

Wisconsin Transportation Ballot Initiative

Presented to NCSL Fiscal Analysts Seminar in Seattle, WA (October, 2014)

BREAKOUT SESSION

Transportation:

Lock boxes and Legislation: State Efforts to Dedicate and
Protect Transportation Revenues

Al Runde, Supervising Analyst

State of Wisconsin Legislative Fiscal Bureau

Areas of Discussion

- Introduction
- Background
- "How We Got Here" (reasons behind the move to amend the state's constitution to create a "lock box" for transportation).
- What is the process for amending the Wisconsin Constitution.
- Language of the proposed amendment.
- Other interesting facts.
- Discussion on potential impact of "lock box" amendment.

Introduction

Al Runde, Wisconsin Legislative Fiscal Bureau

- Responsible for analyzing transportation program and financing issues.
- Also responsible for property taxes, local government option taxes, and state building program and state debt financing issues.
- Have been staff to Legislature for past 20 years at LFB.
- Also worked at U.S. Government Accountability Office (GAO) as staff to the U.S. Congress (4 years) and as budget analyst with the Department of Navy (1.5 years).

Background: State of Wisconsin Budget

- Wisconsin has a biennial state budget.
- Like many states, Wisconsin has a large General Fund where most general tax revenues (sales, income, excise) are deposited, and which funds aid programs for schools and local governments, university and technical college systems, corrections, health services (including medical assistance), and other general government activities.
- Wisconsin also has several large segregated funds, to which only revenues from statutorily designated taxes, fees, and other receipts are deposited (e.g., motor vehicle fuel tax, vehicle registrations, and driver's licenses are deposited to the Transportation Fund).

Background: Fund Comparison

- General Fund Revenues (2013-14): \$13.9 billion
- Segregated Transportation Fund Revenues (2013-14):

| Source | Collections (\$ in Millions) | % of Total |
|---------------------------|---------------------------------|---------------|
| Fuel Tax | \$999.4 | 54.3% |
| Vehicle Registration Fees | 657.7 | 35.7 |
| Driver License Fees | 39.2 | 2.1 |
| Other Vehicle Revenues | 26.1 | 1.4 |
| Other Revenues | <u>119.5</u> | <u>6.5</u> |
| Total | \$1,841.9 | 100.0% |

How We Got Here: Possible Reasons for Constitutional Amendment ("Lock-Box")

Two primary reasons:

- 1) Use of segregated Transportation Fund revenues for General Fund purposes.
- 2) Limited revenue growth and increased use of debt in the segregated Transportation Fund.

Use of Transportation Fund for General Fund Purposes: Projected General Fund Shortfalls

- In mid-2000's, and into the current decade, the state's general fund budget faced a series of projected biennial structural imbalances.

A structural imbalance projection equals base revenues in upcoming biennium (no revenue growth) less the cost to fund current programs (under existing statutes) in next biennium.

2003-05 biennium: -\$2.8 billion

2005-07 biennium: -\$1.5 billion

2007-09 biennium: -\$1.5 billion

2009-11 biennium: -\$1.7 billion

- Governor and Legislature generally controlled by opposite parties during this period.
- With tax increases unlikely, remaining options included: spending reductions; getting additional, existing revenues to General Fund; and/or off-loading some General Fund expenditures onto another funding source.

State Borrowing: Another Option?

- State budget must be balanced on a current year revenue and expenditure basis.
- One alternative option when revenues are out of line with expenditures: borrow.
- In borrowing, bond proceeds are essentially revenues, while the annual debt service needed to repay the bonds are expenditures.
- Borrowing allows state to leverage larger spending amounts from fewer current year dollars (for e.g. \$100 million in bond proceeds funds \$100 million in current year expenditures but results in only \$6.5 million in current year debt service spending).

Borrowing to Help General Fund Shortfall?

- Under the Wisconsin Constitution, the state can only borrow for internal improvements (i.e. buildings, roads and other infrastructure) that have a public purpose.
- State government cannot borrow for general or administrative expenditures.
- Most General Fund revenues are used to support non-infrastructure expenditures, and therefore borrowing for these General Fund expenditures cannot solve the General Fund shortfall.
- However, state historically budgeted significant amounts of "cash" for road infrastructure rehabilitation and construction.

Result: State Debt for Road Infrastructure, and "Road Cash" for General Fund

- Consecutive state budgets appropriated (or "raided", as opponents refer to it) segregated Transportation Fund revenues that had historically been used to "cash fund" or support debt for road projects and used those funds to:
 - support General Fund expenditures that could not be funded with borrowing.
 - leverage additional borrowing to be repaid from the Transportation Fund.
- However, during this period, most of the "road cash" used for historically General Fund expenditures or purposes was replaced with General Fund supported borrowing for road infrastructure, for which such borrowing is allowed.

**Net Loss/Gain to Transportation Programs Due to Transfers
(\$ in Millions)**

| | <u>2003-05</u> | <u>2005-07</u> | <u>2007-09</u> | <u>2009-11</u> | 8-Year <u>Total</u> |
|------------------------------|----------------|----------------|----------------|----------------|------------------------|
| Transfers and Appropriations | -\$682.6 | -\$431.7 | -\$162.0 | -\$125.6 | -\$1,401.9 |
| General Fund-Supported Bonds | 565.5 | 250.0 | 50.0 | 204.7 | 1,070.2 |
| Trans. Fund Debt Service | <u>-43.9*</u> | <u>0.0</u> | <u>0.0</u> | <u>0.0</u> | <u>-43.9</u> |
| Total Loss(-)/Gain(+) | -\$161.0 | -\$181.7 | -\$112.0 | +\$79.1 | -\$375.6 |

* In the 2003-05 biennium, debt service on replacement bonds was initially paid from the Transportation Fund.

Limited Transportation Fund Revenue Growth and Increased Transportation Debt

Transportation Debt Service as a Percentage of Revenues Including Ongoing Transfers from Other Funds (\$ in Millions)

| Fiscal Year | Debt Service | Transportation Revenues | Debt Service Percentage |
|-------------|--------------|-------------------------|-------------------------|
| 2005-06 | \$148.2 | \$1,523.3 | 9.7% |
| 2006-07 | 165.3 | 1,612.9 | 10.2 |
| 2007-08 | 187.5 | 1,681.3 | 11.2 |
| 2008-09 | 191.0 | 1,693.6 | 11.3 |
| 2009-10 | 184.8 | 1,704.1 | 10.8 |
| 2010-11 | 197.2 | 1,722.1 | 11.5 |
| 2011-12 | 240.7 | 1,750.2 | 13.8 |
| 2012-13 | 259.5 | 1,761.7 | 14.7 |
| 2013-14* | 297.0 | 1,823.1 | 16.3 |
| 2014-15* | 342.1 | 1,849.7 | 18.5 |
| 2015-16** | 373.2 | 1,877.4 | 19.9 |
| 2016-17** | 371.9 | 1,905.6 | 19.5 |

* Estimated amounts.

** Projections based on 1.5% annual revenue growth and current bond authorization.

Legislation to Stop "Raid" on Transportation Fund

- Opponents of using Transportation Fund revenues for General Fund purposes argued that the policy runs contrary to the concept that the state's transportation finance system is a user fee based system.
- They contend that taxpayers, in paying transportation-related tax and fee revenues, trust that those taxes and fees are only to be used to pay for transportation purposes and infrastructure.
- Lack of growth in Transportation Fund revenues meant every dollar was needed for transportation.
- "Lock Box" legislation was enacted, which enumerated the programs that statutorily designated revenues to the Transportation Fund could be used to fund. However, such laws could be not-withstood, amended, or repealed by subsequent Legislatures.
- Constitutional amendment would be the only way to create a permanent "lock box" where transportation revenues could only be used for transportation purposes.

Constitutional Amendment Process

- The Wisconsin Constitution establishes the procedure by which the Constitution can be amended.
- The Constitution can only be amended by a vote of the people, either by voting to require a constitutional amendment or by voting on a proposed amendment adopted by two consecutive Legislatures.
- The Legislature can initiate a constitutional amendment by passing a joint resolution that has originated in either house, with a majority vote of members in both houses. This is referred to as "first consideration."
- The next Legislature can consider and debate the amendment but cannot change the amendment. This is called "second consideration."
- On "second consideration", the resolution must contain a complete and precise statement of the question that will appear on the ballot.

Constitutional Amendment Process (continued)

- The Governor has no official role in the constitutional amendment process.
- If the second legislature agrees on "second consideration" of the proposal by a majority vote in each house, the Secretary of State forwards the proposal to the election officials of each county, who place the proposed amendment on a statewide ballot.
- The ballot question must fairly state the effect of the proposed amendment.
- If a majority of the electors voting approve and ratify the amendment, the amendment becomes part of the Constitution.
- The ballot proposal process from initial adoption by the Legislature to ratification has taken as little as nine months, but usually takes up to three years.

Ballot Question

Question 1: "Creation of a Transportation Fund.

Shall section 9 (2) of article IV and section 11 of article VIII of the constitution be created to require that revenues generated by use of the state transportation system be deposited into a transportation fund administered by a department of transportation for the exclusive purpose of funding Wisconsin's transportation systems and to prohibit any transfers or lapses from this fund?"

Proposed Language

The proposed constitutional language contains three distinct parts.

1) Department of Transportation and Transportation Fund Constitutional Creation

[Article IV] Section 9(2). The Legislature shall provide by law for the establishment of a Department of Transportation and a transportation fund.

2) Definition of Revenues to the Transportation Fund

[Article VIII] Section 11. All funds collected by the state from any taxes or fees levied or imposed for the licensing of motor vehicle operators, for the titling, licensing, or registration of motor vehicles, for motor vehicle fuel, or for the use of roadways, highways, or bridges, and from taxes and fees levied or imposed for aircraft, airline property, or aviation fuel or for railroads or railroad property shall be deposited only into the transportation fund or with a trustee for the benefit of the Department of Transportation or the holders of transportation-related revenue bonds, except for collections from taxes or fees in existence on December 31, 2010, that were not being deposited in the transportation fund on that date.

Proposed Language (cont.)

3) Use of Transportation Fund Revenues

[Article VIII] Section 11 (continued). None of the funds collected or received by the state from any source and deposited into the transportation fund shall be lapsed, further transferred, or appropriated to any program that is not directly administered by the Department of Transportation in furtherance of the Department's responsibility for the planning, promotion, and protection of all transportation systems in the state except for programs for which there was an appropriation from the transportation fund on December 31, 2010.

Of Interest: The State's General Fund Has Repaid Transportation Fund

Net Loss/Gain to Transportation Programs Due to Transfers (\$ in Millions)

| | 8-Year <u>Total</u> | <u>2011-13</u> | <u>2013-15</u> | <u>Total</u> |
|----------------------------------|------------------------|----------------|----------------|--------------|
| Transfers Out and Appropriations | -\$1,401.9 | \$0.0 | \$0.0 | -\$1,401.9 |
| Transfers Into Trans. Fund | 0.0 | 160.1 | 213.7 | 373.8 |
| General Fund-Supported Bonds | 1,070.2 | 115.4 | 200.0 | 1,385.6 |
| Trans. Fund Debt Service | <u>-43.9</u> | <u>0.0</u> | <u>0.0</u> | <u>-43.9</u> |
| Total Loss(-)/Gain(+) | -\$375.6 | +\$275.5 | +\$413.7 | +\$313.6 |

Discussion

Prospects of Passing?

- on statewide ballot on November, 4th
- contested Governor's race

Impact if Passed?

- ongoing transportation revenue and debt service concerns remain
- will it truly be a "lock box"
- impact on budget flexibility