

HOUSE BILL No. 4228

February 5, 1997, Introduced by Reps. Lowe, Cropsey, Whyman, Nye and Walberg and referred to the Committee on Transportation.

A bill to amend 1976 PA 295, entitled "State transportation preservation act of 1976," by amending sections 1, 2, 6, 8, and 10 (MCL 474.51, 474.52, 474.56, 474.58, and 474.60), sections 2, 6, and 8 as amended by 1984 PA 210 and section 10 as amended by 1993 PA 28.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "state transportation preservation act of 1976".

3 (2) There exists a need to provide authorization for finan-
4 cial assistance for the capital improvement, maintenance, and
5 operation of rail, intercity bus, and ferry services in this
6 state. To undertake the planning, development, acquisition, and
7 operation of these services is in the best interest of the state
8 and is a valid public purpose.

1 (3) The preservation of abandoned railroad rights-of-way for
2 future rail use ~~and their interim use as public trails~~ is
3 declared to be a public purpose.

4 Sec. 2. As used in this act:

5 (a) "Commuter trail" means a trail, lane, path, road, or
6 other right-of-way on which motorized vehicles are not permitted
7 and which has the primary or substantial purpose and result of
8 providing a means for people to move from 1 location to another.

9 (b) "Department" means the state transportation department.

10 (c) "Federal acts" means the regional rail reorganization
11 act of 1973, 45 U.S.C. 701 to 797m; the railroad revitalization
12 and regulatory reform act of 1976, Public Law 94-210, 90
13 Stat. 31; the local rail service assistance act of 1978, section
14 5, Public Law 89-670, 80 Stat. 931; the staggers rail act of
15 1980, Public Law 96-448, 94 Stat. 1895; and the northeast rail
16 service act of 1981, subtitle E title XI, Public Law 97-35, 95
17 Stat. 643.

18 (d) "Recreational trail" means a trail, lane, path, road, or
19 other right-of-way which because of its scenic, wild, or topo-
20 graphical nature, has as its primary purpose recreational use of
21 the trail itself.

22 Sec. 6. (1) The department, as sole agent for the state,
23 may acquire by purchase or through the procedures set forth in
24 the staggers rail act of 1980, Public Law 96-448, 94 Stat. 1895,
25 and the northeast rail service act of 1981, subtitle E title XI,
26 Public Law 97-35, 95 Stat. 643, a portion or portions of the
27 property of a railroad company, including, but not limited to,

1 the tracks and ties, rights-of-way, land, buildings,
2 appurtenances, other facilities, rolling stock, and equipment,
3 whether or not necessary for the operation of a railroad, OR for
4 the preservation of a railroad line. ~~, or for commuter trail~~
5 ~~use.~~ In addition, the department may acquire by purchase or oth-
6 erwise other property owned by an entity other than a railroad
7 company ~~which~~ THAT is found by the department to be necessary
8 for the present or future operation of a railroad. THE DEPART-
9 MENT SHALL NOT ACQUIRE PROPERTY UNDER THIS SECTION FOR A COMMUTER
10 TRAIL OR A RECREATION TRAIL.

11 (2) The department may acquire through condemnation only
12 those segments of a railroad ~~which~~ THAT has been abandoned.
13 Acquisition through condemnation shall be limited to
14 right-of-way, track, ties, bridges, and culverts which are neces-
15 sary for the operation of a railroad. The action shall be under-
16 taken pursuant to ~~Act No. 149 of the Public Acts of 1911, being~~
17 ~~sections 213.21 to 213.25 of the Michigan Compiled Laws 1911~~
18 PA 149, MCL 213.21 TO 213.25, and ~~Act No. 87 of the Public Acts~~
19 ~~of 1980, being sections 213.51 to 213.77 of the Michigan Compiled~~
20 ~~Laws~~ THE UNIFORM CONDEMNATION PROCEDURES ACT, 1980 PA 87,
21 MCL 213.51 TO 213.77.

22 Sec. 8. (1) A railroad company operating within this state
23 shall notify the department at the time it files with the appro-
24 priate governmental agencies for abandonment of a line.

25 (2) The rights a railroad company may have in all
26 rights-of-way approved for abandonment within the state shall not
27 be offered for sale without offering THOSE RIGHTS TO the

1 department, on reasonable terms. ~~in the first instance, and the~~
2 ~~department of natural resources, on reasonable terms in the~~
3 ~~second instance, the right to purchase those rights.~~ The offer
4 shall include a detailed description of the property and appro-
5 priate valuation maps and track charts. Additional information
6 or documents may be provided as agreed to by the parties. The
7 department shall reimburse the railroad company for the expense
8 of providing all such additional information or documents. Upon
9 receipt of such an offer, the department shall notify the depart-
10 ments of ~~natural resources,~~ agriculture ~~,~~ and ~~commerce~~
11 CONSUMER AND INDUSTRY SERVICES. The purchase or other acquisi-
12 tion may be by warranty or quitclaim deed. The department ~~or~~
13 ~~the department of natural resources~~ may purchase or acquire
14 ~~those~~ THE rights a railroad company may have in all
15 rights-of-way approved for abandonment unless within 60 days of
16 the offer for sale by the railroad company, the department deter-
17 mines that the abandoned route does not have potential for a use
18 described in section 6. ~~or the department of natural resources~~
19 ~~determines that the abandoned route does not have potential for~~
20 ~~management as a recreational resource.~~ If the department deter-
21 mines that the abandoned route does not have potential for a use
22 described in section 6 ~~and the department of natural resources~~
23 ~~determines that the abandoned route does not have potential for~~
24 ~~management as a recreational resource~~ or the department ~~or the~~
25 ~~department of natural resources~~ does not make a reasonable
26 offer, in writing, to purchase within 60 days, the railroad
27 company may dispose of the rights it has in those rights-of-way

1 as it sees fit. If a right-of-way abandoned before
2 January 1, 1977, is available and the department determines that
3 the right-of-way has potential for a use described in section 6,
4 the department may purchase by warranty or quitclaim deed the
5 rights a railroad company or others have in the right-of-way.

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 corpora-
9 tion, local or regional transportation authority, local govern-
10 mental unit, private carrier, group of rail users, state agency,
11 other public or private entity, including a port authority estab-
12 lished under the Hertel-Law-T. Stopczynski port authority act,
13 ~~Act No. 639 of the Public Acts of 1978, being sections 120.101~~
14 ~~to 120.130 of the Michigan Compiled Laws 1978 PA 639,~~
15 MCL 120.101 TO 120.130, or any combination of these entities,
16 expressing a desire to acquire or lease or secure an easement for
17 the use of a portion or all of the real property owned by a rail-
18 road company. The property acquired by the department under this
19 act may be conveyed or leased to an entity or combination of
20 entities listed in this subsection with appropriate reimburse-
21 ment, as determined by the department BUT ONLY IF IT IS TO BE
22 USED FOR A PURPOSE DESCRIBED IN SECTION 6.

23 (2) Upon acquisition of a right-of-way, the department may
24 preserve the right-of-way for future use as a railroad line and,
25 if preserving it for that use, shall not permit any action which
26 would render it unsuitable for future rail use. However, if the
27 department determines a right-of-way or other property acquired

1 under this act is no longer necessary for railroad transportation
2 purposes, the department may preserve and utilize the
3 right-of-way for other transportation purposes or may dispose of
4 the right-of-way or other property acquired under this act for
5 the purposes described in section 6, or may dispose of or lease
6 the right-of-way or other property for other purposes, as
7 appropriate. ~~However, the department shall not dispose of or~~
8 ~~lease a right-of-way without first offering to transfer the~~
9 ~~right-of-way to the department of natural resources. If the~~
10 ~~department of natural resources desires to lease or purchase the~~
11 ~~right-of-way, the department of natural resources must indicate~~
12 ~~their desire within 60 days and accept the offered transfer~~
13 ~~within 1 year after the offer is made. If the department of nat-~~
14 ~~ural resources does not indicate their desires within 60 days,~~
15 ~~the department may dispose of or lease the right-of-way as other-~~
16 ~~wise provided for in this act. If the department of natural~~
17 ~~resources does not accept the offered transfer within 1 year~~
18 ~~after indicating their desire to lease or purchase the~~
19 ~~right-of-way, the department may dispose of or lease the~~
20 ~~right-of-way as otherwise provided for in this act. When appro-~~
21 ~~priate, a right-of-way or other property shall be transferred or~~
22 ~~leased to a public or private entity with appropriate reimburse-~~
23 ~~ment, as determined by the department.~~

24 (3) AS USED IN THIS SECTION, "TRANSPORTATION PURPOSE" DOES
25 NOT INCLUDE USE AS A COMMUTER TRAIL OR A RECREATION TRAIL. ~~In~~
26 ~~preserving a right-of-way for future rail use, the department may~~
27 ~~do 1 or more of the following:~~

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

9 ~~(b) Transfer, for appropriate reimbursement, the~~
10 ~~right-of-way to the department of natural resources for use as a~~
11 ~~Michigan railway pursuant to the Michigan railways act, if the~~
12 ~~deed includes restrictions on the use of the property that assure~~
13 ~~that the property remains viable for future rail usage, and~~
14 ~~includes a clause that provides that the department of natural~~
15 ~~resources shall transfer, for appropriate reimbursement, the~~
16 ~~right-of-way to the department, upon a determination of the~~
17 ~~director of the state transportation department that the~~
18 ~~right-of-way is needed for use as a railroad line.~~

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

1 ~~(d) In cases where a trail serves both a significant~~
2 ~~commuter and recreation function, authorize the joint development~~
3 ~~of the trail by the department and the department of natural~~
4 ~~resources, or the department and any interested county, city,~~
5 ~~village, or township. Administration of the trail shall be~~
6 ~~determined jointly by the department and the department of natu-~~
7 ~~ral resources.~~