



HOUSE BILL No. 5598

February 15, 1996, Introduced by Reps. Gernaat, Harder, McBryde, Bobier, McManus, Gnodtke, Lowe, Gagliardi, Bodem, Alley, Goschka, McNutt, London, Curtis, Baade, DeLange and Llewellyn and referred to the Committee on Transportation.

A bill to amend sections 3 and 10 of Act No. 295 of the Public Acts of 1976, entitled as amended "State transportation preservation act of 1976," section 3 as amended by Act No. 210 of the Public Acts of 1984 and section 10 as amended by Act No. 28 of the Public Acts of 1993, being sections 474.53 and 474.60 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3 and 10 of Act No. 295 of the Public
2 Acts of 1976, section 3 as amended by Act No. 210 of the Public
3 Acts of 1984 and section 10 as amended by Act No. 28 of the
4 Public Acts of 1993, being sections 474.53 and 474.60 of the
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 3. The department shall administer this act and may
7 promulgate rules pursuant to the administrative procedures act of

1 1969, Act No. 306 of the Public Acts of 1969, ~~as amended,~~ being
2 sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled
3 Laws.

4 Sec. 10. (1) In weighing the varied interests of the resi-
5 dents of this state, the department shall give consideration to
6 the individual interest of any person, public or private corpora-
7 tion, local or regional transportation authority, local govern-
8 mental unit, private carrier, group of rail users, state agency,
9 other public or private entity, including a port authority estab-
10 lished under the Hertel-Law-T. Stopczynski port authority act,
11 Act No. 639 of the Public Acts of 1978, being sections 120.101 to
12 120.130 of the Michigan Compiled Laws, or any combination of
13 these entities, expressing a desire to acquire or lease or secure
14 an easement for the use of a portion or all of the real property
15 owned by a railroad company. The property acquired by the
16 department under this act may be conveyed or leased to an entity
17 or combination of entities listed in this subsection with appro-
18 priate reimbursement, as determined by the department.

19 (2) WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDA-
20 TORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL OFFER
21 FOR SALE TO EACH CURRENT CONTRACT OPERATOR THAT SEGMENT OF
22 STATE-OWNED RAIL PROPERTY OPERATED BY THAT CONTRACT OPERATOR.
23 THE SPECIFIC TERMS OF THE ENSUING SALES WILL BE AS DETERMINED BY
24 THE DEPARTMENT TO ACCOMMODATE THE BEST INTERESTS OF ALL CITIZENS
25 OF THE STATE. IF THE CURRENT CONTRACT OPERATOR OF ANY SEGMENT OF
26 STATE-OWNED RAIL PROPERTY IS UNWILLING OR UNABLE TO PURCHASE THAT
27 SEGMENT OF STATE-OWNED RAIL PROPERTY UNDER THE TERMS DETERMINED

1 BY THE DEPARTMENT, THAT SEGMENT OF STATE-OWNED RAIL PROPERTY
2 SHALL THEN BE OFFERED FOR SALE, UNDER THE SAME TERMS, TO THE FOL-
3 LOWING PARTIES IN DESCENDING ORDER:

4 (A) CURRENT SHIPPERS ON THAT SEGMENT.

5 (B) GOVERNMENTAL ENTITIES.

6 (C) OTHER RAILROAD COMPANIES.

7 (3) A PARTY ENTERING INTO AN AGREEMENT TO PURCHASE A SEGMENT
8 OF STATE-OWNED RAIL PROPERTY UNDER THIS SECTION SHALL AGREE TO
9 PROVIDE TO SHIPPERS SERVICE THAT MEETS CERTAIN CONDITIONS AS
10 DETERMINED BY THE DEPARTMENT FOR A PERIOD OF TIME DESIGNATED BY
11 THE DEPARTMENT.

12 (4) ~~-(2)-~~ Upon acquisition of a right-of-way, the department
13 may preserve the right-of-way for future use as a railroad line
14 and, if preserving it for that use, shall not permit any action
15 which would render it unsuitable for future rail use. However,
16 if the department determines a right-of-way or other property
17 acquired under this act is no longer necessary for railroad
18 transportation purposes, the department may preserve and utilize
19 the right-of-way for other transportation purposes or may dispose
20 of the right-of-way or other property acquired under this act for
21 the purposes described in section 6, or may dispose of or lease
22 the right-of-way or other property for other purposes, as
23 appropriate. However, the department shall not dispose of or
24 lease a right-of-way without first offering to transfer the
25 right-of-way to the department of natural resources. If the
26 department of natural resources desires to lease or purchase the
27 right-of-way, the department of natural resources must indicate

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

13 (5) ~~(3)~~ In preserving a right-of-way for future rail use,
14 the department may do 1 or more of the following:

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

23 (b) Transfer, for appropriate reimbursement, the
24 right-of-way to the department of natural resources for use as a
25 Michigan railway pursuant to ~~the Michigan railways act~~ PART
26 721 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
27 ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.72101

1 TO 324.72112 OF THE MICHIGAN COMPILED LAWS, if the deed includes
2 restrictions on the use of the property that assure that the
3 property remains viable for future rail usage, and includes a
4 clause that provides that the department of natural resources
5 shall transfer, for appropriate reimbursement, the right-of-way
6 to the department, upon a determination of the director of the
7 state transportation department that the right-of-way is needed
8 for use as a railroad line.

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

18 (d) In cases where a trail serves both a significant com-
19 muter and recreation function, authorize the joint development of
20 the trail by the department and the department of natural
21 resources, or the department and any interested county, city,
22 village, or township. Administration of the trail shall be
23 determined jointly by the department and the department of natu-
24 ral resources.