

11.0 Rail Funding and Finance Options

Ohio has a long history of investing in rail preservation and improvement. The state participated in the federal Local Rail Freight Assistance Program, which was established in 1973 to provide financial assistance to states for the continuation of rail freight service on abandoned light density rail lines in the Northeast. The federal Railroad Revitalization and Regulatory Reform Act of 1979 expanded the program to all states and for any lines threatened with abandonment. Although federal funding for this program has not been authorized since the early 1990s, its effectiveness led a number of states to establish programs to address their own specific rail-related needs.

In 1994, Chapter 4981 of the Ohio Revised Code created the Ohio Rail Development Commission, an independent agency of the Ohio Department of Transportation, to issue grants and loans to any transportation authority or other party for the purpose of continuing or instituting rail transportation in the state. ORDC may also issue bonds for qualified rail projects. The Commission was also empowered to provide grants or loans with funds made available from the US government, the state, any transportation authority, or any combination of above. Qualified applicants include railroads, and industries requiring rail service, political subdivisions, government agencies, boards, commissions, regional transit boards, and port authorities. ORDC administers its programs using prudent financial guidelines related to the desirability, timing, relative risk, and the extent of public benefits related to the project.

11.1 Existing Rail Assistance Programs

Unlike other transportation modes in the United States, states have not had access to a significant amount of federal funding for rail assistance through recent Surface Transportation Acts. The Ohio Rail Development Commission funds its programs through a variety of sources including state general revenue funds, state special revenue funds consisting of property management fees and loan re-payments and interest from its revolving loan fund, federal highway safety funds allocated from ODOT as well as other applicable federal and state grants. This section describes the Ohio rail programs, as well as federal rail-related programs and other funding sources available to states.

11.1.1 State Programs

ORDC administers the Ohio Rail Assistance Program for which there are various program elements. ORDC also coordinates with other state agencies with regard to assistance programs with rail project eligibility.

In general, grants are reserved for cases where there is extraordinary need. Loans are provided with flexible interest rates and terms. Program elements include the following:

ORDC Freight Development/Rail Spur Program

This program provides assistance to companies for new rail and rail-related infrastructure. The goal of the program is to promote the retention and development of Ohio companies through the use of rail transportation, including rail access and carload generation to existing operations. Grant funding is generally limited to projects where job creation is involved. Loan financing is available even when jobs are not created or retained.

ORDC Railroad Rehabilitation Program

This program provides assistance to public and private entities for the rehabilitation of rail lines in the state to improve safety and operating efficiency. Grant and loan requests are evaluated on the basis of operational and safety benefits, as well as projected future increases in the usage of the rail line by existing and new rail customers.

ORDC Rail Line Acquisition Program

This program provides assistance for the acquisition of rail lines to prevent the cessation of service, preserve the line or right of way for future rail development, or enhance the line's viability. Funding requests are evaluated on the basis of the importance of the rail line for rail users and overhead traffic, the number of people employed by rail-dependent rail users, and the importance of the line with respect to affected shipper transportation costs.

ORDC Railroad Grade Crossing Safety Programs

This program provides funding for highway-railroad grade crossing safety improvements or corrective activities designed to alleviate highway-railroad hazards. In addition to funding available from the FHWA Highway Safety Improvement and Surface Transportation Programs, ORDC and ODOT provide supplemental funding to carry out all aspects of grade crossing improvements, including at-grade crossing equipment installation and upgrade, crossing approach, surfacing, sign, and pavement marking, visibility and roadway geometry improvements, and grade crossing separation and elimination projects. In some instances, funding for grade crossing safety improvements is also provided through the state funded Supplemental Assistance Program administered by the Public Utilities Commission of Ohio.

Department of Development Logistics and Distribution Stimulus Program

This program was created to promote economic development and job creation in Ohio. The Department of Development, in cooperation with the Ohio Department of Transportation and the Ohio Rail Development Commission has established a \$100 million forgivable loan program for eligible transportation, logistics, and infrastructure projects in the State. Eligible capital infrastructure projects include road, rail, air and port improvements that expand connectivity to logistics and/or intermodal centers, reduce checkpoints, and freight bottlenecks, and enhance the flow of freight and/or improve access to new markets for Ohio businesses. Most of the funding originally allocated to this program has been distributed.

11.2 State General Revenue Funding

State general revenue funds available for freight development/rail spur projects, railroad rehabilitation projects, and rail line acquisitions fluctuate with the condition of the state budget and have declined in recent years.

11.3 Federal Programs

As noted earlier, there have been few dedicated federal programs for rail capital assistance available to states. In late 2008, however, the Passenger Rail Improvement and Investment Act provided funds directly to states for rail intercity passenger investments. Also, in early 2009, the American Recovery and Reinvestment Act provided flexible transportation funding to states for capital projects as well as funding for passenger rail development.

The following are summary descriptions of programs specifically available for rail assistance as well as programs which are primarily highway oriented, but may also be eligible for selected rail-related applications.

American Recovery and Reinvestment Act

In an effort to stimulate the economy, the American Recovery and Reinvestment Act of 2009 provided federal funding for various transportation-related infrastructure projects which could be implemented in the near-term.

Relevant programs include:

ARRA Flexible Highway Funding: This economic stimulus program provided states with \$24 billion of flexible highway funding for surface transportation improvements, including rail projects. Ohio received a total of \$775 million and allocated \$75.4 million to 28 rail safety and rehabilitation projects.

ARRA Passenger Rail Funds: A total of \$8 billion was made available for rail passenger improvement planning and projects. Projects must be included in state rail passenger corridor plans and state rail plans, meet safety regulations, and meet financial and project management plan requirements. Ohio was awarded \$400 million of its total \$564 million request under this program.

ARRA Transportation Investment Generating Economic Recovery Discretionary Grants Program: This program allowed local and state governments to apply for \$1.5 billion of discretionary funding. Grants are eligible for capital investment in rail, highway, bridge, public transportation, and port projects. Grants were awarded by USDOT on a competitive basis. Ohio has applied for a total of \$600 million under this program. The CSX National Gateway Project was awarded \$98 million, with Ohio serving as the lead applicant for a multi-state coalition.

Passenger Rail Improvement and Investment Act of 2008

This legislation authorized over \$13 billion between 2009 and 2013 for Amtrak and promotes the development of new and improved intercity rail passenger services. The act also establishes an intercity passenger rail capital grant program for states. States are required to identify passenger rail corridor improvement projects in their state rail plan to be eligible for the \$1.9 billion authorized over five years. In addition to infrastructure projects, facilities and equipment necessary to provide new or improved intercity passenger service are also eligible. The act also authorizes \$325 million for congestion grants to be made available to Amtrak and states over the five year period for high-priority rail corridors to increase capacity and facilitate ridership.

A high-speed rail corridor development program, with authorized funding of \$1.5 billion beginning in FY 2009 is available to states and Amtrak for capital grants in high-speed corridors. Funding for the authorized programs associated with this Act must be appropriated annually.

Rail-Related SAFETEA-LU Funding Programs

The Safe, Accountable, Efficient Transportation Equity Act – a Legacy for Users, or SAFETEA-LU, the current authorization bill for the nation’s surface transportation program, expired on October 1, 2009. The act has been extended as a result of delays in development of a new transportation reauthorization. SAFETEA-LU contains a number of program provisions specifically for rail. These include:

Section 130 Highway-Rail Grade Crossing Program: This program provides federal support in efforts to reduce the incidence of accidents, injuries, and fatalities at public rail-highway crossings. States may utilize funds to improve railroad crossings including the installation or upgrading of warning devices, and the elimination of at-grade crossings through grade separation, or the consolidation or closing of crossings. The federal share for these funds is 100%.

Historically, ODOT has allocated \$15 million per year of Hazard Elimination and Surface Transportation Program funds, under which Section 130 funding is authorized, for grade crossing improvements or activities designed to alleviate grade crossing safety problems. This amount is approximately 140% more than the minimum amount required by FHWA for Section 130 projects.

Rail Line Relocation and Improvement Capital Grant Program: Section 9002 of SAFETEA-LU authorized \$350 million per year for the purpose of providing financial assistance for local rail line and improvement projects. Any construction project that improves the route or structure of a rail line and 1) involves a lateral or vertical relocation of any portion of the rail line, or 2) is carried out for the purpose of mitigating the adverse affects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development, is eligible. The federal share for these funds is 90%, not to exceed \$20 million.

Rail Rehabilitation and Improvement Financing: Section 9003 of SAFETEA-LU provides loans and credit assistance to both public and private sponsors of rail and intermodal projects. Eligible projects include acquisition, development, improvement, or rehabilitation of intermodal or rail equipment and facilities. Direct loans can fund up to 100 percent of a capital project with repayment terms of up to 25 years and interest rates equal to the cost of borrowing to the government. A total of \$35 billion was authorized for this program, of which \$7 billion was directed to short line and regional railroads.

Eligible borrowers include railroads, state and local governments, government sponsored authorities, and corporations, and joint ventures that include at least one railroad.

High Speed Rail Crossing Improvement Program

This program provided \$50 million over the five year period to reduce or eliminate hazards at highway-rail grade crossings located in designated high speed corridors. These funds are generally earmarked by Congress in the annual Transportation Appropriations bill. Ohio is eligible for this funding by virtue of its federally designated High Speed Rail Corridors.

High Speed Rail Corridor Development Program

This program originally authorized \$70 million per year for high speed rail corridor activities and \$30 million per year for high speed rail technology improvements on federal designated high speed rail corridors.

The Passenger Rail Investment and Improvement Act of 2008 amended this program by limiting it to planning activities and reducing funding to \$30 million per year.

New Starts Program

This program provides over \$6.5 billion over a five-year period for new fixed-guideway transit projects including new systems and system extensions. Rail transit projects eligible for funding under this program include heavy-rail transit systems, light-rail transit systems, automated guideway systems, and commuter rail. The program also includes set aside funds for smaller projects with federal shares of less than \$75 million.

Fixed-Guideway Modernization Program

This program provides \$6 billion for the modernization and rehabilitation of fixed-guideway transit systems. All forms of rail transit projects are eligible under the program.

11.4 Other SAFETEA-LU Programs

In addition to the above programs, a number of additional programs, although primarily intended for highway use, are eligible for rail projects at the discretion of the states and upon approval of the administering federal agency. These programs include:

Congestion Mitigation and Air Quality Improvement Program

This program funds transportation projects and programs that improve air quality by reducing transportation-related emissions in non-attainment and maintenance areas for ozone, carbon monoxide, and particulate matter. Examples of CMAQ-funded rail projects include the construction of intermodal facilities, rail track rehabilitation, diesel engine retrofits and idle-reduction projects in rail yards, and new rail sidings.

State DOTs and MPOs select and approve projects for funding. The federal matching share for freight-related projects is 80%.

Surface Transportation Program

The Surface Transportation Program is a general grant program available for improvements on any federal-aid highway, bridge, or transit capital project. Eligible rail improvements include lengthening or increasing vertical clearance of bridges, crossing eliminations, and improving intermodal connectors.

State DOTs and MPOs select and approve projects for funding. The federal matching share for these funds is 80%.

Transportation Infrastructure Finance and Innovation Act

This program provides credit assistance to large scale projects (over \$50 million or 1/3 of a state's annual federal-aid funds) of regional or national significance that might otherwise be delayed or not constructed because of risk, complexity, or cost. Three forms of credit assistance are available – secured loans, loan guarantees, and standby letters of credit. A wide variety of intermodal and rail infrastructure projects are eligible and can include equipment, facilities, track, bridges, yards, buildings and shops. The interest rate for TIFIA loans is the U.S. Treasury rate and the debt must be repaid within 35 years.

Projects of National and Regional Significance Program

This program was created to provide grant funds for high-cost (greater than \$500 million) projects of national or regional significance. Projects eligible for funding include any surface transportation project including rail projects. The federal share for this program is 80% of the total project cost.

Transportation Enhancement Program

These funds are available to strengthen the cultural, aesthetic, and environmental aspects of the nation's intermodal transportation system. Eligible projects can include the rehabilitation of historic transportation buildings or facilities, and the preservation of abandoned rail corridors. Projects are usually initiated at the local government level. The federal share of project costs is 80%.

Private Activity Bonds

SAFETEA-LU established a new financial assistance program that provides up to \$15 billion in private activity bonds for transportation infrastructure projects. States and local governments are allowed to issue tax-exempt bonds to finance projects sponsored by the private sector. Eligible projects include privately owned-or-operated highway and rail-truck transfer facilities.

State Infrastructure Banks

This program allows all states to set aside 10% of highway formula grants to establish revolving funds which can be used to provide loans and other credit tools to public or private sponsors for eligible transportation projects. Multistate SIBs may also be utilized to fund projects that cross jurisdictional boundaries. States must provide 20% of the capitalization amount and debt must be repaid within 30 years.

11.5 Other Federal Programs

In addition to transportation programs available under the Transportation Authorization bill, other programs are administered by USDOT or other federal agencies for which rail-related capital projects are eligible. These programs include:

Railroad Track Maintenance Credit Program

This program was authorized within the Internal Revenue Code to provide tax credits to qualified entities for an amount equal to 50 percent of qualified railroad maintenance expenditures on railroad tracks owned or leased by Class II or Class III railroads. The maximum credit amount allowed was \$3500 per mile of track.

This program expired at end of 2007. The Emergency Economic Stabilization Act of 2008, however, extended the tax credits through December 31, 2009 and also made qualified railroad track maintenance expenditures made anytime during 2008 eligible for tax credits. Legislation has been introduced to extend the tax credit program for an additional three year period and to increase the credit limitation from \$3500 to \$4500 per mile.

Economic Development Administration Funding

The U.S. Department of Commerce provides EDA grants for projects in economically distressed industrial sites that promote job creation or retention. Eligible projects must be located within EDA-designated redevelopment areas or economic development centers. Eligible rail projects include railroad spurs and sidings.

Grant assistance is available for up to 50 percent of the project, although EDA could provide up to 80 percent for projects in severely depressed areas.

Community Facility Program

The U.S. Department of Agriculture's Rural Housing Service's Community Facility Program provides three grant or loan funding mechanisms to fund construction, enlargement, extension, or improvement of community facilities providing essential services in rural areas and towns with a population of 20,000 or less. Grant assistance is available for up to 75 percent of the project cost.

Eligible rail-related community facilities include transportation infrastructure for industrial parks, railroads, and municipal docks.

11.6 Prospective Changes to Federal Rail Assistance Programs

As noted above, SAFETEA-LU, the current federal transportation funding authorization legislation, originally scheduled to expire in October 2009, has been extended into 2010 and may continue longer depending on the number and duration of extensions that may be enacted until new legislation is enacted.

Significant discussion over the need to significantly change the objectives and means of funding future transportation programs has been undertaken in recent years. Congress established a National Policy and Revenue Commission to review transportation issues and issue recommendations. The resulting report, "Transportation for Tomorrow," calls for significant changes in the way national transportation needs are addressed in the future. Specifically, the Commission called for new program areas to better meet the nation's economic reliance on transportation. Suggested new program areas which could be associated with the rail mode include: asset management; freight transportation; congestion relief-metropolitan mobility; safe mobility; access to small cities and rural areas; and intercity passenger rail.

Federal funding of these recommended programs would be based on individual plans developed by each state and metropolitan area, as well as those developed by multistate coalitions.

The emphasis areas of initial drafts of a new Surface Transportation Authorization Act include:

- Consolidating and simplifying programs and facilitating local decision making
- Focus on highway safety, including at highway-railroad crossings
- Enabling states and MPOs to address state-specific needs through metropolitan mobility plans that articulate each region's local strategies for addressing congestion and its impacts
- Providing state formula grant funding for freight and goods movement projects

The proposed program of rail projects will include recommended funding sources for each of the priority projects included. These recommended funding sources will be based on available programs and any proposed programs deemed to have a level of support necessary for inclusion in the next Transportation Authorization Act.