

HOUSE BILL No. 4328

February 13, 1997, Introduced by Reps. Gernaat, Harder, Green, Cropsey, Llewellyn, Jellema, Bobier, McManus, DeVuyst, Baade, London, Curtis, McBryde, Goschka, Middleton, Wetters, Rhead, McNutt, Bodem, Lowe, Hammerstrom, Kukuk, Frank, Bogardus, Sikkema, Tesanovich, Prusi, Gagliardi, Anthony, Raczkowski and Galloway and referred to the Committee on Transportation.

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, and by adding section 10a.

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

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 BY EXCLUSIVE LEASE OF 25 YEARS TO EACH CURRENT CONTRACT OPERATOR
16 THAT CURRENTLY HAS LESS THAN A 5-YEAR LEASE WITH THE DEPARTMENT
17 THAT SEGMENT OF STATE-OWNED RAIL PROPERTY OPERATED BY THAT CON-
18 TRACT OPERATOR. THE SPECIFIC TERMS OF THE LEASES WILL BE AS
19 DETERMINED BY THE DEPARTMENT INCLUDING AUTHORIZATION FOR THE CUR-
20 RENT CONTRACT OPERATOR TO OFFER TRACKAGE RIGHTS AND ENTER INTO
21 OTHER AGREEMENTS WITH OTHER CARRIERS TO ACCOMMODATE THE BEST
22 INTERESTS OF ALL CITIZENS OF THE STATE. IF THE CURRENT CONTRACT
23 OPERATOR OF ANY SEGMENT OF STATE-OWNED RAIL PROPERTY IS UNWILLING
24 OR UNABLE TO LEASE THAT SEGMENT OF STATE-OWNED RAIL PROPERTY
25 UNDER THE TERMS DETERMINED BY THE DEPARTMENT, THAT SEGMENT OF
26 STATE-OWNED RAIL PROPERTY SHALL THEN BE OFFERED FOR LEASE, UNDER

1 THE SAME FINANCIAL TERMS, TO THE FOLLOWING PARTIES IN DESCENDING
2 ORDER:

3 (A) CURRENT SHIPPERS ON THAT SEGMENT.

4 (B) GOVERNMENTAL ENTITIES.

5 (C) OTHER RAILROAD COMPANIES.

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

11 (4) ~~-(2)-~~ Upon acquisition of a right-of-way, the department
12 may preserve the right-of-way for future use as a railroad line
13 and, if preserving it for that use, shall not permit any action
14 which would render it unsuitable for future rail use. However,
15 if the department determines a right-of-way or other property
16 acquired under this act is no longer necessary for railroad
17 transportation purposes, the department may preserve and utilize
18 the right-of-way for other transportation purposes or may dispose
19 of the right-of-way or other property acquired under this act for
20 the purposes described in section 6, or may dispose of or lease
21 the right-of-way or other property for other purposes, as
22 appropriate. However, the department shall not dispose of or
23 lease a right-of-way without first offering to transfer the
24 right-of-way to the department of natural resources. If the
25 department of natural resources desires to lease or purchase the
26 right-of-way, the department of natural resources must indicate
27 their desire within 60 days and accept the offered transfer

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

12 (5) ~~(3)~~ In preserving a right-of-way for future rail use,
13 the department may do 1 or more of the following:

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

22 (b) Transfer, for appropriate reimbursement, the
23 right-of-way to the department of natural resources for use as a
24 Michigan trailway pursuant to ~~the Michigan trailways act~~ PART
25 721 (MICHIGAN TRAILWAYS) OF THE NATURAL RESOURCES AND ENVIRONMEN-
26 TAL PROTECTION ACT, 1994 PA 451, MCL 324.72101 TO 324.72112, if
27 the deed includes restrictions on the use of the property that

1 assure that the property remains viable for future rail usage,
2 and includes a clause that provides that the department of natu-
3 ral resources shall transfer, for appropriate reimbursement, the
4 right-of-way to the department, upon a determination of the
5 director of the ~~state transportation~~ department that the
6 right-of-way is needed for use as a railroad line.

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

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

23 SEC. 10A. IF THE DEPARTMENT OFFERS FOR SALE TO THE CURRENT
24 CONTRACT OPERATORS ALL SEGMENTS OF STATE OWNED RAIL PROPERTY
25 UNDER THE CONDITIONS DESCRIBED IN SECTION 10, THE DEPARTMENT
26 SHALL NOT PARTITION ANY INDIVIDUAL SEGMENT OF THAT STATE OWNED
27 RAIL PROPERTY INTO MORE THAN 1 PARCEL.