



**House
Legislative
Analysis
Section**

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STATE RAIL DIVESTITURE

House Bill 5598 as enrolled (Vetoed)
Second Analysis (1-16-97)

Sponsor: Rep. John Gernaat
House Committee: Transportation
Senate Committee: Agriculture and Forestry

THE APPARENT PROBLEM:

As state officials consider various alternatives for raising revenues to finance a huge backlog of transportation infrastructure needs in Michigan, numerous cost-saving measures have been proposed that some people believe should first be pursued before other actions are taken. One of these involves state ownership of and responsibility for more than 700 miles of railroad track--which represents about 20 percent of the nearly 4,000 miles of tracks existing in the state--that the state acquired over the last 20 years following the bankruptcies of two prominent railroad companies. After the Department of Transportation proposed selling outright most of these rails, however, a suit was filed against it by an operator of one of the railroad sections MDOT planned to sell requesting an injunction preventing MDOT from proceeding further with the matter. Meanwhile, the House Transportation Committee recently held public hearings to determine what impact the sale of the tracks might have on shippers and various industries in northern Michigan that rely on the rails in question. Because of fears that outright sale of the rails could do economic harm to shippers, railroads and some northern areas of the state, some people believe it would be more prudent to require the department merely to offer long-term leases to current contract operators of state-owned rail property or, in the event they were not interested, to certain other interested parties.

THE CONTENT OF THE BILL:

The State Transportation Preservation Act, Public Act 295 of 1976, provides for the acquisition and management of abandoned railroad property by the Department of Transportation. Among other things, the act permits the department to convey or lease acquired rail property to certain specified entities for appropriate reimbursement.

The bill specifies that, within 90 days of its effective date, the department would have to offer by exclusive lease of 25 years to each current contract operator that currently held less than a 5-year lease with the department that segment of state-owned rail property he

or she currently operated. Specific terms of any leases would be as determined by the department, including authorization for the current contract operator to offer trackage rights and enter into other agreements with other carriers, to accommodate the best interests of all the state's citizens. A party that entered into an agreement to lease a segment would have to agree to provide to shippers service that met certain conditions, and for a specified period of time, as determined by the department.

If the current contract operator of a section of state-owned rail property was unwilling or unable to lease that particular segment under the terms determined by the department, the segment would then have to be offered for lease, under the same financial terms, to the following parties in descending order:

- * current shippers;
- * governmental entities; or
- * other railroad companies.

MCL 474.53 and 474.60

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would result in an indeterminate fiscal impact to the state that would depend on the terms of individual leases agreed to by the state and any potential lessees. (11-14-96)

According to the Senate Fiscal Agency, currently six freight railroad companies operate on 706 miles of state-owned right-of-way. Operating agreements expire in 1998 and require rail operators to perform maintenance on the state-owned rail line. The extent to which the 25-year leases offered under the bill differed from the current short-term lease agreements would determine the fiscal impact of the bill. (12-9-96)

House Bill 5598 (1-16-97)

ARGUMENTS:***For:***

The bill would move the state toward divesting itself from the responsibility of maintaining over 700 miles of railroad tracks, while ensuring that these tracks still would be maintained at appropriate levels so that shippers and industries that depend on the goods shipped over them could still get reasonable access to the lines. Under the bill, current contract operators of given sections of rail lines would be given the first opportunity to enter into long-term leases with the state under terms determined by MDOT. If these operators either could not or would not enter into lease arrangements, the bill would require MDOT to offer a given segment of rail line under the same terms to either current shippers on it, governmental entities, or other railroad companies. It is anticipated that the bill would enable the state to cut its costs related to maintaining these rail properties, while ensuring that these rails would continue to be maintained adequately and to be operated in an equitable fashion by anyone who agreed to MDOT's terms under a long-term lease.

Against:

As introduced, the bill called for the state to sell these railroad sections outright, which is what MDOT originally planned to do. The state would be wise to entirely divest itself of these properties and use any revenue gained from selling them--and the personnel and resources that divestiture would free up--to focus attention on fixing the state's crumbling roads and bridges. As the governor pointed out in his veto message, the bill would prohibit this. In addition, the governor stated his objection to provisions that would pre-select who will receive 25-year leases. The governor stated his belief that the competitive bidding process should be used for all major governmental contracts to assure the best terms possible and to guarantee the integrity of the process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.