

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Reps. Gernaat, Harder, McBryde, Bobier, McManus, Gnodtke, Lowe, Gagliardi, Bodem,
Alley, Goschka, McNutt, London, Curtis, Baade, DeLange and Llewellyn

ENROLLED HOUSE BILL No. 5598

AN ACT to amend sections 3 and 10 of Act No. 295 of the Public Acts of 1976, entitled as amended "An act to improve and maintain transportation services in this state; to provide for the acquisition and use of funds; to provide for the acquisition of certain railroad facilities and certain property; to provide for the disposition and use of facilities and property acquired under this act; to provide for financial assistance to certain private transportation services; to prescribe the powers and duties of certain state departments and agencies; to provide for the transfer of certain funds; to provide for the creation of a fund; and to provide for appropriations," section 3 as amended by Act No. 210 of the Public Acts of 1984 and section 10 as amended by Act No. 28 of the Public Acts of 1993, being sections 474.53 and 474.60 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 3 and 10 of Act No. 295 of the Public Acts of 1976, section 3 as amended by Act No. 210 of the Public Acts of 1984 and section 10 as amended by Act No. 28 of the Public Acts of 1993, being sections 474.53 and 474.60 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 3. The department shall administer this act and may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Sec. 10. (1) In weighing the varied interests of the residents of this state, the department shall give consideration to the individual interest of any person, public or private corporation, local or regional transportation authority, local governmental unit, private carrier, group of rail users, state agency, other public or private entity, including a port authority established under the Hertel-Law-T. Stopczynski port authority act, Act No. 639 of the Public Acts of 1978, being sections 120.101 to 120.130 of the Michigan Compiled Laws, or any combination of these entities, expressing a desire to acquire or lease or secure an easement for the use of a portion or all of the real property owned by a railroad company. The property acquired by the department under this act may be conveyed or leased to an entity or combination of entities listed in this subsection with appropriate reimbursement, as determined by the department.

(2) Within 90 days after the effective date of the amendatory act that added this subsection, the department shall offer by exclusive lease of 25 years to each current contract operator that currently has less than a 5-year lease with the department that segment of state-owned rail property operated by that contract operator. The specific terms of the leases will be as determined by the department including authorization for the current contract operator to offer trackage rights and enter into other agreements with other carriers to accommodate the best interests of all citizens of the state. If the current contract operator of any segment of state-owned rail property is unwilling or unable to lease that segment of state-owned rail property under the terms determined by the department, that segment of state-owned rail property shall then be offered for lease, under the same financial terms, to the following parties in descending order:

- (a) Current shippers on that segment.
- (b) Governmental entities.
- (c) Other railroad companies.

(3) A party entering into an agreement to lease a segment of state-owned rail property under this section shall agree to provide to shippers service that meets certain conditions as determined by the department for a period of time designated by the department.

(4) Upon acquisition of a right-of-way, the department may preserve the right-of-way for future use as a railroad line and, if preserving it for that use, shall not permit any action which would render it unsuitable for future rail use. However, if the department determines a right-of-way or other property acquired under this act is no longer necessary for railroad transportation purposes, the department may preserve and utilize the right-of-way for other transportation purposes or may dispose of the right-of-way or other property acquired under this act for the purposes described in section 6, or may dispose of or lease the right-of-way or other property for other purposes, as appropriate. However, the department shall not dispose of or lease a right-of-way without first offering to transfer the right-of-way to the department of natural resources. If the department of natural resources desires to lease or purchase the right-of-way, the department of natural resources must indicate their desire within 60 days and accept the offered transfer within 1 year after the offer is made. If the department of natural resources does not indicate their desires within 60 days, the department may dispose of or lease the right-of-way as otherwise provided for in this act. If the department of natural resources does not accept the offered transfer within 1 year after indicating their desire to lease or purchase the right-of-way, the department may dispose of or lease the right-of-way as otherwise provided for in this act. When appropriate, a right-of-way or other property shall be transferred or leased to a public or private entity with appropriate reimbursement, as determined by the department.

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

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

(b) Transfer, for appropriate reimbursement, the right-of-way to the department of natural resources for use as a Michigan trailway pursuant to part 721 of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.72101 to 324.72112 of the Michigan Compiled Laws, if the deed includes restrictions on the use of the property that assure that the property remains viable for future rail usage, and includes a clause that provides that the department of natural resources shall transfer, for appropriate reimbursement, the right-of-way to the department, upon a determination of the director of the state transportation department that the right-of-way is needed for use as a railroad line.

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

(d) In cases where a trail serves both a significant commuter and recreation function, authorize the joint development of the trail by the department and the department of natural resources, or the department and any interested county, city, village, or township. Administration of the trail shall be determined jointly by the department and the department of natural resources.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.