

# HOUSE BILL No. 6532

December 3, 2002, Introduced by Rep. Shackleton and referred to the Committee on Transportation.

A bill to amend 1976 PA 295, entitled "State transportation preservation act of 1976," by amending section 10 (MCL 474.60), as amended by 1998 PA 235, and by adding section 10h.

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

1       Sec. 10. (1) In weighing the varied interests of the resi-  
2 dents of this state, the department shall give consideration to  
3 the individual interest of any person, public or private corpora-  
4 tion, local or regional transportation authority, local govern-  
5 mental unit, private carrier, group of rail users, state agency,  
6 other public or private entity, including a port authority estab-  
7 lished under the Hertel-Law-T. Stopczynski port authority act,  
8 1978 PA 639, MCL 120.101 to 120.130, or any combination of these  
9 entities, expressing a desire to acquire or lease or secure an  
10 easement for the use of a portion or all of the real property

1 owned by a railroad company. The property acquired by the  
2 department under this act may be conveyed or leased to an entity  
3 or combination of entities listed in this subsection with appro-  
4 priate reimbursement, as determined by the department.

5 (2) The department may begin divestiture or offer 10-year  
6 leases to the current operator of the properties described in  
7 this subsection within 180 days after ~~the effective date of the~~  
8 ~~amendatory act that added this subsection~~ JULY 3, 1998. The  
9 department shall accomplish divestiture or create leases, without  
10 partitioning a segment or a portion of a segment, in the follow-  
11 ing order from the smallest segment first to the largest segment  
12 last, of the following defined segments of state-owned rail  
13 property:

14 (a) Lenawee county system means the rail lines owned by the  
15 state between Adrian and Riga, between Grosvenor and River Raisin  
16 and Lenawee Junction.

17 (b) Hillsdale county system means the rail lines owned by  
18 the state between Litchfield and the Indiana state line and  
19 between Jonesville and Quincy.

20 (c) Vassar area system means the rail lines owned by the  
21 state between Millington and Munger, between Vassar and Colling,  
22 and at Denmark Junction.

23 (d) Ann Arbor and Northwest Michigan system means the rail  
24 lines owned by the state between Durand and Ann Arbor, between  
25 Owosso and Thompsonville, between Cadillac and EMMET STREET IN  
26 THE CITY OF Petoskey, between Walton Junction and Traverse City,

1 between Grawn and Williamsburg, and between Owosso and  
2 St. Charles.

3 (3) The specific terms of a sale will be as determined by  
4 the department except for the following required conditions:

5 (a) Each purchase agreement shall require that the purchase  
6 price shall be not less than the net liquidation value of the  
7 rail line or lines.

8 (b) Each purchase agreement shall require that the purchaser  
9 provide at a minimum the average level of service adjusted for  
10 traffic levels for 3 years after the date of sale unless other-  
11 wise mutually agreed upon between the purchaser and shippers that  
12 existed on that line on the effective date of the amendatory act  
13 that added this subsection, and that rates on the segment pur-  
14 chased from the state will not increase more than the average  
15 percentage increase in the Detroit consumer price index for the  
16 12-month period each year for the base rate in effect on  
17 January 1, 1996 for 3 years after the date of sale.

18 (c) Trackage in the segments sold by the state shall be  
19 maintained at not less than the federal railway administration  
20 class of track standards for each segment as of January 1, 1998.

21 (d) In the case of the sale of the segment described in sub-  
22 section (2)(d), the purchaser shall be required to charge reason-  
23 able freight rates for that section between Durand and Ann Arbor  
24 and honor all existing freight rate agreements and trackage  
25 rights for 3 years after the date of sale.

26 (e) Any existing lease or agreement for operation of a  
27 segment in effect on the effective date of this act shall be

1 extended at the same terms and conditions until a sale or lease  
2 is executed.

3 (4) If there are no acceptable offers to purchase, the prop-  
4 erty shall be offered for a lease of not less than 10 years, by  
5 the department to the following parties in descending order:

6 (a) Current operator.

7 (b) Current shippers on that segment.

8 (c) Governmental entities.

9 (d) Other railroad companies.

10 (5) If the purchaser or lessee fails to comply with the con-  
11 ditions of sale or lease, the property shall revert back to the  
12 department and shall then be offered for sale or lease to the  
13 following parties in descending order:

14 (a) Current shippers on that segment.

15 (b) Governmental entities.

16 (c) Other railroad companies.

17 (6) Before the execution of a purchase agreement, the poten-  
18 tial purchaser shall submit to the department its most recent  
19 financial statement and a proposed operation plan including trib-  
20 utary lines and including known potential sublease agreements.

21 As used in this subsection, "tributary lines" means spur rail  
22 lines that only intersect with a rail line owned by the state on  
23 ~~the effective date of the 1998 amendments to this section~~

24 JULY 3, 1998.

25 (7) If during the first 10 years after purchase the pur-  
26 chaser abandons service and sells the segment or any portion of  
27 the segment that does not involve main line track, or any rails,

1 ties, or ballast, excluding normal salvage, 95% of the proceeds  
2 from the sale shall be returned to the state as additional pur-  
3 chase price. A segment or a portion of a segment may be sold  
4 with the approval of the department.

5 (8) A party aggrieved by the performance or failure to per-  
6 form under the terms of a purchase agreement may bring an action  
7 in the circuit court where the party resides or where the prop-  
8 erty is located for appropriate relief.

9 (9) The specific terms of a lease will be as determined by  
10 the department except for the following required conditions:

11 (a) Each lease agreement shall require that the lessee pro-  
12 vide at a minimum the average level of service adjusted for traf-  
13 fic levels for 3 years after the date of the lease agreement  
14 unless otherwise mutually agreed upon between the lessee and  
15 shippers that existed on that line on the effective date of the  
16 amendatory act that added this subsection, and that rates on that  
17 segment leased from the state will not increase more than the  
18 average percentage increase in the Detroit consumer price index  
19 for the 12-month period each year for the base rate in effect on  
20 January 1, 1996 for 3 years after the date of the lease.

21 (b) Not less than 50% of trackage rights revenues shall be  
22 reinvested in eligible expenditures. As used in this subdivi-  
23 sion, "eligible expenditures" includes the material and direct  
24 expenses required for the installation of railroad ties, track,  
25 ballast, crossing improvements, ditch and drainage repair or  
26 improvements, brush trimming, and the expenses required to

1 conduct track and signal inspections as specified in federal  
2 regulations.

3 (c) Trackage in the segments leased by the state shall be  
4 maintained at not less than the federal railway administration  
5 class of track standards for each segment as of January 1, 1998.

6 (d) In the case of a lease of the segment described in sub-  
7 section (2)(d), the lessee shall be required to charge reasonable  
8 freight rates for that section between Durand and Ann Arbor and  
9 honor all existing freight rate agreements and trackage rights  
10 for 3 years after the date of sale.

11 (10) A party aggrieved by the performance or failure to per-  
12 form under the terms of a lease agreement may bring an action in  
13 the circuit court where the party resides or where the property  
14 is located for appropriate relief.

15 (11) Upon acquisition of a right-of-way, the department may  
16 preserve the right-of-way for future use as a railroad line and,  
17 if preserving it for that use, shall not permit any action which  
18 would render it unsuitable for future rail use. However, if the  
19 department determines a right-of-way or other property acquired  
20 under this act is no longer necessary for railroad transportation  
21 purposes, the department may preserve and utilize the  
22 right-of-way for other transportation purposes or may dispose of  
23 the right-of-way or other property acquired under this act for  
24 the purposes described in section 6, or may dispose of or lease  
25 the right-of-way or other property for other purposes, as  
26 appropriate. However, the department shall not dispose of or  
27 lease a right-of-way without first offering to transfer the

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

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

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

26 (b) Transfer, for appropriate reimbursement, the  
27 right-of-way to the department of natural resources for use as a

1 Michigan trailway pursuant to part 721 of the natural resources  
2 and environmental protection act, 1994 PA 451, MCL 324.72101 to  
3 324.72112, if the deed includes restrictions on the use of the  
4 property that assure that the property remains viable for future  
5 rail usage, and includes a clause that provides that the depart-  
6 ment of natural resources shall transfer, for appropriate reim-  
7 bursement, the right-of-way to the department, upon a determina-  
8 tion of the director of the department that the right-of-way is  
9 needed for use as a railroad line.

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

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

26 SEC. 10H. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,  
27 THE DEPARTMENT, IMMEDIATELY UPON THE EFFECTIVE DATE OF THE

1 AMENDATORY ACT THAT ADDED THIS SECTION, SHALL OFFER FOR SALE TO  
2 THE CITY OF PETOSKEY THAT PORTION OF ABANDONED STATE OWNED RAIL  
3 PROPERTY LOCATED IN THE CITY OF PETOSKEY BETWEEN EMMET STREET AND  
4 THE NORTH CORPORATE LIMIT OF THE CITY OF PETOSKEY. THE CITY OF  
5 PETOSKEY SHALL AGREE TO USE THE PROPERTY FOR PARK OR RECREATION  
6 PURPOSES OR RAIL OR OTHER TRANSPORTATION PURPOSES.