Legislative Fiscal Bureau

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

[LFB 2021-23 Budget Summary: Page 574, #5]

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.

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 Wisconsin freight rail network consists of more than 3,300 miles of rail corridor. 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. There are currently 625 miles of publicly-owned rail lines in the state. 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 2020, 74.6% 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. However, it continues to have rail that needs replacement to carry today's traffic volumes and carload weights. In 2011, 53.1% of state-owned rail line miles functioned at the FRA Class 2 standard, while this percentage increased to 81.3% by the end of 2019. 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 2021-23 biennium, revenues from this tax are estimated at $88.8 million. Total SEG appropriations that support the freight rail system in the biennium, including debt service on FRPP bonds, are estimated at $41.9 million in the 21-23 biennium. 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 would represent 74.4% of state appropriations for freight rail programs in the 2021-23 biennium.

Program Funding

5. In the 2019-21 biennium, $30.0 million in bonding authority was provided for the FRPP program. The following table reflects the $153.8 million in bonds provided to this program over the past five biennia (an average of $30.8 million per biennium).

TABLE 1

Freight Rail Preservation Program Bond Authorizations -- 2011-13 thru 2019-21
($ in Millions)

Biennium	Bonding Authorization
2011-13	$30.0
2013-15	52.0
2015-17	29.8
2017-19	12.0
2019-21	30.0
Total	$153.8
Average Amount	$30.8

6. Each year DOT awards funding for FRPP projects. Table 2 reflects the most recent project awards ($14.8 million) that DOT has committed to using existing FRPP bond authority.

TABLE 2

Recently Awarded FRPP Projects Using Existing Program Funding

Applicant	Project Location & Description	Funding	Contract Year
Awarded Projects			
Wisconsin & Southern	Dane County - 25.0 miles of rail rehabilitation	$4,909,900	2020
Wisconsin & Southern	Whitewater to Eagle - 12.5 miles of rail replacement	4,578,100	2020
Wisconsin & Southern	Prairie Subdivision - Rehabilitate or repair 9 bridges	2,794,100	2020
Wisconsin & Southern	Fisk to Oshkosh - 2.8 miles of rail replacement	2,074,500	2020
Wisconsin & Southern	Reedsburg Subdivision - Rehabilitate 2 bridges	486,100	2020
Total		$14,842,700	

7. Table 3 provides information as of April, 2021, on how much of FRPP's existing bonding authority for FRPP projects has been spent, how much has been committed to be spent, and how much is expected to remain uncommitted to begin the 2021-23 biennium.

TABLE 3

Existing Bonding and Commitments
($ in Millions)

Existing Bonding	
Total Bonding Authorized	$280.3*
Less Bonds Issued Through Spring, 2021	-224.3
Authorized, Unissued Bonding	$56.0
Use of Unissued Bonding	
Less Projects with Funding Encumbered	-$26.2
Less Approved, Unencumbered Projects	-13.9
Unissued Bonding Committed	-$40.1
Remaining Uncommitted Bonding	$15.9

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

8. As indicated in Table 3, of the $280.3 million in FRPP bonding authorized to date, $224.3 million has been obligated (either issued or allotted) by the Building Commission. The Department has encumbered an additional $26.2 million of the remaining authority for awarded projects and plans to award another $13.9 million in projects by July 1, 2021. As a result, $15.9 million in existing authority would remain available for the 2021-23 biennium to fund additional project work.

Funding Options

9. As of April, 2021, the Department identified 11 potential projects totaling $86.7 million that could receive funding in the 2021-23 biennium. Of this amount, up to $69.4 million could be funded through FRPP because such projects require a 20% match from applicants. Potential projects include four projects with eight bridge replacements, three projects that total up to 85 miles of rail replacement, and three other projects with track or bridge rehabilitation or restoration. Table 4 below reflects candidates for 2021-23 funding according to DOT.

TABLE 4

FRPP Project Candidates for Funding -- 2021-23

Applicant	Project Description	Counties	Potential Funding
Wisconsin & Southern	Rail Replacement - Phases 4 to 6 (50.0 miles)	Dane, Iowa, & Sauk	$20,000,000
Wisconsin & Southern	System-wide Bridge Repairs & Replacements	System-wide	8,000,000
Wisconsin & Southern	Rail Replacement - Phase 2 (18.4 miles)	Crawford & Grant	7,284,100
Wisconsin & Southern	Rail Replacement - Phase 3 (16.6 miles)	Grant & Iowa	7,280,000
Wisconsin & Southern	Bridge & Track Restoration	Rock	6,440,600
Wisconsin & Southern	Track Rehabilitation - Phase 2	Columbia, Dane, & Sauk	5,587,700
Wisconsin & Southern	Track Rehabilitation - Phase 3	Columbia, Dane, & Sauk	4,800,000
Wisconsin & Southern	Bridge Replacement (2 bridges)	Grant	3,215,100
Wisconsin & Southern	Bridge Replacement	Dane	2,805,100
Wisconsin & Southern	Bridge Rehabilitation (2 bridges)	Milwaukee	2,091,200
Wisconsin & Southern	Bridge Rehabilitation (3 bridges)	Dane & Rock	1,886,800
Total			$69,390,600

10. The Department requested, and the Governor recommends, $20.0 million additional transportation fund-supported, general obligation bond authorizations for FRPP in the 2021-23 biennium. This bonding level would leave $33.5 million in potential program costs that would not be funded in the biennium ($69.4 million outstanding program needs - $20.0 million new funding - $15.9 million existing funding). Estimated transportation fund-supported, general obligation bond debt service associated with the partial issuance of these bonds would be $526,300 SEG in 2022-23. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal $1,604,900 SEG annually. [Alternative 1]

11. The Department's 2016 transportation fund Solvency Study discussed a FRPP 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.

12. As noted earlier, the rail industry contributes more to the transportation fund than it receives in assistance from the fund. Therefore, providing a somewhat higher level of bonding to the program than the level recommended by the Governor in the 2021-23 biennium may be warranted. For example, the Committee could instead provide $30.8 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 amount would also be within the range of the amounts recommended in the 2016 transportation fund Solvency Study ($30.0 million) and by the 2013 Transportation Finance and Policy Commission ($34.2 million), as noted. This would leave $22.7 million in potential program costs that would not be funded in the biennium ($69.4 million expected costs - $30.8 million new funding - $15.9 million existing funding). Estimated transportation fund-supported, general obligation bond debt service associated with the partial issuance of these bonds would be $810,400 SEG in 2022-23. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal $2,471,500 SEG annually. [Alternative 2]

13. Under the base level funding currently included in the substitute amendment to Assembly Bill 68/Senate Bill 111, expenditures from the transportation fund are significantly higher than under the Governor's recommendations. The Governor's recommendations reduced SEG funding to the state highway improvement program and replaced that funding with bonding. Further, while the 2019-21 budget increased revenues to the transportation fund, the coronavirus pandemic has dampened the impact of those revenue increases to the fund, as well as to ongoing base level revenues. The Committee already took action to reduce transportation fund appropriations, including adopting standard budget adjustments and reestimates of sum sufficient debt service appropriations that reduced appropriations by $46.5 million in 2021-22 and $31.4 million in 2022-23. Despite these actions and slightly higher estimated revenues, prior to Committee actions on the remainder of the transportation budget the estimated 2022-23 ending balance is -$32.3 million. Thus, the availability of SEG funding to support debt service on bonds issued to fund freight rail projects could be limited, especially considering revenues to the transportation fund could remain somewhat dampened when compared to pre-pandemic levels.

14. Because $15.9 million in existing bonding authority remains uncommitted the Committee could provide only $4.1 million in new bonding authority, which would make $20 million in FRPP bonding available for projects in the biennium, which is the amount in new bonding authority requested by the Department and recommended by the Governor, as noted. This would leave $49.4 million in potential program costs that would not be funded in the biennium ($69.4 million expected costs - $4.1 million new funding - $15.9 million existing funding). Estimated transportation fund-supported, general obligation bond debt service associated with the partial issuance of these bonds would be $107,900 SEG in 2022-23. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal $329,000 SEG annually. [Alternative 3]

15. Alternatively, the Committee could choose to fund FRPP at the level of the average of the five most recent biennia ($30.8 million), using the existing uncommitted bonding ($15.9 million), which would then require only $14.9 million in new bonding authority. This would leave $38.6 million in potential program costs that would not be funded in the biennium ($69.4 million expected costs - $14.9 million new bonding - $15.9 million existing funding). Estimated transportation fund-supported, general obligation bond debt service associated with the partial issuance of these bonds would be $392,100 SEG in 2022-23. Once fully issued, estimated transportation fund debt service on these general obligation bonds would equal $1,195,700 SEG annually. [Alternative 4]

16. While DOT has indicated that the potential program awards could be as high as $69.4 million, not all these projects may necessarily need to be funded or selected for funding in the biennium. Nonetheless, providing a funding level necessary to fund all these potential projects identified by the Department for the biennium would require an additional bonding authorization of $53.5 million ($69.4 million - $15.9 million in existing funding). Providing this level of bonding would result in an estimated $1,407,700 SEG in 2022-23, and when fully issued would increase annual debt service costs by $4,293,000 SEG. [Alternative 5]

17. Given the potentially ongoing adverse effects on transportation fund revenue due to the coronavirus pandemic, some may have concerns regarding authorizing additional bonds and thus increasing the amount of future revenues that must be used to fund debt service on bonds. If the

Committee shares this concern, it could choose to provide no new bonding authority for FRPP projects at this time and an estimated total of $15.9 million in uncommitted bonding authority would be available for the program. This would result in $53.5 million of the potential FRPP projects remaining unfunded in the biennium. [Alternative 6]

ALTERNATIVES

1. Authorize $20,000,000 in transportation fund-supported, general obligation bonds to be issued for the purpose of funding the freight rail preservation program in the 2021-23 biennium. Increase estimated debt service by $526,300 SEG in 2022-23. When the bonds are fully issued, the annualized debt service to be paid from the transportation fund would be an estimated $1,604,900 SEG.

ALT 1	Change to Base
BR-SEG	$20,000,000
SEG	526,300
Total	$20,526,300

2. Authorize $30,800,000 in transportation fund-supported, general obligation bonds to be issued for the purpose of funding freight rail preservation program in the 2021-23 biennium. Increase estimated debt service by $810,400 SEG in 2022-23. When the bonds are fully issued, the annualized debt service to be paid from the transportation fund would be an estimated $2,471,500 SEG.

ALT 2	Change to Base
BR-SEG	$30,800,000
SEG	810,400
Total	$31,610,400

3. Authorize $4,100,000 in transportation fund-supported, general obligation bonds to be issued for the purpose of funding the freight rail preservation program in the 2021-23 biennium. Increase estimated debt service by $107,900 SEG in 2022-23. When the bonds are fully issued, the annualized debt service to be paid from the transportation fund would be an estimated $329,000 SEG.

ALT 3	Change to Base
BR-SEG	$4,100,000
SEG	107,900
Total	$4,207,900

4. Authorize $14,900,000 in transportation fund-supported, general obligation bonds to be issued for the purpose of funding the freight rail preservation program in the 2021-23 biennium. Increase estimated debt service by $392,100 SEG in 2022-23. When the bonds are fully issued, the

annualized debt service to be paid from the transportation fund would be an estimated $1,195,700 SEG.

ALT 4	**Change to Base**
BR-SEG	$14,900,000
SEG	392,100
Total	$15,292,100

5. Authorize $53.5 million in transportation fund-supported, general obligation bonds for the purpose of funding freight rail preservation projects in the 2021-23 biennium. Increase estimated debt service by $1,407,700 SEG in 2022-23. When the bonds are fully issued, the annualized debt service to be paid from the transportation fund would be an estimated $4,293,000 SEG.

ALT 5	**Change to Base**
BR-SEG	$53,500,000
SEG	1,407,700
Total	$54,907,700

6. Take no action.

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