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Freight Rail Preservation Program (DOT -- Local Transportation Assistance)

Bill Agency

[LFB 2007-09 Budget Summary: Page 538, #5]

CURRENT LAW

The Department of Transportation (DOT) administers the freight rail preservation program to assist in the preservation and improvement of freight rail service in the state. Under the program, the Department may make grants and loans for the acquisition of railroad property or for the rehabilitation or construction of rail property improvements on existing, publicly-owned rail 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 receiving a grant are required to pay at least 20% of the cost of an acquisition of railroad track or improvement project, but the Department may provide a loan to the applicant to cover up to 15% of the total cost. No match is required for the acquisition of rail property (exclusive of the railroad tracks and other improvements). Funding for rail property acquisitions and rail improvements is provided with transportation fund-supported, general obligation bonds. The 2005-07 biennial budget provided $12,000,000 in bonds for the program. A total of $44,500,000 in bonding authority has been provided for the program since 1993, the first year that bonding for rail acquisition and improvements was permitted under the state constitution. Prior to that time, grants were funded from a transportation fund appropriation.

There are 472 miles of publicly-owned track in Wisconsin, with a mix of ownership between the state and local rail transit commissions.

GOVERNOR

Provide $22,000,000 in general obligation bonding authority for the freight rail preservation program to provide total, cumulative bonding authority of $66,500,000 for the program.

DISCUSSION POINTS

1. The primary purpose of the freight rail preservation program is to maintain rail service for shippers and customers who are dependent on the service, but who are located on low-traffic lines that have been abandoned by the railroad companies that originally owned the lines. 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. Since the railroads do not have to 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. In some cases, the rail is actually owned by the state, while in others, local governments purchase the line, usually with the assistance of the state.

2. There are two railroad companies that currently operate on publicly-owned track. Wisconsin & Southern Railroad (WSOR) operates on a 700-mile network in the southern third of the state and northern Illinois, of which 460 miles are publicly owned-track in Wisconsin. The other 12 miles of track are in Washburn County and are currently used by Wisconsin Great Northern Railroad for excursion trains, although the railroad may use it in the future for freight operations. In addition, the state has an equity interest (although no ownership) on a portion of the track operated by Escanaba & Lake Superior in northeast Wisconsin, and has made grants for improvements on that track.

3. The state has been involved in the acquisition of abandoned rail property since the early 1970s. Initially, because of a constitutional prohibition against the state making railroad improvements, this involvement was restricted to purchasing the property upon which railroad track is located and providing grants to local entities to acquire and rehabilitate the track. Following the passage of a constitutional amendment in 1992, the state could issue bonds for acquisitions and improvements and directly do these activities, rather than through grants to local entities. The 1993-95 budget eliminated a transportation fund appropriation for making grants for rail acquisitions and improvements and, in its place, authorized bonds for these purposes.

4. The following table shows the bond authorizations provided for the freight rail preservation program.

Biennium	Bond Authorization
1993-95	$10,000,000
1995-97	4,500,000
1997-99	4,500,000
1999-01	4,500,000
2001-03	4,500,000
2003-05	4,500,000
2005-07	12,000,000
2007-09*	22,000,000

*Amounts proposed in the bill.

5. The Department's budget request for the 2005-07 biennium included an increase in bonding for the program from $4.5 million biennially to $6.5 million biennially, an increase of $1.0 million on an annualized basis. The Department indicated that the increase was to meet greater demand for rail improvements to allow the publicly-owned track to carry heavier loads and to purchase additional track in response to an increase in the abandonment of lower-traffic lines by railroads. The Governor included the increase in his budget submission, and the Legislature provided an additional increase to $12.0 million for the biennium. On an annualized basis, therefore, funding for the program went from $2.25 million per year in the 2003-05 biennium (and in the previous four biennia), to $6 million per year in the 2005-07 biennium.

6. The Legislature's decision to increase bonding was accompanied by a provision that was ultimately vetoed by the Governor, but which would have required the Department to allocate $5.0 million per year for rail rehabilitation projects and $1.0 million per year for rail bridge projects. The funding increases and proposed allocation of the funding were based on proposals submitted by Wisconsin & Southern Railroad. The so-called "5+1 Plan" was designed to upgrade certain segments of tracks and bridges, within an eight-year period, to accommodate 286,000 pound rail cars, which is the current industry standard. The 5+1 Plan did not propose any additional amount for rail acquisitions.

7. WSOR has now proposed an "8+3 Plan" for the freight rail preservation program, calling for the state to spend $8.0 million annually for rail track and bridge upgrades and $3.0 million annually for track acquisitions. Although the Governor's bill does not require any particular allocation of the amount of bonding proposed, it would provide $11.0 million on an annualized basis, which is the amount that the 8+3 Plan advocates.

8. The Department is currently in negotiations to purchase two abandoned rail segments and notes that other, lower-traffic lines could be candidates for future abandonment. One of the segments to be purchased runs between Kohler and Plymouth in Sheboygan County, which would be added to WSOR's network. The other segment runs between Rice Lake and Chetek in Barron County. This segment would be leased to Wisconsin Northern Railroad (a subsidiary of Progressive Rail), adding to that railroad's mainline between Chippewa Falls and Rice Lake.

9. In addition to allocating funding for track acquisitions, the WSOR's 8+3 Plan would increase the amount available for track and bridge rehabilitation projects by $2 million per year, from $6 million annually to $8 million annually. One of the arguments advanced in support of this increase is the cost of upgrading bridges on the WSOR network. A 2006 DOT study examined a sample of 26 bridges on the WSOR network (about 10% of the bridges on those lines) to determine their fitness for carrying 286,000 pound rail cars. Because of their age and condition, the study concluded that many of the sample bridges are not capable of carrying 286,000 pound loads over the long run without significant maintenance and capital improvements. The study estimated the cost of the needed work on the bridges at $2.9 million. Although the authors of the study note that the sample bridges may not be representative of all the bridges on the network, they estimate, through an extrapolation of the study results, that servicing all of the bridges on the Wisconsin & Southern network could cost $24.7 million, an amount that was not known when the 5+1 Plan was advanced. The increase in bonding proposed under WSOR's 8+3 Plan is intended to address these additional bridge projects and improve certain parts of the network to accommodate 286,000 pound cars by 2015, plus allow additional funding for improvements on newly-acquired track.

10. In advocating for the 8+3 Plan, WSOR points to the economic development benefits of having an efficient, short-line rail network. For instance, the railroad identifies 16 new industries that have located on the Wisconsin & Southern lines over the past five years, including grain shippers, ethanol plants, and various manufacturing industries. In addition, there are several more companies that are planning on locating on the Wisconsin & Southern network in the near future. The railroad indicates that upgrading the track and bridges to accommodate 286,000 pound cars would make the service to these companies more efficient and increase the potential for attracting new businesses.

11. The potential benefits of accelerating the improvement of the tracks and bridges in the WSOR network have to be weighed against the resulting state debt service costs. Debt service on the freight rail bonds is paid from a sum-sufficient, transportation fund appropriation. The following table shows the debt service payments on freight rail preservation program bonds since these bonds were first issued.

Fiscal Year	Freight Rail Bond Debt Service
1995-96	$279,800
1996-97	540,200
1997-98	697,800
1998-99	966,500
1999-00	991,200
2000-01	1,189,300
2001-02	1,217,000
2002-03	1,260,800
2003-04	1,389,300
2004-05	1,645,000
2005-06	2,009,300
2006-07*	2,423,700

*2006-07 figure is an estimate.

12. The debt service amounts shown in the previous table do not reflect the issuance of $10.6 million in bonds, which is the current, unissued balance for the program. Because of the delay between the time a project is approved and the time payments are made under the contract, most of the bonds that were authorized in the 2005-07 biennium will not be issued until 2007-08. When the remaining bonds are issued, debt service payments can be expected to increase to about $3.3 million annually.

13. When fully issued, the proposed 2007-09 bonding in the bill would add an additional $1.8 million annually to debt service costs, bringing the annual total to $5.1 million. Due to anticipated delays in actually issuing the bonds, the administration does not assume a debt service impact in the 2007-09 biennium for the bonds authorized by the bill. Under this assumption, the increased debt service would first occur in 2009-10.

14. If the Legislature were to adopt the WSOR's recommendation under the 8+3 Plan to provide $11 million per year until 2015, a total of $88 million in additional bonding would be provided. When fully issued, debt service on this amount would total $7.2 million per year

15. Even with the increase in bonding, total debt service payments on freight rail bonds make up a relatively small portion of total transportation fund-supported debt service. In 2006-07, total debt service paid from the transportation fund is estimated at $171.8 million. Current debt service on freight rail bonds accounts for just 1.4% of that amount.

16. The transportation fund, which is the source of the debt service payments, includes revenue from the ad valorem tax on railroad property. Although there is no direct tie between the amount of revenue generated by any particular tax or fee in the transportation fund and the amount that is spent for the programs most closely related to that source, there may be some expectation that there should be a balance between particular revenues and their related expenditures. During the 2007-09 biennium, it is estimated that ad valorem tax payments on railroads will total $19,037,200 in 2007-08 and $19,418,000 in 2008-09, which is considerably more than the current debt service payments and more than the total annual debt service that would be paid if the total amount of bonds under the 8+3 Plan were issued. Even if the appropriations for railroad crossing protection programs are included as a freight railroad expenditure (totaling $4.2 million annually), revenues paid by railroads exceed the expenditure totals.

17. Most of the tax is paid by the Class I railroads that operate in the state (CN, Canadian Pacific, Burlington Northern, and Union Pacific), which do not directly benefit from freight rail preservation program projects. However, since a primary function of WSOR's and other short-line railroad's service is to deliver cars to the Class I railroads for long-haul shipment, the Class I railroads may indirectly benefit from the program.

18. WSOR and the shippers on WSOR's lines would benefit from the improvements to the WSOR network proposed in the 8+3 Plan. One question for the Committee to consider is whether the state should agree to accelerating these proposed improvements or maintain the same level of funding as in the past to limit the resultant increase in debt service costs. Two alternatives to the bill would be to provide the same level of bonding as was provided in the 2005-07 biennium

($6 million annually, instead of, under the bill, $11 million annually) or the same level as was provided in the 2003-05 biennium and the four previous biennia ($2.25 million annually). Due to the assumed delay in issuing bonds, neither alternative would result in SEG savings in the 2007-09 biennium.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide $22,000,000 in general obligation bonding authority for the freight rail preservation program to provide total, cumulative bonding authority of $66,500,000 for the program.

ALT 1	**Change to Bill** Funding	**Change to Base** Funding
BR	$0	$22,000,000

2. Modify the Governor's recommendation by reducing the general obligation bonding authority for the freight rail preservation program by $10,000,000, to provide a total of $12,000,000 in new bonds for the program, which is the same level of new bonds provided in the 2005-07 biennium.

ALT 2	**Change to Bill** Funding	**Change to Base** Funding
BR	- $10,000,000	$12,000,000

3. Modify the Governor's recommendation by reducing the general obligation bonding authority for the freight rail preservation program by $17,500,000, to provide a total of $4,500,000 in new bonds for the program, which is the same level of new bonds provided in the 2003-05 biennium and the prior four biennia.

ALT 3	**Change to Bill** Funding	**Change to Base** Funding
BR	- $17,500,000	$4,500,000

4. Delete provision.

ALT 4	**Change to Bill** Funding	**Change to Base** Funding
BR	- $22,000,000	$0

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