

RAIL INFRASTRUCTURE LOAN PROGRAM



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FISCAL ANALYSIS

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SENATE BILL 28 AS ENACTED

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

ENROLLED ANALYSIS - 3/17/03

Analyst(s): William Hamilton

SUMMARY

Fiscal Impact - In as much as the bill's primary effect would be to establish in statute an existing department program, it would have no direct fiscal impact.

BACKGROUND AND ANALYSIS

There are two programs funded in the state transportation budget which provide state support for rail freight infrastructure improvements: the Michigan Rail Loan Assistance Program (MiRLAP), and the Rail Freight Economic Development Program. Although only the MiRLAP program is affected by SB 28, we have provided the following background information on both programs.

The Michigan Rail Loan Assistance Program (MiRLAP) was established through a boilerplate section of the 1996-97 fiscal year transportation appropriations act, PA 341 of 1996. The program was modeled after a similar program in Wisconsin.

The PA 341 boilerplate section earmarked \$3.0 million from the Comprehensive Transportation Fund (CTF) to establish the program. The section also provided general program goals: "to provide noninterest bearing loans for rail infrastructure improvements" - and identified eligible applicants and general loan selection criteria. The Michigan Department of Transportation established a Rail Infrastructure Fund within the CTF to account for program funds.

In addition to the initial \$3.0 million earmark in FY 1996-97, funds for the program have been appropriated from the CTF in each subsequent state Transportation budget. Boilerplate language capped the amount of state contribution at \$15.0 million. The \$15.0 million maximum state contribution had been appropriated through FY 2001-02, however Executive Order 2001-9 transferred \$4.0 million from the fund to the state General Fund. A fund appropriations history is found on Table A, below.

From its inception in 1996 through December 2002 authority for the MiRLAP program, and related program goals and project selection criteria, existed only in appropriations boilerplate. In December 2002, **Senate Bill 28** was enacted as **Public Act 747 of 2002** (MCL 247.65a). **PA 747** established the Rail Infrastructure Loan Fund in statute, within the State Transportation Preservation Act of 1976 (PA 295 of 1976), and defined program goals and loan approval criteria in statute, rather than in appropriations boilerplate alone. A summary of **PA 747** program description and criteria is found in Table B, below.

The **Rail Freight Economic Development Program** also provides state assistance for rail freight infrastructure improvement projects. The projects funded through this program are generally related to specific economic development opportunities – such as the construction, expansion, or relocation of a factory or warehouse. An example of such a project would be the building of a rail spur to a new industrial plant.

The program provides five-year loans to private industry at below-market rates for up to 50% of the cost of rail infrastructure improvement projects. The loans can be converted to grants if the business meets certain agreed-upon minimum carload shipment commitments.

Authorization for this program is provided by sections 15 PA 295 of 1976 which permits the department to “spend sums appropriated for the construction, modernization, rehabilitation, rebuilding, and relocation of” [public and private] rail property. Section 15 of the Act allows the department to provide financial assistance “for the establishment, continuation, and improvement of the production, operation, maintenance, and support facilities of rail freight and marine freight facilities”.

Historically, program funding, at \$2.0 million per year, has been provided through the Freight preservation and development line item in the state transportation budget. The fund source for the program is the Rail Freight Fund – a fund established by PA 295 of 1976 (MCL 474.67). However, in FY 2001-02 an additional \$5.4 million in CTF funds were appropriated for the program through PA 530 of 2002 (HB 4373). This appropriation was used, in part, to provide \$4.5 million in state funding for the Livernois Yard project in southwest Detroit. The Livernois Yard project estimated to cost \$10.1 million. In addition to the \$4.5 million provided by the state, \$5.6 million would be provided by Conrail.

The Livernois Yard project is related to the Detroit Intermodal Freight Terminal (DIFT) project. However the Livernois Yard project represents work only within the current railroad right of way. An additional \$18.0 million in federal funds is available for the DIFT project through a 1998 congressional earmark. However, these funds can not be spent, and no work can proceed beyond the current railroad right of way, until the completion of an Environmental Impact Statement.

Both the Rail Freight Economic Development Program and the MiRLAP program are administered by the Freight Services Division of the Department’s Bureau of Urban and Public Transportation (UPTRAN).

Federal Funds for Rail Infrastructure

In addition to the state programs noted above, there have been some federal funds available for rail improvement projects through the Coordinated Border Infrastructure Program established in the Transportation Equity Act for the 21st Century (TEA-21). This is a competitive grant program and Michigan is not assured of receiving funds from the program. The purpose of this program is to improve the safe movement of people and goods at or across the US borders with Canada and Mexico.

TABLE A
Rail Infrastructure Loan Program
Appropriations History and Fund Balance
As of November 26, 2002

| Fiscal Year | Appropriation History |
|----------------------------------|------------------------------|
| 1996-97 | \$3,000,000 |
| 1997-98 | 3,300,000 |
| 1998-99 | 3,300,000 |
| 1999-2000 | 2,600,000 |
| 2000-01 | 2,000,000 |
| 2001-02 | 800,000 |
| Total Appropriated | \$15,000,000 |
| EO 2001-9 | (\$4,000,000) |
| Subtotal | \$11,000,000 |
| 2002-03 | 100,000 |
| Net State Contributions | \$11,100,000 |
| Loans/Commitments Outstanding | 7,424,710 |
| Balance Available | \$3,675,290 |

Table B

| Public Act 747 of 2002 (Senate Bill 28) | |
|--|--|
| Program description | <p><i>"The rail infrastructure loan fund created to implement the rail infrastructure loan program in the state transportation department."</i></p> <p><i>"The rail infrastructure loan fund is a self-sustaining revolving loan fund to finance infrastructure improvements and construction for the purposes of preserving, rebuilding, rehabilitating, or constructing facilities or improvements on railroad operating property or property adjacent to railroad operating property, in this state."</i></p> |
| Eligible projects | <p><i>"Construction is limited to those facilities or improvements 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 has been abandoned."</i></p> <p>Allows use of loans for acquisition of rail property, <i>"if the department determines that the public interest requires"...</i> <i>"for the purpose of preserving freight rail service or improving the efficiency of existing freight service".</i></p> <p>Allows use of loans for non-federal match for any federal rail infrastructure loan program.</p> |
| Eligible applicants | <i>"A county, city, township, village, economic development corporation, and railroad and current or potential users of freight railroad services are eligible applicants."</i> |
| Project selection | <p><i>"The department shall evaluate loan applications according to the relative merit of the project in conjunction with program goals and make recommendations to the state transportation commission regarding each loan application. The state transportation commission shall approve or deny the loans..."</i></p> <p>Note: The State Transportation Commission has established project selection criteria.</p> |
| Loan terms | <p>Provides for the fund to provide <i>"noninterest bearing loans for the purposes described in this section."</i></p> <p><i>"A loan shall fund not more than 90% of the rail portion of project costs and the loan repayment period shall not to exceed 10 years."</i></p> <p>Note: Language which would have prohibited the department or commission from requiring collateral, letters of credit, or personal guaranties was not included in the enacted bill.</p> |
| State appropriations | <p>Directs the legislature to appropriate up to \$3.0 million per year for the fund with a \$15.0 million limitation on total state contributions to the fund.</p> <p>Provides for interest on fund balances to accrue to the fund as well as penalties for late loan payment. Also provides for receipt of gifts or grants. [As a result, the fund can grow beyond the initial \$15 million state contribution.]</p> |
| Reporting requirement | <p>Requires an annual report, by December 31 of each year, to both the House and Senate appropriations subcommittees on transportation and the House and Senate fiscal agencies on fund revenues and expenditures, including a project status report.</p> <p>Also requires an annual report on the Rail Freight Fund established in Section 17 of PA</p> |