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RAIL INFRASTRUCTURE LOAN PROGRAM

Senate Bill 28 (Substitute H-4)
First Analysis (12-4-02)

Sponsor: Sen. Philip E. Hoffman
House Committee: Appropriations
Senate Committee: Appropriations

THE APPARENT PROBLEM:

A $15 million Rail Infrastructure Loan Fund was established as a program within the Department of Transportation's budget six years ago. Beginning in fiscal year 1996-1997, $3 million was set aside, and in each subsequent year up to $3 million was appropriated to the account until the account reached $15 million, although the fund was reduced by $4 million under Executive Order 2001-9. See *BACKGROUND INFORMATION* below.

Eleven loans have been made through the fund, to improve railroad service throughout Michigan. Nine of the eleven projects are yet active, and only $71,856 has been paid back to the fund. The loan projects include construction of a transload facility in Lansing ($751,500), completed construction of a transload facility in White Pigeon ($410,603), track rehabilitation on the main line and construction of passing siding in Charlotte ($135,000), construction of an engine house in Detroit ($50,000), completed track rehabilitation on the main line in Lapeer ($40,000), repair of the Thunder Bay railroad bridge near Alpena ($913,000), construction of passing siding in Lapeer ($78,800), construction of transload facility and rail spur in Allegan County ($695,925), construction of an industrial spur to facilitate loading and unloading steel coils at Dearborn ($633,960), installation of automatic switches at the Waverly railroad subdivision near Holland ($672,603), and replacement of rails and ties on the bridge over the Cass River ($159,300).

Until now the appropriations for the Rail Infrastructure Loan Fund have been made through the boilerplate of the annual budget bills for the Department of Transportation. In order to ensure that the Rail Infrastructure Loan Fund continues, legislation has been introduced to establish the program in statute.

THE CONTENT OF THE BILL:

The bill would amend the Transportation Preservation Act to create, in statute, the Rail Infrastructure Loan Fund, and that fund would then allow the Michigan Department of Transportation to continue its Rail Infrastructure Loan Program, originally established in the boilerplate of the department's budget under Public Act 341 of 1996.

The bill specifies that subject to the maximum of $15 million established for the fund, the legislature could appropriate an amount not to exceed $3 million each year, until the maximum was met. Interest earned and repayments received and any penalties assessed and received for failure to repay loans on time would be credited to the fund.

The bill also specifies that the Rail Infrastructure Loan Fund would be a self-sustaining revolving loan fund used to finance construction and improvements that were designed for improvements to freight railroad infrastructure for the purposes of preserving, rebuilding, rehabilitating, or constructing facilities, or improvements on railroad operating property or adjacent property. Under the bill, construction would be limited to those facilities or improvements that were required to continue rail service on a particular line, or to improve the efficiency and safety of existing rail service. The bill specifies that if it were determined that the public interest so required, the department could provide loans from the fund to eligible applicants to acquire rail property for the purpose of preserving freight rail service, or improving the efficiency of existing freight rail service, or for use as the non-federal match for any federal rail infrastructure loan program.

Under the bill, the fund would provide non-interest bearing loans, and the department would be required to evaluate loan applications according to the relative merits of the project in conjunction with program goals, and to make recommendations to the State Transportation commission regarding each loan application. The commission would be required to approve or deny the loans, and to establish loan disbursement and payment schedules based on the needs of the work in progress. A loan could not fund more than 90 percent of the rail portion of the project costs, and loan repayment could not exceed 10 years. The bill specifies that counties, cities, townships, villages, economic development corporations, and users of freight railroad service would be eligible to request a loan from the fund.

The bill specifies that at the end of each fiscal year, unexpended funds would remain in the Rail Infrastructure Loan Fund and be available in the succeeding fiscal year. Amounts in the fund could be combined by the state treasurer with other amounts in the state treasury for purposes of cash management. Further, the bill specifies that the earnings from fund investments would accrue to the fund, and that the fund would be accounted for separately from other funds of the state. The fund could receive gifts or grants, and any penalties assessed and received for failure to repay a loan on time, as well as money that was received by the state as repayment for rail infrastructure loans, would remain within the Rail Infrastructure Loan Fund and be used only for the purposes described in the act.

Further, the Department of Transportation would be required to report by December 31 of each year to the legislature on the status of the Rail Infrastructure Loan Program and the fund. The report would include the following information: a) the beginning fund balance of each fund, revenues received, expenditures and encumbrances incurred, and the ending fund balance for each fund for the preceding fiscal year; b) the projects funded during the preceding fiscal year; c) the status of projects funded in the preceding fiscal years including the degree to which the projects funded had achieved the objectives of the act; d) the statues of all outstanding loans; and e) any other information considered necessary by the department.

Finally, the bill specifies that the state's total contribution to the Rail Infrastructure Loan Fund could not exceed $15 million exclusive of interest and any penalties assessed, received, and credited to the fund.

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HOUSE COMMITTEE ACTION:

The House Appropriations Committee first adopted a House Substitute, and then added four substantive amendments.

The substitute bill adopted by the committee is different from the Senate-passed version of the bill in two ways: it removes the bill's title; and, it modifies the provision that requires the State Transportation Commission to approve or deny the loans, retaining that provision but also requiring the commission to "establish loan disbursement and payment schedules based on the needs of the work in progress."

A brief description of the four substantive amendments follows:

First, the committee eliminated the provision of the bill that prohibited the transportation commission from requiring collateral, an irrevocable letter of credit, or a personal guarantee to qualify for a loan. [Note: Currently the Department of Transportation program guidelines require loan applicants to specify collateral or assurances to guarantee the repayment of a loan.]

Second, the committee clarified the purposes to which the Rail Infrastructure Fund could be put. The Senate-passed version of the bill specified that the fund was to be a self-sustaining revolving loan fund used to finance infrastructure for the purposes of preserving, rebuilding, rehabilitating, or constructing facilities or improvements on railroad operating property, or property adjacent to railroad operating property. The committee retained this provision but clarified that the fund could be used to finance "construction and improvements that are designed for improvements to *freight* railroad infrastructure."

Third, the Senate-passed version of the bill specified that construction would be limited to those facilities or improvement required to continue rail service on a particular line, to improve the efficiency of existing rail service, or to provide alternative rail service when a line had been abandoned. The committee deleted the last phrase "or to provide alternative rail service when a line has been abandoned," and then also added "safety" to the possible improvements, specifying that construction would be limited to facilities or improvements required to continue rail service on a particular line, or to improve the efficiency "and safety" of existing rail service.

Fourth, the committee specified that the annual report made by the Department of Transportation to the legislature would include a description of the status of projects funded in the preceding fiscal *years*, including the degree to which the projects funds have achieved the objectives of the act. The Senate-passed version of the bill specified that the report would describe the status of projects funded in the "immediately preceding fiscal year."

BACKGROUND INFORMATION:

According to the House Fiscal Agency, the Fail Infrastructure Loan Program appropriations history and fund balance as of 11-26-02 are as follows:

Fiscal Year 1996-97	$3,000,000
Fiscal Year 1997-98	$3,300,000
Fiscal Year 1998-99	$3,300,000
Fiscal Year 1999-00	$2,600,000
Fiscal Year 2000-01	$2,000,000
Fiscal Year 2001-02	$ 800,000
Subtotal	$15,000,000
Executive Order 2001-9	
Reduction	($4,000,000)
Subtotal	$11,000,000
Fiscal Year 2002-03	$ 100,000
Net Contribution	$11,100,000
Loans/Commitments	
Outstanding	$ 7,424,711
Balance available	$ 3,675,289

FISCAL IMPLICATIONS:

The Senate Fiscal Agency notes that to the extent that the bill would establish the existing Rail Infrastructure Loan Program in statute, the bill would have no fiscal impact on state or local government. To date, $14,200,000 has been appropriated for the program. (2-15-02) The House Fiscal Agency concurs. (12-2-02)

ARGUMENTS:

For:

Small freight railroad lines are in need of assistance to obtain capital for infrastructure improvements, due to their low margins of profit. By assisting these companies to preserve and improve freight rail infrastructure, the state contributes to business stability and growth, enabling manufacturers to move their products to markets. The Rail Infrastructure Loan Program, commonly called MiRLAP, is now six years old, and it should continue. Eleven rail improvement projects have been funded by the $15 million revolving loan fund—two already completed. More projects to assist freight railroad lines will be possible if this bill is enacted into law.

Against:

If railroad companies are to be viable over the long term, they must demonstrate profitability, and move beyond the need for loan assistance. The federal government imposes standards for accountability on the rail lines it funds—in order to ensure growth and sound investment decisions. The state government here in Michigan should do the same.

POSITIONS:

The Department of Transportation supports the bill. (12-4-02)

The Michigan Railroads Association supports the bill. (12-4-02)

Analyst: J. Hunault

■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.