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RR GRADE CROSSING FUNDS

House Bill 4900 with committee
amendments
First Analysis (10-6-93)

Sponsor: Rep. Sandra Hill
Committee: Transportation

THE APPARENT PROBLEM:

Public Act 51 of 1951 governs the state highway system and provides for various highway and transportation funds and accounts, including the railroad grade crossing account within the State Trunk Line Fund. This account was established to pay for improving, installing and retiring new or existing safety devices at all railroad grade crossings on public roads and streets in the state. The act currently provides that money from this account may be spent only 1) after federal funds from certain federal program funds have been completely used, and 2) if "the affected railroad" pays 25 percent and the local road authority pays 10 percent of the costs for which appropriations have been made under the act. According to the Department of Transportation, however, provisions requiring matching funds by both local road authorities and railroads are no longer consistent with federal requirements. Moreover, these requirements often result in less work being done to repair or replace poorly-designed, faulty or obsolete railroad crossings that pose a threat to drivers, primarily as local governments and railroads disagree over the amount of matching funds both must pay to receive matching state and federal funds. In many instances, money set aside each fiscal year in the fund for these purposes is not used as quarrels over who should pay what fail to be resolved. Others complain the act fails to ensure that funds for improving rail grade crossings are directed toward projects requiring the most immediate attention. To correct these problems, legislation has been requested by the transportation department that would revise the criteria that govern how money from this special account may be spent.

THE CONTENT OF THE BILL:

The bill would amend Public Act 51 of 1951 (MCL 247.660 et al.) to delete current provisions governing how money from the rail grade crossing account within the State Trunk Line Fund may be spent and

replace them with new provisions that would be in effect until September 30, 1998. Under the bill, railroad grade crossing account projects would be selected for funding based on the following guidelines:

- * Not more than 50 percent or less than 30 percent of the funds and matched federal funds could be spent for state trunk line projects.
- * The Department of Transportation (DOT), in prioritizing projects for funding (in whole or in part) would have to consider train and vehicular traffic volumes, accident history, traffic control device improvement needs, and the availability of funding.
- * Consistent with other requirements for these funds, the first priority for money deposited into the fund would be to match federal funds from the Railroad-Highway Grade Crossing Improvement Program or other comparable federal programs.
- * If federal funds from the railroad-highway improvement program or another similar federal program had been exhausted, funds deposited into the railroad grade crossing account would have to be used to fund 100 percent of grade crossing projects that received a high priority pursuant to criteria established by DOT.
- * State railroad grade crossing funds could not be used, either as 100 percent of project cost or to match federal railroad-highway grade crossing improvement funds, for a crossing that DOT determined (according to its criteria) was a lower priority than other projects that had not yet been funded. However, if sufficient funds were available, these account funds could be used for not more than 50 percent of a project's cost for a crossing that DOT determined to be a lower priority if the balance of not less than 50 percent of the project's

cost was provided by the road authority, railroad or other sources.

* The type of railroad grade crossing improvement, installation, relocation or retirement of grade crossing surfaces, active and passive traffic control devices, pavement marking, or other related work would be eligible for account funds in the same manner as the project type eligibility provided by the federal funds from the railroad-highway grade crossing improvement program, except that the funds 1) could be used, relative to new railroad crossings, for the crossing surface, active and passive traffic control devices, pavement marking and other necessary improvements, and 2) could be used for the modification, relocation, or modernization of railroad grade crossing facilities made necessary by roadway improvement projects. Also, if DOT and the local road authority formally agreed that the grade crossing should be eliminated by permanent closing of the public roadway which it traversed, the road authority that made the closing would have to receive \$5,000. In addition, any connecting road improvements necessitated by the grade crossing closure would be reimbursable on an actual cost basis not to exceed \$10,000 per crossing closed. The physical removal of the crossing, roadway within the railroad rights of way, and street termination treatment would be negotiated between the road authority and railroad company. The funds provided to the road authority as a result of the crossing closure would be credited to its account representing the same road or street system on which the crossing was located.

The act now specifies that all federal aid construction projects and all other projects of the department related to roadways and bridges whose cost exceeds \$20,000 for construction or maintenance must be performed by contract awarded by competitive bidding, unless DOT determines that some other method is in the public interest. The bill would raise this threshold to \$50,000. The act also requires certain information to be reported by DOT to the State Transportation Commission 90 days before work on such a project is begun; the bill, however, would permit such information to be filed, in situations where DOT determined that emergency action was required, soon after the work had begun.

Currently, amounts distributed to county road commissions must be returned to their respective county treasurers in the manner, for the purposes,

and under the terms and conditions stated in the act. The bill specifies that in each charter county to which funds were returned, the responsibility for road improvement, maintenance and traffic operation work, and the development, construction or repair of off-road parking facilities and construction or repair of road lighting would have to be coordinated by a single administrator to be designated by the governing body. The administrator would be charged with representing the charter county in transactions with DOT pursuant to the act's provisions.

Finally, the act requires DOT, within 30 days after the close of each state fiscal year, to furnish the legislature and the governor a detailed report of revenues credited to the Michigan Transportation Fund, as well as certain other information pertaining to the fund. The bill would require this information to be submitted within 120 days after the close of a state fiscal year.

FISCAL IMPLICATIONS:

The Department of Transportation says the bill would affect the department in a number of ways. First, by removing the requirement that local governments and railroads provide matching funds to receive rail grade crossing account funds, it should allow the department to commit all of the funds appropriated for these purposes. Also, by raising the threshold at which the department must competitively bid out certain projects, the bill would save the department time and money that it otherwise spends doing this for smaller projects. The department, however, says the bill could increase other administrative duties by raising, at least initially, the number of applications for 100 percent funding from the account; the extent of any such increase and its impact on the department's other duties, however, could not be determined.

The department says local governments would save money under the bill as they no longer would have to provide a ten percent match to receive rail grade crossing account money. In addition, they would be eligible to receive \$5,000 for closing unnecessary or redundant railroad crossings and up to \$10,000 for road improvement work related to a closure. The department also says railroad companies would save money under the bill as they would no longer have to provide a 25 percent match to receive grant money from the rail grade crossing account. (10-4-93)

ARGUMENTS:***For:***

The bill would increase the Department of Transportation's ability to provide rail grade crossing safety improvements by enabling it to use all funds set aside in the railroad grade crossing account. Currently, the act's requirement that local governments provide a ten percent match and railroads provide a 25 percent match in order to receive money from this account causes disagreements between these entities, which delays work on projects and results in leftover money in the account at the end of each fiscal year. The bill would remove these matching requirements and would enable local governments to receive additional grant money (pending approval by MDOT) if they chose to permanently close a roadway traversing a railroad grade crossing. In addition, the bill would put into place a more detailed system of directing fund money to those projects most in need of repairs or replacement. By directing more money to railroad grade crossing projects, and especially to those that need immediate repairs, the bill would improve safety conditions at them and, thus, help to better protect the driving public and those who operate and travel on trains.

For:

The bill would raise the threshold at which competitive bids on certain transportation projects would have to be taken by the department from \$20,000 to \$50,000, which would save the department administrative costs and allow more time and funds to be directed toward the projects themselves.

Response:

Raising the threshold would reduce the number of projects available to be bid on by road builders and others involved in such projects and, thus, could have a negative impact on this important sector of the state's building industry.

SUGGESTED AMENDMENTS:

The Department of Transportation suggests amending the bill to include a number of changes which it describes as technical in nature. Among these changes is language that would keep the threshold at which competitive bids on certain projects would have to be taken at \$20,000 (rather than raising it to \$50,000), and adding a provision specifying that interest earned on certain railroad

grade crossing account funds that was returned to a local government would have to be credited to the appropriate street fund.

A spokesman for Wayne County also suggests amending the bill to include language described by it as technical relative to the appointment of a single administrator (who, under the bill, would oversee certain road improvement and maintenance projects). The bill should provide for this person to be appointed by the county executive, rather than the "governing body."

POSITIONS:

The Michigan Railroads Association supports the bill. (10-1-93)

The Department of Transportation would support the bill with its suggested amendments (see SUGGESTED AMENDMENTS). (10-5-93)

The County Road Association of Michigan would support the bill with the suggested amendments. (10-6-93)

Wayne County would support the bill with its suggested amendment. (10-6-93)

The Michigan Municipal League supports the concept of the bill, but has no formal position. (10-5-93)