

# SENATE BILL No. 835

March 25, 1992, Introduced by Senators BARCIA, EHLERS, GEAKE, HONIGMAN, CISKY, DI NELLO, CHERRY, STABENOW, BERRYMAN, MC MANUS, DINGELL, CONROY, POLLACK and KELLY and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend section 10 of Act No. 295 of the Public Acts of 1976, entitled as amended

"State transportation preservation act of 1976,"

as amended by Act No. 210 of the Public Acts of 1984, being section 474.60 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 10 of Act No. 295 of the Public Acts of  
2 1976, as amended by Act No. 210 of the Public Acts of 1984, being  
3 section 474.60 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5 Sec. 10. (1) In weighing the varied interests of the resi-  
6 dents of this state, the department shall give consideration to  
7 the individual interest of any person, public or private  
8 corporation, local or regional transportation authority, local  
9 governmental unit, private carrier, group of rail users, state

1 agency, other public or private entity, including a port  
2 authority established under the Hertel-Law-T. Stopczynski port  
3 authority act, Act No. 639 of the Public Acts of 1978, being sec-  
4 tions 120.101 to 120.130 of the Michigan Compiled Laws, or any  
5 combination of these entities, expressing a desire to acquire or  
6 lease or secure an easement for the use of a portion or all of  
7 the real property owned by a railroad company. The property  
8 acquired by the department under this act may be conveyed or  
9 leased to an entity or combination of entities listed in this  
10 subsection with appropriate reimbursement, as determined by the  
11 department.

12       (2) Upon acquisition of a right of way, the department may  
13 preserve the right of way for future use as a railroad line and,  
14 if preserving it for that use, shall not permit any action which  
15 would render it unsuitable for future rail use. However, if the  
16 department determines a right of way or other property acquired  
17 under this act is no longer necessary for railroad transportation  
18 purposes, the department may preserve and utilize the right of  
19 way for other transportation purposes or may dispose of the right  
20 of way or other property acquired under this act for the purposes  
21 described in section 6, or may dispose of or lease the right of  
22 way or other property for other purposes, as appropriate.

23 However, the department shall not dispose of or lease a right of  
24 way without first offering to transfer the right of way to the  
25 department of natural resources. If the department of natural  
26 resources desires to lease or purchase the right of way, the  
27 department of natural resources must indicate their desire within

1 60 days and accept the offered transfer within 1 year after the  
2 offer is made. If the department of natural resources does not  
3 indicate their desires within 60 days, the department may dispose  
4 of or lease the right of way as otherwise provided for in this  
5 act. If the department of natural resources does not accept the  
6 offered transfer within 1 year after indicating their desire to  
7 lease or purchase the right of way, the department may dispose of  
8 or lease the right of way as otherwise provided for in this act.  
9 When appropriate, a right of way or other property shall be  
10 transferred or leased to a public or private entity with appro-  
11 priate reimbursement, as determined by the department.

12 (3) In preserving a right of way for future rail use, the  
13 department may do 1 or more of the following:

14 (a) Develop the right of way for use as a commuter trail  
15 where the use is feasible and needed or lease the right of way to  
16 a county, city, village, or township expressing a desire to  
17 develop the right of way as a commuter trail. The lease shall be  
18 for an indefinite period of time, cancelable by the department  
19 only if the right of way is needed for rail usage. The trails,  
20 unless leased to a county, city, village, or township, shall  
21 remain under the jurisdiction of the department.

22 (B) CONVEY THE RIGHT OF WAY TO THE DEPARTMENT OF NATURAL  
23 RESOURCES FOR USE AS A MICHIGAN TRAILWAY PURSUANT TO THE MICHIGAN  
24 TRAILWAYS ACT, IF THE DEED INCLUDES RESTRICTIONS ON THE USE OF  
25 THE PROPERTY THAT WILL ASSURE THAT THE PROPERTY REMAINS VIABLE  
26 FOR FUTURE RAIL USAGE, AND INCLUDES A CLAUSE THAT PROVIDES THAT  
27 THE DEPARTMENT OF NATURAL RESOURCES SHALL CONVEY THE RIGHT OF WAY

1 TO THE DEPARTMENT FOR A COST THAT BEARS THE SAME RELATIONSHIP TO  
2 FAIR MARKET VALUE AS THE PREVIOUS CONVEYANCE, UPON A DETERMINA-  
3 TION OF THE STATE TRANSPORTATION COMMISSION THAT THE RIGHT OF WAY  
4 IS NEEDED FOR USE AS A RAILROAD LINE.

5 (C) ~~-(b)-~~ Lease the right of way to the department of natu-  
6 ral resources, or upon approval of the department of natural  
7 resources, to a county, city, village, or township for use as a  
8 recreational trail. The lease shall be for an indefinite period  
9 of time, cancelable by the department only if the right of way is  
10 needed for rail usage. A recreational trail shall be reserved  
11 for non-motorized forms of recreation or snowmobiling only.  
12 Snowmobiling shall not be allowed on more than 50% of the mileage  
13 of the recreational trails established pursuant to this act.

14 (D) ~~-(e)-~~ In cases where a trail serves both a significant  
15 commuter and recreation function, authorize the joint development  
16 of the trail by the department and the department of natural  
17 resources, or the department and any interested county, city,  
18 village, or township. Administration of the trail shall be  
19 determined jointly by the department and the department of natu-  
20 ral resources.

21 (4) PRESERVATION OF A RIGHT OF WAY FOR FUTURE RAIL USE, AS  
22 PROVIDED FOR IN THIS SECTION, SHALL NOT BE TREATED, FOR PURPOSES  
23 OF ANY LAW OR RULE OF LAW, AS AN ABANDONMENT, DISCONTINUANCE, OR  
24 CESSATION OF THE USE OF SUCH A RIGHT OF WAY FOR RAILROAD  
25 PURPOSES.

1       Section 2. This amendatory act shall not take effect unless  
2 Senate Bill No. 834  
3               of the 86th Legislature is enacted into law.