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SFA BILL ANALYSIS

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House Bill 4328 (Substitute H-3 as passed by the House)
Sponsor: Representative John Gernaat
House Committee: Transportation
Senate Committee: Farming, Agribusiness, and Food Systems

Date Completed: 5-12-98

CONTENT

The bill would amend the State Transportation Preservation Act to require the Department of Transportation (DOT), within 90 days after the bill's effective date, to offer for sale, without partitioning a segment or a portion of a segment, segments of State-owned rail property described as the Hillsdale County system, the Lenawee County system, the Vassar area system, and the Ann Arbor and northwest Michigan system. The terms of sale would have to contain specific conditions relating to level of service, rates, reinvestment of freight revenues, maintenance of trackage, and retention of a certain number of employees. If there were no acceptable purchase offers, the property would revert to the DOT and would have to be offered for sale or lease to certain parties, including the current operator and shippers. Before a purchase agreement was executed, the current contract operator would have the right to meet the accepted bid.

Rail Segments

The bill specifies that the following segments of State-owned rail property would have to be sold:

-- The Hillsdale County system, meaning the rail lines owned by the State between Litchfield and the Indiana state line and between Jonesville and Quincy.
-- The Lenawee County system, meaning the rail lines owned by the State between Adrian and Riga, between Grosvenor and River Raisin and Lenawee Junction.
-- The Vassar area system, meaning the rail lines owned by the State between Millington and Munger, between Vassar and Colling, and at Denmark Junction.
-- The Ann Arbor and northwest Michigan system, meaning the rail lines owned by the State between Durand and Ann Arbor, between Owosso and Thompsonville, between Cadillac and Petoskey, between Walton Junction and Traverse City, between Grawn and Williamsburg, and between Owosso and St. Charles.

Terms of Sale

The specific terms of a sale would be determined by the Department except for the following conditions required under the bill. Each purchase agreement would have to require that the purchaser provide at a minimum the same level of service unless otherwise mutually agreed upon between the purchaser and shippers that existed on, and that rates would not increase more than 10% per year from the rates established on, January 1, 1996. At least 20% of freight revenues earned and at least 50% of trackage rights revenues would have to be reinvested in eligible maintenance and track capital expenditures. ("Eligible maintenance expenditures" would include the material and direct labor required for the installation of railroad ties, track, ballast, crossing improvements, ditch and drainage repair or improvements, brush trimming, and the expenses required to conduct track and signal inspections as specified in Federal regulations but would not include, except as otherwise provided in the bill, the cost of installing equipment or purchasing vehicles, administrative expenses, or the construction of new track or sidings.)

Trackage in the segments sold by the State would have to be maintained at the Federal Railway Administration class of track standards for each segment as of January 1, 1997. The number of employees of the successful bidder could not be reduced by more than 10% per year from the level that existed at the time of purchase for the first five years of the contract. The purchaser would have to honor all existing agreements on trackage rights for the duration of the agreements. In the case of the sale of the Ann Arbor and northwest Michigan system segment, the purchaser would be required to charge reasonable rates for that section between Durand and Ann Arbor.

Sale of Property

If there were no acceptable offers to purchase or if the purchaser failed to comply with the conditions of sale, the property would revert to the Department and then would have to be offered for sale or lease under the same terms to the following parties in descending order: current operator, current shippers on that segment, governmental entities, and other railroad companies.

Before a purchase agreement was executed, the current contract operator would have the right to meet the terms and conditions of the accepted bid on that segment, and the potential purchaser would have to submit to the Department its most recent financial statement and a proposed operation plan including tributary lines and known potential sublease agreements. If a purchaser abandoned service and sold the segment or any portion of the segment or any rails, ties, or ballast, 95% of the proceeds from the sale would be have to be returned to the State.

After a purchase agreement was executed, the State would not be liable for failing to provide service or the abandonment of service by a contract operator. ("Abandonment" would mean the cessation of service below the average level of service provided in each calendar month during the immediately preceding 24 months unless mutually agreed upon by the shippers and the contract operator.)

MCL 474.53 & 474.60 Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would result in increased revenue to the rail freight fund, depending on the actual sale price of State-owned rail property. A current appraisal has not been done; however, an appraisal in 1994 estimated the net liquidation value at $32 million for all four segments. The State also would realize approximately $2.8 million in savings from reduced property management costs.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.