



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

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2017

Joint Committee on Finance

Paper #612

### **Freight Rail Preservation Bonding (Transportation -- Local Transportation Assistance)**

#### *Base Agency*

[LFB 2017-19 Budget Summary: Page 440, #3]

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#### **CURRENT LAW**

The Department of Transportation's freight rail preservation program provides grants or loans for the acquisition of abandoned railroad lines or the rehabilitation or construction of rail facilities on existing, publicly-owned lines. Eligible applicants include local governments, railroads, current or potential users of rail service, or rail transit commissions organized by local governments for the preservation of rail service. Applicants are required to pay at least 20% of the cost of an acquisition of railroad track or an improvement project, but the Department may provide a loan to cover up to 15% of the total cost. No match is required for the acquisition of railroad property (exclusive of the railroad tracks and other improvements). Funding for the program is provided with transportation fund-supported, general obligation bonds. Debt service on the bonds is funded from the transportation fund.

#### **GOVERNOR**

Provide \$12,000,000 BR in transportation fund-supported, general obligation bonding authority for the freight rail preservation program.

#### **DISCUSSION POINTS**

1. The primary purpose of the freight rail preservation program (FRPP) is to maintain and improve rail service on low-traffic rail lines that may otherwise be abandoned or fall into disrepair. By assuming the responsibility for the ownership and improvement of these lines, the state can allow a railroad to continue to profitably serve these lines. That is, since the railroads do not need to directly invest in the ownership and improvement of the rail, they can operate at a lower rate of return than would otherwise be necessary to maintain service. The program provides grants for up to

80% of the cost: (a) to purchase abandoned rail lines (up to 100% for the cost of land) in an effort to continue freight service, or for the preservation of the opportunity for future rail service; and (b) to rehabilitate facilities, such as tracks or bridges, on publicly-owned rail lines.

2. The state has been providing freight rail assistance since the late 1970s, a time when many railroad companies were abandoning unprofitable lines. Throughout the late 1970s and 1980s, grants were provided to local rail transit commissions to assist in the purchase of rail lines in order to maintain service for customers and shippers dependent on rail service. Then, in 1992, an amendment to the Wisconsin Constitution allowed the state to issue debt for the direct acquisition and improvement of rail lines.

3. The state currently owns 624 miles of rail lines. The Wisconsin and Southern Railroad is the primary railroad operating on this track, although other railroads operate on certain short segments. According to the Department, in 2016, 72.9% of state-owned track met the Federal Railroad Administration's (FRA) Class 2 standard which means that a track is capable of operating loaded 286,000 pound rail cars above 10 miles per hour. In 2011, 53.1% of state-owned rail line miles functioned at the FRA Class 2 standard. DOT's goal is to have 95% of state-owned rail line miles functioning at FRA Class 2 operating speed standards.

4. Freight railroads currently pay an ad valorem (property) tax to the state, which is deposited in the transportation fund. For the 2017-19 biennium, revenues from this tax are estimated at \$87.9 million. Total appropriations for freight rail programs in the biennium, including debt service on FRPP bonds, are estimated at \$31.0 million. Therefore, taken as a whole, the freight rail industry pays more in taxes than the related programs spend. However, the companies operating on state-owned lines pay less than 5% of the ad valorem taxes, while FRPP bond debt service represents almost 80% of state appropriations for freight rail programs.

5. Freight railroads are responsible for the maintenance of the existing track. In addition, railroads may also choose to privately fund certain track expansion projects to address growth and capacity issues. Between 2011 and 2016, Wisconsin and Southern Railroad reports that their capital expenditures for both maintenance and expansion averaged \$11.5 million annually with a low of \$8.5 million in 2012 and a high of \$17.5 million in 2015.

6. In the 2015-17 biennium, \$29.8 million in bonding authority was provided for the FRPP program. In addition, 2015 Act 55 required DOT to lapse \$5.2 million from the Department's freight rail infrastructure improvement program (a revolving loan program to fund rail-related projects, particularly on privately owned lines) in 2015-16 and appropriated the same amount for FRPP projects in 2015-16. As a result of these actions, FRPP resources for the 2015-17 biennium totaled \$35,000,000.

7. To date, the Legislature has authorized \$238.3 million in FRPP bonding, with debt service on these bonds being paid from the transportation fund. The last four biennial budgets authorized more bonding (\$171.8 million) than the prior eight biennial budgets combined (\$66.5 million), extending back to the first bonds issued under the program.

8. DOT requested \$12 million in FRPP bonding in the Department's 2017-19 agency budget request. The additional \$12 million in bonds that would be authorized under the bill would

be \$17.8 million less than the amount provided in the 2015-17 biennium (\$23 million less than the total funding provided in the 2015-17 biennium). This level of new bonding would be the lowest amount provided since the \$12 million provided in the 2005-07 biennium. The following table shows the bonding authorizations in each biennium since bonds were first authorized for freight rail acquisition and rehabilitation.

**TABLE 1**  
**Freight Rail Preservation Program Bond Authorization**  
**(\$ in Millions)**

<u>Biennium</u>	<u>Bonding Authorization</u>	<u>Cumulative</u>
1993-95	\$10.0	10.0
1995-97	4.5	14.5
1997-99	4.5	19.0
1999-01	4.5	23.5
2001-03	4.5	28.0
2003-05	4.5	32.5
2005-07	12.0	44.5
2007-09	22.0	66.5
2009-11	60.0	126.5
2011-13	30.0	156.5
2013-15	52.0	208.5
2015-17	29.8	238.3
Total Average Amount	\$19.9*	

\*Rounded

9. Table 2 provides information on how much of the \$238.3 million in existing bonding authority for FRPP projects has been spent, how much has been committed to be spent, and how much currently remains uncommitted.

**TABLE 2**  
**Existing Bonding and Commitments**  
**(\$ in Millions)**

<b>Existing Bonding</b>	
Total Bonding Authorized	\$238.3
Less Bonds Obligated Through Spring, 2017	<u>174.6</u>
Authorized, Unissued Bonding	\$63.7
<b>Use of Unissued Bonding</b>	
Projects with Funding Encumbered	\$28.7
Plus Approved, Unencumbered Projects	<u>28.6</u>
Unissued Bonding Committed	\$57.3
Remaining Uncommitted Bonding	\$6.4

10. As indicated in Table 2, of the \$238.3 million in FRPP bonding authorized to date, \$174.6 million has been obligated (either issued or allotted) by the Building Commission. The Department has encumbered an additional \$28.7 million of the remaining \$63.7 million in available bonding. As a result, \$35 million in existing bonding authority remains available for projects approved for 2016-17 and beyond. DOT indicates that currently \$28.6 million in projects have been approved by the Department for which funding has not yet been encumbered, which would leave \$6.4 million in existing authority that would remain available for the 2017-19 biennium.

11. Applications for the 2018 grant cycle may be filed at any time for rail banking or acquisition for continued operation or substitute service. However, for track and/or bridge rehabilitation or track construction, 2018 applications had to be filed by February 1, 2017. These 2018 projects could first be funded in 2017-18. The Department indicates that it has received five project submissions totaling \$31.7 million in requested funding. Applications for other projects not due by February, 2017, could continue to be submitted for funding throughout 2017-18. Also, additional project submissions would be expected for the subsequent 2019 funding cycle. The attachment to this paper provides detail for the \$31.7 million in project submissions received, as well as DOT's best estimate as to when the project could be awarded.

12. Given the existing \$29.8 million balance of existing bonding authority that has not been allotted, it is likely that none of the additional \$12 million in newly-authorized bonds would be issued during the biennium. Further, a delay often exists when a project is expanded for funding when the bonds are issued. However, the Department would need the funding available in order to enter into contracts for additional projects in the biennium. When fully issued, the annualized debt service to be paid from the transportation fund associated with the \$12 million recommended increase in bonding would be an estimated \$963,000.

13. As a bond-funded program, the freight rail preservation program allows the state to realize the benefits of transportation system improvements with no upfront costs, and then pay for those improvements over the course of the life of the improvement. However, increases in debt service costs for various types of transportation bonding have consumed an increasing percentage of transportation fund revenues. Under the Governor's 2017-19 budget recommendations, total, estimated debt service to be paid from the transportation fund as a percentage of revenues to the fund would reach 22.0% in 2018-19 (excluding federal aid, bond revenue, and transfers from other funds).

14. If the Committee determines that the overall level of transportation bonding should be reduced, the Committee could delete the Governor's recommended bonding amount, thereby providing no increase in bonding authority for FRPP projects. A total of \$6.4 million in uncommitted bonding would be available to the program. [Alternative #5] At this bonding level, some eligible projects applications in 2018 and 2019 would not receive funding. The Department uses an evaluation process, which includes a benefit-cost analysis, to rank projects. At a reduced level of bonding, lower ranking projects would not receive funding during the biennium. However, these eligible projects could be carried over to, and be eligible for, a subsequent funding cycle.

15. The Department indicates that there is sufficient demand for FRPP funding and that they have identified more than \$100 million in unfunded projects that are needed on the current state-owned railroad system. As indicated in Table 1, the average amount of new FRPP bonding

authority provided each biennia since the inception of the program has averaged \$19.9 million. Increasing the recommended bonding to this level would result in a \$7.9 million increase to the bonding amount recommended by the Governor. Along with the \$6.4 million in remaining uncommitted bonding authority available, a total of \$26.3 million would be available to the program in the 2017-19 biennium under this alternative. When fully issued, the annualized debt service to be paid from the transportation fund associated with the \$19.9 million increase in bonding would be an estimated \$1.6 million. [Alternative #2]

16. Under 2015 Act 55, DOT was required to undertake a study of methods for improving the transportation fund's solvency and program funding levels. The Department's findings in this regard were submitted in a report (the Solvency Study) to the Joint Committee on Finance in December, 2016. This report included three potential transportation funding scenarios and descriptions of the expected impact of these scenarios on transportation infrastructure in the state. While DOT did not recommend a particular level of funding, the Department's solvency study outlined the following three potential funding levels for new FRPP bonding authority: (a) \$0; (b) \$14.9 million per biennium; and (c) \$30.0 million per biennium.

17. The Solvency Study funding scenario that would provide new FRPP bonding authority equal to \$30.0 million is essentially equivalent to the Transportation Finance and Policy Commission's recommendation of \$31.2 million per biennium. Over the 2017-19 biennium, this alternative (\$30.0 million in new bonding authority) in addition to the \$6.4 million in unallocated bonding would fund all of the projects identified in the attachment, including additional projects identified in forthcoming applications for FRPP funding likely to be received during the 2017-19 biennium. This level of FRPP bonding would essentially equal the amount of bonding authorized for the 2015-17 biennium. When fully issued, the annualized debt service to be paid from the transportation fund associated with the \$30.0 million increase in bonding would be an estimated \$2.4 million. [Alternative #3]

18. Given that the state incurs debt service costs associated with bonds issued for FRPP rail acquisitions and improvements, having the rail lines that benefit from these state expenditures pay something to the state for those acquisitions and improvements from which they benefit, beyond the required match for the state funds, was among the recommendations of the Transportation Finance and Policy Commission in January, 2013. DOT, in its 2015-17 budget request, proposed a \$10 per carload user fee for railroads using state-owned rail lines, which is the fee level recommended by the Commission. The Department's request would have defined carloads as loaded freight railroad cars that are operated in revenue service and would have required all railroads operating on state-owned rail lines to annually report the number of carloads hauled on those lines for the previous calendar year. Estimated revenues from such a fee would be \$600,000 annually once fully implemented. Those annual revenues could cover some of the debt service costs associated with the bonding level recommended by the Governor, or any of the alternative bonding levels identified in this paper. Based on current experience, most of this revenue would come from the Wisconsin and Southern Railroad. [Alternative #4]

## **ALTERNATIVES**

1. Approve the Governor's recommendation to provide \$12,000,000 in transportation

fund-supported, general obligation bonding authority for the freight rail preservation program.

<b>ALT 1</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
BR	\$12,000,000	\$0

2. Modify the Governor's recommendation and provide \$19,900,000 in transportation fund-supported, general obligation bonding authority for the freight rail preservation program instead of \$12,000,000 (\$26.3 million in carryover and new bonding would be available to the program in the 2015-17 biennium).

<b>ALT 2</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
BR	\$19,900,000	\$7,900,000

3. Modify the Governor's recommendation and provide \$30,000,000 in transportation fund-supported, general obligation bonding authority for the freight rail preservation program instead of \$12,000,000 (\$36.4 million in carryover and new bonding would be available to the program in the 2015-17 biennium).

<b>ALT 3</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
BR	\$30,000,000	\$18,000,000

4. Provide the Department authority to establish a \$10 per carload rail line user fee for railroads using state-owned rail lines, effective January 1, 2018. Define a carload as a loaded freight railroad car that is operated in revenue service. Require all railroads operating on state-owned rail lines to annually report the number of carloads hauled on those lines for the previous calendar year and to submit the required fee with this report. Specify that the revenues be deposited to the transportation fund and estimate revenue from such a fee at \$300,000 in 2017-18 and \$600,000 in 2018-19.

<b>ALT 4</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
SEG-REV	\$900,000	\$900,000

5. Delete provision (the \$6.4 million in remaining uncommitted bonding authority would be available to the program in the 2017-19 biennium).

<b>ALT 5</b>	<b>Change to</b>	
	<b>Base</b>	<b>Bill</b>
BR	\$0	- \$12,000,000

Prepared by: Ryan Horton  
Attachment



## ATTACHMENT

### Potential FRPP Projects (not currently awarded) (\$ in Millions)

<u>Project</u>	<u>Requested Funding</u>	<u>Fiscal Year</u>	<u>Details</u>
Wisconsin Southern -- Wauzeka	\$6.9	2018	Replacement of bridge east of Wauzeka
Wisconsin Southern -- Madison to Spring Green (FASTLANE)	7.7	2018/19	Track rehabilitation (35.5 miles)
Wisconsin Southern -- Prairie Subdivision (Phase II)	5.7	2018/19	Rail replacement (14 miles)
Wisconsin Southern -- Reedsburg Subdivision	8.2	2018/19	Tie replacement (70 miles)
Wisconsin Southern -- Bridge Rehabilitation	<u>3.2</u>	2019	System-wide
Total	\$31.7		