As a condition of financial assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for--

- the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;
- the continuation of collective bargaining rights;
- the protection of individual employees against a worsening of their positions related to employment;
- assurances of employment to employees of acquired public transportation systems;
- assurances of priority of reemployment of employees whose employment is ended or who are laid off; and
- paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994 with respect to grant NV-90-X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

ATTACHMENT 2

U.S. Department of Labor

Office of Labor-Management Standards
Washington, DC 20210
(202) 693-0202



February 16, 2011

Al Runde
Legislative Fiscal Bureau
Wisconsin Legislature
One East Main, Suite 301
Madison, WI 53703

FAX: (608) 267-6873
Email: al.runde@legis.state.wi.us

Dear Mr. Runde:

The following is a response to your request yesterday for information regarding DOL labor certification of Federal Transit Administration grants.

When Federal funds are used to acquire, improve, or operate a transit system, Federal law requires arrangements to protect the rights of affected transit employees. These arrangements must be approved by the Department of Labor (DOL) before the Department of Transportation's Federal Transit Administration (FTA) can release funds to grantees. The terms and conditions of the protective arrangements are included in the grantee's contract with FTA.

The requirement to protect transit employees is contained in Section 5333(b) of Title 49 U.S. Code (formerly Section 13(c) of the Federal Transit Act). Section 5333(b)(2) specifies that the arrangements must provide for: (A) the preservation of rights and benefits of employees under existing collective bargaining agreements or otherwise, (B) continuation of collective bargaining rights, (C) protection of individual employees against a worsening of their positions in relation to their employment, (D) assurances of employment to employees of acquired transit systems, and; (E) priority of reemployment, and paid training or retraining programs.

Section 13(c) requires governing bodies to continue "collective bargaining rights" that existed at the time of the initial influx of Federal assistance. In the past, some states that have prohibited public sector collective bargaining have ensured continuation of collective bargaining rights by a "Memphis Plan," where the transit authority contracts with a management company to operate the system and to hire workers, thus maintaining the private sector rights of the employees. If changes in a state law affect the collective bargaining rights employees enjoyed at the initial influx of federal assistance alternative employee protections may be required to address these changes. The need for alternative protections would be addressed in the context of a pending grant application. This does not preclude the parties from addressing this issue in advance of a pending grant application.

If you have any additional questions in this matter, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink, appearing to read "John Lund".

John Lund, PhD
Director

Transit Keeps Wisconsin Working



Wisconsin is open for business.

And Wisconsin businesses count on public transit to deliver workers right to the front door. Nearly 50% of Wisconsin transit riders rely on the bus to get to jobs or job training. That adds up to millions of trips every year. Employers expect transit to be there to help them attract and retain the best workers.

Additionally, tens of thousands of students utilize high school and university bus pass programs all over the state in places like Oshkosh, La Crosse and Eau Claire, making public transit a critical component in the development of a highly-educated future workforce.

“Public transportation is ‘table stakes’. Businesses simply expect that it will be there in communities where they are considering locating.”

Tim Sheehy,
President of the Greater Milwaukee Area Chamber of Commerce



Transit boosts economic growth.

When money is invested in public transit, that investment is used to provide a product that enables spending in retail, healthcare, education and recreation. A study commissioned by the Wisconsin DOT shows that, on average, every \$1 invested in public transit provides a \$3.61 economic return to the state. When Wisconsin invests in public transit, the whole state wins.

Transit is a lifeline.

Wisconsin's network of buses and sharedride taxis enables thousands of citizens with no other means of transportation - seniors, the disabled and those with limited incomes - to live better lives. Trips to work, school, medical care and social activities are all made possible by transit.



Keep transit moving the right direction!

Public transit spending accounts for less than 5% of Wisconsin's transportation budget, but that small investment does so much for the citizens of Wisconsin and the economy. Several issues are key at the State level:

- Transit is a critical component of Wisconsin's transportation infrastructure and it is essential that its funding remain a priority in the next biennial budget as well as remain in the segregated Transportation Fund.
- Enact legislation allowing the creation of local or regional funding alternatives for transit.
- Maintain previously authorized RTAs.
- Continue to find ways to coordinate and adequately fund public transit and human service transportation.

“Having an effective mass transit system is important to the overall quality of life as well as the economic strength of our community.”

Paul Renard, Senior VP, M&I



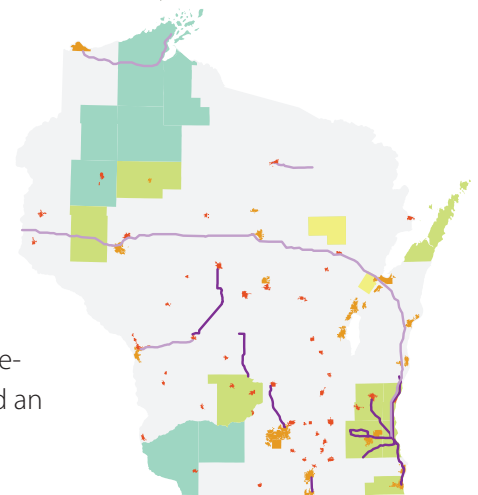
WISCONSIN
URBAN & RURAL
TRANSIT ASSOCIATION

www.wisconsintransit.org

Transit is part of the fabric of Wisconsin communities.



In 77 communities, from Kenosha to Superior and everywhere in between, citizens depend on transit. It benefits everyone in the community, not just those who ride it millions of times each year. It might be a family member, friend or maybe the clerk in the grocery store, but chances are someone who depends on public transit had an impact on your life today.



“Without transit we can’t get the people to our campus to do what this community needs. And that is educating more young people to become, really tomorrow’s leaders.”

Tom Luljak, Vice Chancellor, UWM

“At Godfrey and Kahn almost 12% of our employees count on the bus to get them to work every day.”

Rick Bliss, Managing Partner, Godfrey & Kahn



“Bus, volunteer driver, specialized medical vehicle and shared ride taxi systems work together to provide safe, reliable rides to services that help steadfastly independent older folks in rural Wisconsin maintain their quality of life while remaining in their own homes.”

Judy Lindholm, Director, Iowa County Aging and Disability Resource Center

“In order for our cities, regions and State to grow, we must invest in public transportation and the connections that are needed to allow for job growth and connectivity.”

Susan Schmitz, President, Downtown Madison, Inc.



**WISCONSIN
URBAN & RURAL
TRANSIT ASSOCIATION**

www.wisconsintransit.org

For More Information, Contact:

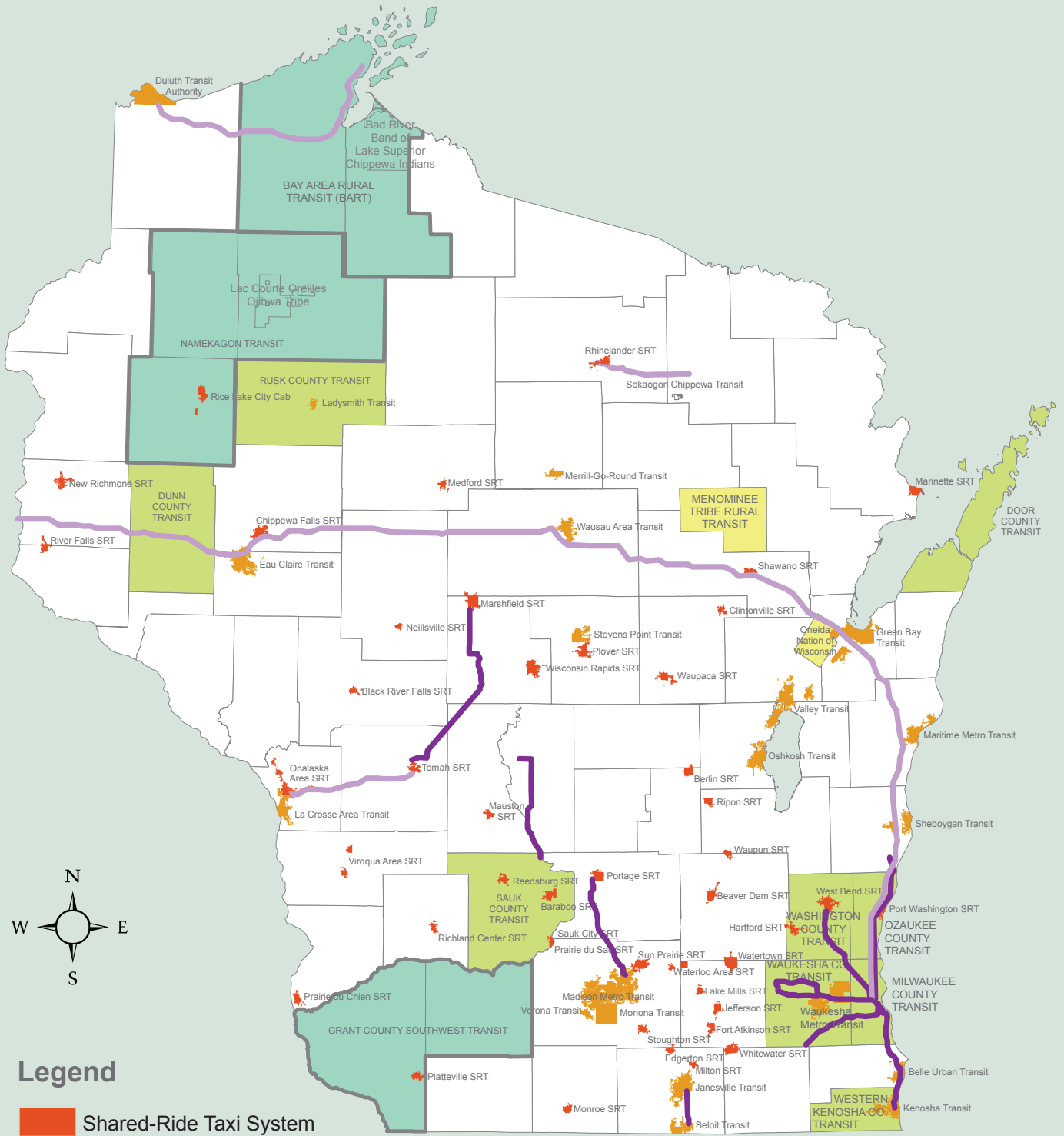
Gary Goyke

Legislative Liaison, Wisconsin Urban and Rural Transit Association
608-237-8121
gary.goyke@gmail.com

Anita Gulotta-Connelly

Chair, Wisconsin Urban and Rural Transit Association
President and Managing Director
Milwaukee County Transit System
414-937-3205
aconnelly@mcts.org

2010 Wisconsin Public Transit Systems



Legend

- Shared-Ride Taxi System
- Municipal Bus System
- Reservation-Wide Transit System
- County-Wide Transit System
- Multi-County Transit System
- Publicly Funded Inter-City Service
- Shuttle/Commuter Service