

Act No. 27
Public Acts of 1993
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STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

**Introduced by Senators Geake, Ehlers, Cisky, McManus, Emmons, Wartner, Honigman, Pridnia,
Schwarz, Gast and Posthumus**

ENROLLED SENATE BILL No. 224

AN ACT to provide for a system of state railways; to provide for the designation, use, and maintenance of state railways; and to prescribe the powers and duties of certain state and local agencies and officials.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "Michigan railways act".

Sec. 2. The legislature finds and declares that a statewide system of railways will provide for public enjoyment, health, and fitness; encourage constructive leisure time activities; protect open space, cultural and historical resources, and habitat for wildlife and plants; enhance the local and state economies; link communities, parks, and natural resources; create opportunities for rural-urban exchange, agricultural education, and marketing of farm products; and preserve corridors for possible future use for other public purposes. Therefore, the planning, acquisition, development, operation, and maintenance of Michigan railways is in the best interest of the state and is declared to be a public purpose.

Sec. 3. As used in this act:

- (a) "Advisory council" means the Michigan railways advisory council created in section 11.
- (b) "Commission" means the commission of natural resources.
- (c) "Council" means a Michigan railway management council established pursuant to section 7.
- (d) "Department" means the department of natural resources.
- (e) "Fund" means the Michigan railways fund created in section 10.
- (f) "Governmental agency" means the federal government or a county, city, village, or township, or a combination of any of these entities.
- (g) "Michigan railway" means a railway designated by the commission pursuant to section 4.
- (h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (i) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.
- (j) "Trailway" means a land corridor that features a broad trail capable of accommodating a variety of public recreation uses.

Sec. 4. (1) Upon petition, by any person or on its own motion, the commission may designate a trailway in the state as a "Michigan trailway". The petition or motion shall propose permitted uses of the trailway. The commission shall not designate a trailway a Michigan trailway unless it meets, or will meet when completed, all of the following requirements:

(a) The land on which the trailway is located is owned by the state or a governmental agency, or otherwise is under the long-term control of the state or a governmental agency through a lease, easement, or other arrangement. If the land is owned by a governmental agency, the commission shall obtain the consent of the governmental agency before designating the land as part of a Michigan trailway.

(b) The design and maintenance of the trailway and its related facilities meet generally accepted standards of public safety.

(c) The trailway meets appropriate standards for its designated recreation uses.

(d) The trailway is available for designated recreation uses on a nondiscriminatory basis.

(e) The trailway is a multiuse trail suitable for use by pedestrians, by people with disabilities, and by other users, as appropriate.

(f) The trailway is, or has potential to be, a segment of a statewide network of trailways, or it attracts a substantial share of its users from beyond the local area.

(g) The trailway is marked with an official Michigan trailway sign and logo at major access points.

(h) The trailway is not directly attached to a roadway, except at roadway crossings.

(i) Where feasible, the trailway offers adequate support facilities for the public, including parking, sanitary facilities, and emergency telephones, that are accessible to people with disabilities and are at reasonable frequency along the trailway.

(j) Potential negative impacts of trailway development on owners or residents of adjacent property are minimized through all of the following:

(i) Adequate enforcement of trailway rules and regulations.

(ii) Continuation of access for trailway crossings for agricultural and other purposes.

(iii) Construction and maintenance of fencing, where necessary, by the owner or operator of the trailway.

(iv) Other means as considered appropriate by the commission.

(k) Other conditions required by the commission.

(2) The commission shall not designate a trailway a Michigan trailway under subsection (1) unless a public hearing has been held in the vicinity of the proposed Michigan trailway to take testimony and gather public opinion on the proposed designation including, but not limited to, the proposed uses of the trailway and whether or not motorized uses are appropriate for the trailway. The public hearing shall be held at a location and at a time calculated to attract a fair representation of opinions on the designation. A transcript or a summary of the testimony at the public hearing shall be forwarded to the commission.

(3) At the time a Michigan trailway is designated under subsection (1), the commission shall, in consultation with the governmental agencies in which the trailway is located, establish uses to be permitted on the trailway. In establishing permitted uses, the commission shall consider all of the following:

(a) The safety and enjoyment of trailway users.

(b) Impacts on residents, landowners, and businesses adjacent to the trailway.

(c) Applicable local ordinances.

(4) A change in the permitted uses of a Michigan trailway established under subsection (3) relating to whether or not a motorized use is allowed on the trailway shall not be made without approval of the commission after a public hearing held in the same manner as provided in subsection (2).

(5) The commission may revoke a Michigan trailway designation if it determines that a trailway fails to meet the requirements of this section. Before revoking a Michigan trailway designation, the commission shall provide notice to all entities involved in the management of the trailway. If the trailway is brought into compliance with this section within 90 days after providing this notice, the commission shall not revoke the designation.

Sec. 5. (1) Upon petition, by any person or on its own motion, the commission may designate a trailway, bicycle path, sidewalk, road, or other suitable route that does not meet the requirements of this act for a Michigan trailway as a "Michigan trailway connector" if the connector meets all of the following:

(a) The connector meets appropriate safety standards and appropriate design standards for its designated uses.

(b) The connector connects directly to a Michigan trailway.

(c) The public agency having jurisdiction over the connector has consented in writing to the designation.

(d) The connector is marked with an official Michigan railway connector sign and logo at major access points.

(2) An aquatic corridor capable of accommodating watercraft that connects to a Michigan railway may be designated as a Michigan railway connector if it meets the requirements of subsection (1)(a) to (d).

Sec. 6. The department may operate and maintain a Michigan railway that is located on state owned land or may enter into an agreement with a council or 1 or more governmental agencies to provide for the operation and maintenance of the Michigan railway. An agreement entered into under this subsection may include provisions for any of the following:

(a) Construction, maintenance, and operation of the railway.

(b) Enforcement of railway rules and regulations including permitted uses of the railway.

(c) Other provisions consistent with this act.

Sec. 7. (1) Two or more governmental agencies may establish a Michigan railway management council for the development and management of a Michigan railway pursuant to the urban cooperation act of 1967, Act No. 7 of the Extra Session of the Public Acts of 1967, being section 124.501 to 124.512 of the Michigan Compiled Laws.

(2) Upon formation, a council shall adopt operating procedures and shall elect officers as the council considers appropriate.

(3) A council may do 1 or more of the following as authorized in an interlocal agreement entered into pursuant to Act No. 7 of the Extra Session of the Public Acts of 1967:

(a) Operate and maintain that portion of 1 or more Michigan railways that are owned or under the control of the governmental agencies establishing the council.

(b) Pursuant to an agreement under section 6, operate and maintain that portion of 1 or more Michigan railways that are located on state owned land.

(c) Coordinate the enforcement of railway rules and regulations, and other applicable laws and ordinances, including permitted uses of the railway on railways owned or under the control of the governmental agencies establishing the council or, pursuant to an agreement under section 6, railways that are located on state owned land.

(d) Receive any grant made from the fund or other funding related to that portion of a Michigan railway within its jurisdiction.

(e) Acquire or hold real property for the purpose of operating a Michigan railway.

(f) Perform other functions consistent with this act.

(4) A council may be dissolved by the governmental agencies that participated in creating the council. However, if a council has entered into an agreement with the department under section 6, the agreement shall specify how the council may be dissolved.

Sec. 8. In agricultural areas, a Michigan railway may be temporarily closed by the entity operating the railway to allow pesticide application on lands adjoining the railway. The entity operating the Michigan railway shall post the closure of the railway or arrange with a landowner, or other person, for the posting of signs and the closure of the railway during pesticide application and appropriate reentry periods.

Sec. 9. (1) The commission may do any of the following:

(a) Grant easements or use permits or lease land owned by the state that is being used for a Michigan railway for a use that is compatible with the use of the Michigan railway.

(b) Enter into contracts for concessions along a state owned Michigan railway.

(c) Lease land adjacent to a state owned Michigan railway for the operation of concessions.

(2) If the commission approves of the acquisition of land by the department, the commission may state that the specified land is acquired for use as a Michigan railway. Following acquisition of land that the commission states is acquired for use as a Michigan railway, any revenue derived from that land pursuant to subsection (1), except as otherwise provided by law, shall be deposited into the fund.

Sec. 10. (1) The Michigan railways fund is created within the state treasury.

(2) Except as otherwise provided by law, the state treasurer may receive money or other assets from any of the following for deposit into the fund:

(a) Fees collected from users of railways on state forest lands.

(b) Payments to the state for easements, use permits, leases, or other use of state owned Michigan railway property.

(c) Payments to the state for concessions operated by private vendors on state owned property located on or adjacent to a Michigan railway.

(d) Federal funds.

(e) Gifts or bequests.

(f) State appropriations.

(g) Money or assets from other sources as provided by law.

(3) The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) Money in the fund may be expended for any of the following purposes:

(a) The expenses of the department in operating and maintaining the Michigan railway system and enforcing Michigan railway rules and regulations.

(b) Grants to or contracts with councils or governmental agencies to operate and maintain segments of Michigan railways and to enforce Michigan railway rules and regulations.

(c) Funding Michigan railway construction and improvements.

(d) Acquisition of land or rights in land.

(e) Publications and promotions of the Michigan railways system.

(6) In determining the expenditure of money in the fund, the department shall consider all of the following:

(a) The need for funding for each of the purposes listed in subsection (5).

(b) The estimated cost of Michigan railway management for each governmental agency that manages a Michigan railway, based on previous costs, railway mileage, level of use, and other relevant factors.

(c) The need of each governmental agency that manages a Michigan railway for financial assistance in managing that railway, and the amount of money from the fund received by that agency in the past.

(d) The amount of revenue accruing to the fund that is generated from each Michigan railway.

(e) Other factors considered appropriate by the department.

(7) The department shall submit a report to the legislature on or before December 1 of each year describing the use of money appropriated from the fund in the previous fiscal year.

Sec. 11. (1) The Michigan railways advisory council is created within the department.

(2) The advisory council shall consist of the following members appointed by the commission:

(a) One individual who is involved with the establishment or operation of a multiple use railway.

(b) Two individuals who represent Michigan railway user groups.

(c) One local government official from a governmental agency in which a multiple use railway is located.

(d) One member of the general public.

(3) The members first appointed to the commission shall be appointed within 90 days after the effective date of this act.

(4) Members of the advisory council shall serve for terms of 4 years, or until a successor is appointed, whichever is later, except that of the members first appointed, 2 shall serve for 1 year, 1 shall serve for 2 years, and 1 shall serve for 3 years.

(5) If a vacancy occurs on the advisory council, the commission shall make an appointment for the unexpired term in the same manner as the original appointment.

(6) The commission may remove a member of the advisory council for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(7) The first meeting of the advisory council shall be called by the commission. At the first meeting the advisory council shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the advisory council shall meet at least annually, or more frequently at the call of the chairperson or, if requested by 3 or more members.

(8) A majority of the members of the advisory council constitute a quorum for the transaction of business at a meeting of the advisory council. A majority of the members present and serving is required for official action of the advisory council.

(9) the business which the advisory council may perform shall be conducted at a public meeting of the advisory council held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(10) A writing prepared, owned, used, in possession of, or retained by the advisory council in the performance of an official function is subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(11) Members of the advisory council shall serve without compensation. However, members of the advisory council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the advisory council.

(12) The advisory council shall do both of the following:

(a) Make recommendations to the commission and the department on the expenditure of money in the fund.

(b) Advise the commission and the department on the implementation of this act and the establishment and operation of Michigan trailways.

Sec. 12. All state agencies shall cooperate with the commission and the department in the implementation of this act.

Sec. 13. The commission may promulgate rules as it considers necessary to implement this act.

Sec. 14. This act shall not take effect unless Senate Bill No. 203 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.