

SUBSTITUTE FOR  
HOUSE BILL NO. 4328

A bill to amend 1976 PA 295, entitled "State transportation preservation act of 1976," by amending sections 3 and 10 (MCL 474.53 and 474.60), section 3 as amended by 1984 PA 210 and section 10 as amended by 1993 PA 28.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3. The department shall administer this act and may  
2 promulgate rules pursuant to the administrative procedures act of  
3 1969, ~~Act No. 306 of the Public Acts of 1969, as amended, being~~  
4 ~~sections 24.201 to 24.315 of the Michigan Compiled Laws~~ 1969 PA  
5 306, MCL 24.201 TO 24.328.

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

**HB4328, As Passed House, June 11, 1997**

House Bill No. 4328

2

1 governmental unit, private carrier, group of rail users, state  
2 agency, other public or private entity, including a port author-  
3 ity established under the Hertel-Law-T. Stopczynski port author-  
4 ity act, ~~Act No. 639 of the Public Acts of 1978, being sections~~  
5 ~~120.101 to 120.130 of the Michigan Compiled Laws~~ 1978 PA 639,  
6 MCL 120.101 TO 120.130, or any combination of these entities,  
7 expressing a desire to acquire or lease or secure an easement for  
8 the use of a portion or all of the real property owned by a rail-  
9 road company. The property acquired by the department under this  
10 act may be conveyed or leased to an entity or combination of  
11 entities listed in this subsection with appropriate reimburse-  
12 ment, as determined by the department.

13 (2) WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDA-  
14 TORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL OFFER  
15 FOR SALE, WITHOUT PARTITIONING A SEGMENT OR A PORTION OF A SEG-  
16 MENT, THE FOLLOWING DEFINED SEGMENTS OF STATE-OWNED RAIL  
17 PROPERTY:

18 (A) HILLSDALE COUNTY SYSTEM MEANS THE RAIL LINES OWNED BY  
19 THE STATE BETWEEN LITCHFIELD AND THE INDIANA STATE LINE AND  
20 BETWEEN JONESVILLE AND QUINCY.

21 (B) LENAWEЕ COUNTY SYSTEM MEANS THE RAIL LINES OWNED BY THE  
22 STATE BETWEEN ADRIAN AND RIGA, BETWEEN GROSVENOR AND RIVER RAISIN  
23 AND LENAWEЕ JUNCTION.

24 (C) VASSAR AREA SYSTEM MEANS THE RAIL LINES OWNED BY THE  
25 STATE BETWEEN MILLINGTON AND MUNGER, BETWEEN VASSAR AND COLLING,  
26 AND AT DENMARK JUNCTION.

**HB4328, As Passed House, June 11, 1997**

House Bill No. 4328

3

1 (D) ANN ARBOR AND NORTHWEST MICHIGAN SYSTEM MEANS THE RAIL  
2 LINES OWNED BY THE STATE BETWEEN DURAND AND ANN ARBOR, BETWEEN  
3 OWOSSO AND THOMPSONVILLE, BETWEEN CADILLAC AND PETOSKEY, BETWEEN  
4 WALTON JUNCTION AND TRAVERSE CITY, BETWEEN GRAWN AND  
5 WILLIAMSBURG, AND BETWEEN OWOSSO AND ST. CHARLES.

6 (3) THE SPECIFIC TERMS OF A SALE WILL BE AS DETERMINED BY  
7 THE DEPARTMENT EXCEPT FOR THE FOLLOWING REQUIRED CONDITIONS:

8 (A) EACH PURCHASE AGREEMENT SHALL REQUIRE THAT THE PURCHASER  
9 PROVIDE AT A MINIMUM THE SAME LEVEL OF SERVICE UNLESS OTHERWISE  
10 MUTUALLY AGREED UPON BETWEEN THE PURCHASER AND SHIPPERS THAT  
11 EXISTED ON, AND THAT RATES WILL NOT INCREASE MORE THAN 10% PER  
12 YEAR FROM THE RATES ESTABLISHED ON, JANUARY 1, 1996.

13 (B) NOT LESS THAN 20% OF FREIGHT REVENUES EARNED AND NOT  
14 LESS THAN 50% OF TRACKAGE RIGHTS REVENUES SHALL BE REINVESTED IN  
15 ELIGIBLE MAINTENANCE AND TRACK CAPITAL EXPENDITURES. AS USED IN  
16 THIS SUBDIVISION, "ELIGIBLE MAINTENANCE EXPENDITURES" INCLUDES  
17 THE MATERIAL AND DIRECT LABOR REQUIRED FOR THE INSTALLATION OF  
18 RAILROAD TIES, TRACK, BALLAST, CROSSING IMPROVEMENTS, DITCH AND  
19 DRAINAGE REPAIR OR IMPROVEMENTS, BRUSH TRIMMING, AND THE EXPENSES  
20 REQUIRED TO CONDUCT TRACK AND SIGNAL INSPECTIONS AS SPECIFIED IN  
21 FEDERAL REGULATIONS BUT NOT INCLUDING, EXCEPT AS OTHERWISE PRO-  
22 VIDED IN THIS SUBDIVISION, THE COST OF INSTALLING EQUIPMENT OR  
23 PURCHASING VEHICLES, ADMINISTRATIVE EXPENSES, OR THE CONSTRUCTION  
24 OF NEW TRACK OR SIDINGS.

25 (C) TRACKAGE IN THE SEGMENTS SOLD BY THE STATE SHALL BE  
26 MAINTAINED AT THE FEDERAL RAILWAY ADMINISTRATION CLASS OF TRACK  
27 STANDARDS FOR EACH SEGMENT AS OF JANUARY 1, 1997.

**HB4328, As Passed House, June 11, 1997**

House Bill No. 4328

4

1 (D) THE NUMBER OF EMPLOYEES OF THE SUCCESSFUL BIDDER SHALL  
2 NOT BE REDUCED BY MORE THAN 10% PER YEAR FROM THE LEVEL EXISTING  
3 AT THE TIME OF PURCHASE FOR THE FIRST 5 YEARS OF THE CONTRACT.

4 (E) IN THE CASE OF THE SALE OF THE SEGMENT DESCRIBED IN SUB-  
5 SECTION (2)(D), THE PURCHASER SHALL BE REQUIRED TO CHARGE REASON-  
6 ABLE RATES FOR THAT SECTION BETWEEN DURAND AND ANN ARBOR.

7 (F) THE PURCHASER SHALL HONOR ALL EXISTING AGREEMENTS ON  
8 TRACKAGE RIGHTS FOR THE DURATION OF THE AGREEMENTS.

9 (4) IF THERE ARE NO ACCEPTABLE OFFERS TO PURCHASE OR IF THE  
10 PURCHASER FAILS TO COMPLY WITH THE CONDITIONS OF SALE, THE PROP-  
11 ERTY SHALL REVERT BACK TO THE DEPARTMENT AND SHALL THEN BE  
12 OFFERED FOR SALE OR LEASE UNDER THE SAME TERMS TO THE FOLLOWING  
13 PARTIES IN DESCENDING ORDER:

14 (A) CURRENT OPERATOR.

15 (B) CURRENT SHIPPERS ON THAT SEGMENT.

16 (C) GOVERNMENTAL ENTITIES.

17 (D) OTHER RAILROAD COMPANIES.

18 (5) BEFORE EXECUTION OF A PURCHASE AGREEMENT, THE CURRENT  
19 CONTRACT OPERATOR SHALL HAVE THE RIGHT TO MEET THE TERMS AND CON-  
20 DITIONS OF THE ACCEPTED BID ON THAT SEGMENT. BEFORE THE EXECU-  
21 TION OF A PURCHASE AGREEMENT, THE POTENTIAL PURCHASER SHALL  
22 SUBMIT TO THE DEPARTMENT ITS MOST RECENT FINANCIAL STATEMENT AND  
23 A PROPOSED OPERATION PLAN INCLUDING TRIBUTARY LINES AND INCLUDING  
24 KNOWN POTENTIAL SUBLEASE AGREEMENTS.

25 (6) IF THE PURCHASER ABANDONS SERVICE AND SELLS THE SEGMENT  
26 OR ANY PORTION OF THE SEGMENT OR ANY RAILS, TIES, OR BALLAST, 95%  
27 OF THE PROCEEDS FROM THE SALE SHALL BE RETURNED TO THE STATE.

**HB4328, As Passed House, June 11, 1997**

House Bill No. 4328

5

1           (7) AFTER EXECUTION OF A PURCHASE AGREEMENT UNDER  
2 SUBSECTION (2), THE STATE SHALL NOT BE LIABLE FOR THE FAILURE TO  
3 PROVIDE SERVICE OR THE ABANDONMENT OF SERVICE BY A CONTRACT  
4 OPERATOR. AS USED IN THIS SECTION, "ABANDONMENT" MEANS THE CES-  
5 SATION OF SERVICE BELOW THE AVERAGE LEVEL OF SERVICE PROVIDED IN  
6 EACH CALENDAR MONTH DURING THE IMMEDIATELY PRECEDING 24 MONTHS  
7 UNLESS MUTUALLY AGREED UPON BY THE SHIPPERS AND THE CONTRACT  
8 OPERATOR.

9           (8) ~~-(2)-~~ Upon acquisition of a right-of-way, the department  
10 may preserve the right-of-way for future use as a railroad line  
11 and, if preserving it for that use, shall not permit any action  
12 which would render it unsuitable for future rail use. However,  
13 if the department determines a right-of-way or other property  
14 acquired under this act is no longer necessary for railroad  
15 transportation purposes, the department may preserve and utilize  
16 the right-of-way for other transportation purposes or may dispose  
17 of the right-of-way or other property acquired under this act for  
18 the purposes described in section 6, or may dispose of or lease  
19 the right-of-way or other property for other purposes, as  
20 appropriate. However, the department shall not dispose of or  
21 lease a right-of-way without first offering to transfer the  
22 right-of-way to the department of natural resources. If the  
23 department of natural resources desires to lease or purchase the  
24 right-of-way, the department of natural resources must indicate  
25 their desire within 60 days and accept the offered transfer  
26 within 1 year after the offer is made. If the department of  
27 natural resources does not indicate their desires within 60 days,

**HB4328, As Passed House, June 11, 1997**

House Bill No. 4328

6

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

10 (9) ~~(3)~~ In preserving a right-of-way for future rail use,  
11 the department may do 1 or more of the following:

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

20 (b) Transfer, for appropriate reimbursement, the  
21 right-of-way to the department of natural resources for use as a  
22 Michigan trailway pursuant to ~~the Michigan trailways act~~ PART  
23 721 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,  
24 1994 PA 451, MCL 324.72101 TO 324.72112, if the deed includes  
25 restrictions on the use of the property that assure that the  
26 property remains viable for future rail usage, and includes a  
27 clause that provides that the department of natural resources

**HB4328, As Passed House, June 11, 1997**

House Bill No. 4328

7

1 shall transfer, for appropriate reimbursement, the right-of-way  
2 to the department, upon a determination of the director of the  
3 ~~state transportation~~ department that the right-of-way is needed  
4 for use as a railroad line.

5 (c) Lease the right-of-way to the department of natural  
6 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) In cases where a trail serves both a significant com-  
15 muter and recreation function, authorize the joint development of  
16 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.