



STATE TRAILWAYS SYSTEM

House Bills 4351 and 4352

Sponsor: Rep. Beverly Bodem

Committee: Tourism & Recreation

Complete to 3-16-93

A SUMMARY OF HOUSE BILLS 4351 AND 4352 AS INTRODUCED 2-24-93

The bills would provide for the creation of a railway system in Michigan under which the Natural Resources Commission could designate "Michigan trailways" on publicly owned or controlled land, and would amend various acts to allow for such trailways to be established and used. Among other things, the bills would create a Michigan Trailways Fund to receive monies that could be spent for purposes relating to the trailways system, authorize a group of local governments to establish a Michigan railway management council that could provide for managing a portion of the railway in their jurisdiction, and permit the Department of Transportation to transfer land, for reimbursement, to the Department of Natural Resources to be used as a Michigan railway. House Bill 4351 is tie-barred to House Bill 4352/Senate Bill 224, and House Bill 4352 is tie-barred to Senate Bill 203 (which would provide immunity from liability for the owner or lessee of land on which a railway user was injured).

House Bill 4352 would create the Michigan Trailways Act to authorize the Natural Resources Commission (NRC) to designate a Michigan railway if the railway met the following criteria or would meet them when it was completed.

A Michigan railway would have to be on land that was owned by the state or a governmental agency, or was under the long-term control of a governmental agency through a lease, easement, or other arrangement. If a governmental agency owned the land, the NRC would have to obtain the agency's consent before designating the land as part of a Michigan railway. (Under the bill, "governmental agency" would mean the federal government or a county, city, village, or township, or any combination of these entities.)

The design and maintenance of a railway and its related facilities would have to meet generally accepted standards of public safety. A railway also would have to meet appropriate standards for its designated recreation uses, and be available for those uses on a nondiscriminatory basis. Further, a railway:

- * would have to be a multiuse trail suitable for use by pedestrians, people with disabilities, and other users, as appropriate;
- * would have to be, or have the potential to be, a segment of a statewide network of trailways, or attract a substantial share of its users from beyond the local area;
- * would have to be marked with an official Michigan railway sign and logo at major access points; and
- * could not be directly attached to a roadway, except at roadway crossings.

Where feasible, a railway would have to offer adequate support facilities for the public, including parking, sanitary facilities, and emergency telephones, that were accessible to disabled persons and were at reasonable frequency along the railway. Potential negative impacts of railway development on owners or residents of adjacent property would have to be minimized through all of the following: adequate enforcement of railway rules and regulations; continuation of access for railway crossings for agricultural and other purposes; construction and maintenance of fencing, where necessary, by the railway owner or operator; and other means considered appropriate by the NRC.

The NRC could revoke a designation if it determined that the railway failed to meet the preceding requirements. Before revoking a designation, the NRC would have to give notice to all entities involved in the railway's management. If the railway were brought into compliance with the bill within 90 days after the notice was given, the commission could not revoke the designation.

In agricultural areas, a Michigan railway could be temporarily closed by the entity operating it to allow pesticide application on adjoining lands. The operating entity could arrange with a landowner, or other person, for the posting of signs or the closure of the railway during pesticide application and appropriate reentry periods.

Trailway Connector. The commission could designate as a "Michigan trailway connector" a trailway, bicycle path, sidewalk, road or other suitable route that did not meet the bill's requirements for a Michigan trailway if the connector met appropriate standards for its designated uses, connected directly to a Michigan trailway, and was marked with an official Michigan trailway connector sign and logo at major access points. Also, the governmental agency having jurisdiction over the connector would have to give written consent to the designation. An aquatic corridor capable of accommodating watercraft that connected to a Michigan trailway could be designated as a trailway connector if it met the preceding requirements.

Trailway Uses. The NRC, in consultation with governmental agencies in which a trailway was located, would have to establish uses to be permitted on each state-owned and -operated Michigan trailway. In establishing permitted uses, the NRC would have to consider the safety and enjoyment of trailway uses, impacts on adjacent residents, landowners and businesses, and applicable local ordinances.

Trailway Operation and Maintenance. The DNR could operate and maintain Michigan trailways that were located on state-owned land. The department also could enter into an agreement with a council or one or more governmental agencies to provide for the operation and maintenance of a Michigan trailway. An agreement could include provisions for the designation of permitted trailway uses (subject to the bill's provisions on ORVs); construction, maintenance, and operation of the trailway; enforcement of trailway rules and regulations; and other provisions consistent with the bill.

Local Council. Two or more governmental agencies could establish a Michigan trailway management council to oversee the development and management of a trailway. A council would include membership as considered appropriate by the local governing

bodies. Upon formation, a council would have to adopt operating procedures and elect officers as it felt was appropriate.

After entering into an agreement with the DNR as provided above, a council could, pursuant to the agreement, operate and maintain that portion of one or more Michigan trailways within the governmental agencies' jurisdiction as provided in the agreement. The council also could enforce trailway rules and regulations, administer any grant made from the fund or other funding related to the portion of the Michigan trailway within its jurisdiction, and perform other functions consistent with the bill.

A council could be dissolved by the governmental agencies that participated in creating the council. If it had entered into an agreement with the DNR, however, the agreement would have to specify how the council could be dissolved.

Trailways Fund. The Michigan Trailways Fund would be created in the state treasury and could be spent for:

- * administrative expenses of the DNR in operating and maintaining the Michigan trailway system and enforcing trailway rules and regulations;
- * grants to or contracts with councils or governmental agencies to operate and maintain segments of Michigan trailways and to enforce trailway rules and regulations;
- * funding of Michigan trailway improvements;
- * acquisition of land or rights in land;
- * publications and promotions of the trailways system.

In determining how fund monies should be spent, the DNR would have to consider all of the following:

- * The need for funding for each purpose listed above;
- * The estimated cost of Michigan trailway management for each governmental agency that managed a Michigan trailway, based on previous costs, trailway mileage, level of use and other relevant factors;
- * The need of each governmental agency that managed a Michigan trailway for financial assistance in managing the trailway, and the amount of money from the fund received by the agency in the past;
- * The amount of revenue accruing to the fund that was generated from each Michigan trailway; and
- * Other factors considered appropriate by the department.

The DNR would have to report to the legislature before December 1 of each year describing the use of money appropriated from the fund in the previous fiscal year. The state treasurer could receive money or other assets from any of the following for deposit into the fund: fees collected from users of state-owned Michigan trailways; payments to the state for easements, use permits, leases, or other use of state-owned Michigan trailway property; payments to the state for concessions operated by private vendors on state-owned property located on or adjacent to Michigan trailways; federal funds; gifts or bequests; state appropriations; and money or assets from other sources as provided by law.

The state treasurer would have to direct the investment of the fund, and credit to it interest and earnings from fund investments. Money in the fund at the close of the fiscal year would remain in the fund.

NRC Authority. The commission could grant easements or use permits, or lease land owned by the state that was being used for a Michigan railway for a use that was compatible with the use of the Michigan railway. The commission also could enter into contracts for concessions along a Michigan railway, and lease land adjacent to a Michigan railway for the operation of concessions. If the commission approved of the acquisition of land by the department, it could state that the acquisition of specified land was for purposes of the railway system. Such land would only be considered as a Michigan railway when the department acquired it. The commission could promulgate rules as it considered necessary to implement the bill.

Other Provisions. All state agencies would have to cooperate with the commission and the DNR in implementation of the bill.

House Bill 4351 would amend the State Transportation Preservation Act (MCL 474.60) to permit the Department of Transportation, in preserving a railroad right-of-way, to transfer it for appropriate reimbursement to the DNR for use as a Michigan railway pursuant to House Bill 4352, if the deed included restrictions on the use of that property that would assure that the property remained viable for future rail usage. The deed also would have to include a clause requiring the DNR to transfer the right-of-way, for appropriate reimbursement, to the Department of Transportation, upon a determination of the transportation department director that the right-of-way was needed for use as a railroad line.