



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #722

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

[LFB 2019-21 Budget Summary: Page 417, #4]

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#### **CURRENT LAW**

The Department of Transportation's (DOT) 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. 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 \$30,000,000 in transportation fund-supported, general obligation bonding authority for the freight rail preservation program. Increase estimated transportation fund-supported, general obligation bond debt service by \$311,800 SEG in 2020-21 associated with the partial issuance of these bonds.

#### **DISCUSSION POINTS**

##### **Background**

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. 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. 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 2018, 76.8% 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. Freight railroads are responsible for the maintenance of this existing track. In addition, railroads may also choose to privately fund certain track expansion projects to address growth and capacity issues.

4. Freight railroads currently pay an ad valorem (property) tax to the state, which is deposited in the transportation fund. For the 2019-21 biennium, revenues from this tax are estimated at \$97.6 million. Total appropriations that support the freight rail system in the biennium, including debt service on FRPP bonds, are estimated at \$39.6 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 under the bill, FRPP bond debt service would represent 71.5% of state appropriations for freight rail programs in the 2019-21 biennium.

### **Program Funding**

5. In the 2017-19 biennium, \$12.0 million in bonding authority was provided for the FRPP program. The following table reflects the \$183.8 million in bonds provided to this program over the past five biennia (an average of \$36.8 million per biennium).

**TABLE 1**

**Freight Rail Preservation Program Bond Authorizations -- 2009-11 thru 2017-19  
(\$ in Millions)**

<u>Biennium</u>	<u>Bonding Authorization</u>
2009-11	\$60.0
2011-13	30.0
2013-15	52.0
2015-17	29.8
2017-19	<u>12.0</u>
Total	\$183.8
Average Amount	\$36.8
2019-21 (Gov.)	\$30.0

6. Table 2 provides information on how much of FRPP program's 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	\$250.3*
Less Bonds Obligated Through Spring, 2017	<u>-205.9</u>
Authorized, Unissued Bonding	\$44.4
<b>Use of Unissued Bonding</b>	
Less Projects with Funding Encumbered	-\$22.5
Less Approved, Unencumbered Projects	<u>-20.3</u>
Unissued Bonding Committed	-\$42.5
Remaining Uncommitted Bonding	\$1.6

\*Reflects the total amount of bonds authorized since the program's inception.

7. As indicated in Table 2, of the \$250.3 million in FRPP bonding authorized to date, \$205.9 million has been obligated (either issued or allotted) by the Building Commission. The Department has encumbered an additional \$22.5 million of the remaining authority for awarded projects and plans to award another \$20.3 million in projects by July 1, 2019. As a result, \$1.6 million in existing authority would remain available for the 2019-21 biennium to fund additional project

work. Table 3 reflects the most recent project awards (\$20.3 million) that DOT has made using existing FRPP bond authority.

**TABLE 3**  
**Recently Awarded FRPP Projects Using Existing Program Funding**

<u>Applicant</u>	<u>Project Description</u>	<u>Requested Funding</u>	<u>Fiscal Year</u>
<b>Awarded Projects</b>			
Wisconsin & Southern Port of Milwaukee	Rehabilitation of Merrimac Bridge 334 -- Phase 2	\$2,666,320	2018-19
Wisconsin & Southern	Rehabilitation of Heavy Lift Dock and West Yard Track	2,993,920	2018-19
Wisconsin & Southern	Rehabilitation of Bridge U-6½	315,072	2018-19
Wisconsin & Southern	Rehabilitation of Merrimac Bridge 334 -- Phase 3	10,600,000	2019-20
Wisconsin & Southern	Replacement of Bridges A-492 and A-494	739,840	2019-20
Escanaba & Lake Superior	Crivitz to Green Bay Track Rehabilitation	2,400,000	2019-20
Wisconsin & Southern	Replacement of Bridges B-356 and B-368	<u>591,400</u>	2019-20
Total		\$20,306,552	

### Funding Options

8. The Department's 2016 transportation fund Solvency Study discussed a FRPP program scenario that would provide new FRPP bonding authority equal to \$30.0 million. This amount was similar to the 2013 Transportation Finance and Policy Commission (the Commission) recommendation of \$34.2 million per biennium in funding for the program. The Department did not submit a formal request for additional FRPP bond authorizations as part of its 2019-21 budget request. However, the Department provided information to the Governor's January, 2019, Transportation Task Force meeting that identified additional FRPP project awards with an expected state cost of \$79.3 million that could be funded beyond those to be awarded in July, 2019.

9. As part of informing Transportation Task Force discussions, the Department indicated that it could use \$30.0 million in the 2019-21 biennium to improve 65 miles of track and repair about 25 railroad bridges. The Governor's budget recommendation would fund \$30.0 million of the expected project costs and provide a similar level of funding to what was recommended by the Commission and the Solvency Study. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal \$2.4 SEG million annually. This would reduce the unfunded expected program costs to \$47.7 million (\$79.3 million expected costs - \$30.0 million new funding - \$1.6 million existing funding). [Alternative 1]

10. As noted earlier, the rail industry contributes more to the transportation fund than it receives in assistance from the fund. Also, a comparatively limited authorization of program bonding was provided in the 2017-19 biennium (\$12.0 million). Therefore, providing a somewhat higher level of bonding to the program than the level recommended by the Governor in the 2019-21 biennium may be warranted. For example, the Committee could instead provide \$36.8 million in transportation fund-supported, general obligation bonds, which would be the biennial average of the bonding authority provided to this program over the past five biennia. This would reduce the unfunded expected program costs to \$40.9 million (\$79.3 million expected costs - \$36.8 million new funding -

\$1.6 million existing funding). Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal \$3.0 million SEG annually. [Alternative 2]

11. Table 4 below reflects existing requests for FRPP funding received by DOT that have not been awarded (\$26.2 million).

**TABLE 4**  
**FRPP Program Requests -- Unawarded Project Funds**

<u>Applicant</u>	<u>Project Description</u>	<u>Requested Funding</u>	<u>Fiscal Year</u>
Wisconsin Great Northern	Trego to Spooner Track Reconstruction	\$1,800,000	2019-20
Wisconsin & Southern	Fisk to Oshkosh Rail Replacement (4.5 miles)	3,000,000	2019-20
Wisconsin & Southern	Crawford to Wauzeka Rail Replacement -- Phase 2 (14 miles)	7,000,000	2019-20
Wisconsin & Southern	Madison to Reedsburg and Madison to Cottage Grove Tie Replacement (70 miles)	10,426,400	2020/2021
Wisconsin & Southern	Systemwide Bridge Replacement and Rehabilitation	<u>4,000,000</u>	2020/2021
Total		\$26,226,400	

12. Over the past decade, concern over the transportation fund's solvency has been an ongoing policy discussion before the Legislature. Absent the significant transportation fund revenue increases be provided under the bill, many of the Governor's transportation programming recommendations would not be funded and program reductions in one or more areas would have to be made. If 2019-21 transportation fund resources remain constrained, the Committee could instead provide \$26,226,400 in transportation fund-supported bonding authority, which would fund the FRPP requests currently received by the Department shown in Table 4. This would reduce the recommended transportation fund-supported bonding under the bill by \$3,773,600 and would reduce the unfunded expected program costs to \$51.5 million (\$79.3 million expected costs - \$26.2 million new funding - \$1.6 million existing funding). Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal \$2.1 million SEG annually. [Alternative 3]

13. However, increases in debt service for various types of transportation bonding have consumed an increasing percentage of transportation fund revenues. If the Committee determines that the overall level of transportation bonding should be reduced, the Committee could instead provide \$12,000,000 in transportation fund-supported, general obligation bonding, which would equal the current, 2017-19 FRPP program funding level. This would reduce the transportation fund-supported bonding in the bill by \$18,000,000 and would reduce the unfunded expected program costs to \$65.7 million (\$79.3 million expected costs - \$12.0 million new funding - \$1.6 million existing funding). Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal \$1.0 SEG million annually. [Alternative 4]

14. Similarly, if it is determined that transportation fund revenues should not be increased at this time, the Committee may want to limit the authorization of transportation fund-supported bonds by deleting the Governor's FRPP recommendation. No new bonding authority for FRPP projects would be available and a total of \$1.6 million in uncommitted bonding would be available for the

program. [Alternative 6]

15. Generally, FRPP applicants pay for at least 20% of a project's cost. Further, historically, as mentioned earlier, these rail companies pay only a small amount into the transportation fund (less than 5% of total rail ad valorem taxes). Given that the state incurs debt service costs associated with bonds issued for FRPP rail acquisitions and improvements, some contend that the rail lines that benefit from these state expenditures should pay more to the state for those acquisitions and improvements from which they benefit, beyond their current contributions. The 2013 Transportation Finance and Policy Commission recommended and DOT, in its 2015-17 budget request, proposed, a \$10 per carload user fee for railroads using state-owned rail lines. 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 \$1.0 million 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 5]

## ALTERNATIVES

1. Approve the Governor's recommendation and provide \$30,000,000 in SEG-supported bonds for the freight rail preservation program. Increase estimated transportation fund-supported, general obligation bond debt service by \$311,800 SEG in 2020-21. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal \$2.4 SEG million annually.

ALT 1	Change to	
	Base	Bill
SEG	\$311,800	\$0
BR	<u>30,000,000</u>	<u>0</u>
Total	\$30,311,800	\$0

2. Provide \$36,800,000 in SEG-supported bonds for the freight rail preservation program. Increase estimated transportation fund-supported, general obligation bond debt service by \$382,500 SEG in 2020-21. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal \$3.0 million SEG annually. This would authorize the biennial average amount of FRPP bonds provided over the past five biennia.

ALT 2	Change to	
	Base	Bill
SEG	\$382,500	\$70,700
BR	<u>36,800,000</u>	<u>6,800,000</u>
Total	\$37,182,500	\$6,870,700

3. Provide \$26,226,400 in SEG-supported bonds for the freight rail preservation program, which would fund the FRPP requests currently received by the Department that are unawarded. Increase estimated transportation fund-supported, general obligation bond debt service by \$272,600 SEG in 2020-21. This would authorize the biennial average amount of FRPP bonds provided over the past five biennia and reduce the transportation fund-supported bonding in the bill by \$3,773,600. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal \$2.1 million SEG annually.

ALT 3	Change to	
	Base	Bill
SEG	\$272,600	- \$39,200
BR	<u>26,226,400</u>	<u>- 3,773,600</u>
Total	\$26,499,000	- \$3,812,800

4. Provide \$12,000,000 in SEG-supported bonds for the freight rail preservation program, which would equal the current, 2017-19 FRPP program funding level. This would reduce the transportation fund-supported bonding in the bill by \$18,000,000. Increase estimated transportation fund-supported, general obligation bond debt service by \$124,700 SEG in 2020-21. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal \$1.0 SEG million annually.

ALT 4	Change to	
	Base	Bill
SEG	\$124,700	- \$187,100
BR	<u>12,000,000</u>	<u>- 18,000,000</u>
Total	\$12,124,700	- \$18,187,100

5. Provide the Department authority to establish a \$10 per carload rail line user fee for railroads using state-owned rail lines, effective January 1, 2020. 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 \$500,000 in 2019-20 and \$1,000,000 in 2020-21.

ALT 5	Change to	
	Base	Bill
SEG-REV	\$1,500,000	\$1,500,000

6. Take no action (the \$1.6 million in remaining uncommitted bonding authority would be available to the program in the 2019-21 biennium).

ALT 6	Change to	
	Base	Bill
SEG	\$0	- \$311,800
BR	<u>0</u>	<u>- 30,000,000</u>
Total	\$0	- \$30,311,800

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