

TESTIMONY OF THE OHIO RAILROAD ASSOCIATION

FEBRUARY 27, 2019

OHIO HOUSE FINANCE COMMITTEE CONSIDERATION OF HOUSE BILL 62

Chairman Oelslager, Vice-Chairman Scherer, Ranking Member Cera, and members of the House Finance Committee, thank you for this opportunity to present the Ohio freight railroad industry's comments on House Bill 62. I am Art Arnold, the Executive Director of the Ohio Railroad Association.

My comments will address three subjects: grade crossing safety within the context of the funding proposal contained in the draft budget language, the rail industry's support for the Department of Transportation's motor fuels tax increase, and an issue dealing with special permits issued by ODOT.

GRADE CROSSING SAFETY

The draft bill proposes to provide a little over \$14 million per year for grade crossing safety. (Grade crossings are the at-grade intersections between railroad tracks and roadways.) According to the Ohio Rail Development Commission (ORDC), this represents flat funding for this line item, and is primarily provided through federal funds. We ask the Committee's support for this line item.

Today, according to the recently released Ohio State Rail Plan (<http://www.dot.state.oh.us/Divisions/Rail/Documents/State%20of%20Ohio%20Rail%20Plan%20Final.pdf>), Ohio has 5,787 public grade crossings, the fourth most in the nation, behind Texas, Illinois, and California. The combined long term efforts of the community of parties actively involved (law enforcement, railroads, state government, local government, federal agencies, Operation Lifesaver, and countless volunteers) in addressing grade crossing safety have reduced the annual total grade crossing crashes from 326 in 1990 to 68 in 2017. This reduction is more impressive when you consider that in 1990, there were approximately 6.7 million vehicles registered in Ohio to a population of roughly 10.9 million Buckeyes. By 2017, the number of registered vehicles had grown to about 10.6 million, while our population had grown to 11.6 million. Rail business has also grown during this period while the number of grade crossings has been reduced only slightly. So, more vehicles, more people, more trains, almost 5,800 crossings, and a 79% reduction in crashes. That is a public safety success story.

I've attached documents prepared by the ORDC that cover the last several biennium to illustrate the statewide application of the funding provided through past budgets. These funds are dedicated to public safety and primarily cover the cost of constructing the grade crossing warning devices. Railroads are responsible for the costs of annual maintenance. A persistent and troubling aspect of this public safety issue is the fact that roughly 80% or more of the remaining grade crossing crashes occur where the public authorities have installed active warning devices (lights and gates; for example, in 2017, 56 of the 68 crashes were at locations with gates and/or flashing lights). The ORDC, in consultation with other involved parties, is investigating this situation and searching for a solution to reduce crashes overall, and the high percentage occurring at what should be the least hazardous crossings.

MOTOR FUELS TAX

Recently, the Association of American Railroads, the industry's national organization, spoke out in support of an increase in the federal gas tax. (I've included an article on that announcement for your review). The Ohio Railroad Association supports the DeWine Administration's request to increase the

state's motor fuels tax. Railroads have made a huge investment in Ohio in track, facilities, equipment, and people. We cannot relocate Ohio rail corridors to another state or country. Our success is tied to the success of the state's economy. We know that transportation infrastructure is critical to the economy. And we know it is expensive. Railroads invest almost \$30 billion annually in the national freight rail network. Railroads appreciate that for reasons ranging from safe and dependable operations to dependably serving customers, transportation infrastructure must be adequately funded. The users of public infrastructure must be prepared to pay for the costs associated with that infrastructure, especially the commercial users. The Ohio Constitution prohibits the expenditure of motor fuels tax revenues on projects that are not directly related to highways, so there appears to be little direct benefit for other transportation modes, like railroads, in this proposal.

POSSIBLE AMENDMENT: SPECIAL PERMITS FOR OVERWEIGHT TRUCKING

Commercial users of public infrastructure must pay the full costs they impose on the public infrastructure, or someone else will. For commercial trucks seeking the special privilege to operate at weights in excess of the federal and state 80,000 lb. gross vehicle weight, Ohio has established a special permits office to oversee and manage such privileges, privileges that in some cases have been created by legislative action. (The number of special overweight and/or oversize permits issued annually by ODOT is approximately 350,000. These permits can be obtained as single trip permits, or, for some commodities or permit types, continuing permits good for as many trips as necessary over a 90 day period.) One such legislatively-driven special permit deals with regional heavy haul trucks operating within a limited region of 150 miles between points of origin and destination (ORC 4513.34).

The rail industry was surprised to learn that, under the Kasich Administration, ODOT had interpreted the 2013 law to mean that a 110,000 lb. commercial truck, 30,000 lbs. over the statutory weight limit, could obtain a regional heavy haul special permit from a point of origin to a destination less than 150 miles away, and, after reaching that destination, but not unloading goods, could, by having obtained a second 'piggyback' permit, continue on with the original load to the final destination that was beyond the original 150 mile limit. This interpretation raises concerns for the freight rail industry.

Railroads of all sizes have made and continue to make significant long-term investments in Ohio. Those investments were made and continue to be made after considering the business opportunities available, the return on the investment, and the costs of running the railroad. Stability in public policies are necessary elements for any business making long-term investments. Railroads are prepared to face challenges presented by the marketplace and the economy. But what raises concerns are changes enacted through public policy that enhance one mode over another.

The issue this committee may confront is an amendment sought by the heavy trucking industry to eliminate the 150 mile limit in the law enacted in 2013. That change would eliminate the necessity for, and, therefore, the cost of the second permit for trips in excess of 150 miles. Since ODOT began issuing 'piggyback' permits under the regional heavy haul law, the number of permits issued in this category has grown from roughly 1,500 a year to nearly 5,000. As these special permits allow trucks to haul any commodity anywhere in the state under the current interpretation, the rail industry feels that business opportunities for the transportation of heavy goods is at risk, and that the reduction in costs provides a cost advantage to trucking companies at the expense of railroads.

This issue came to our attention during the lame duck session, and only after the passage of legislation by the Senate Transportation Committee. (Though passed by the Committee, the bill was not brought to the Senate floor.) The Committee passed the bill in part because they were told all interested parties

were supportive of the proposal to eliminate the 150 mile limit. That was not the case, and the railroad industry's investments are disadvantaged by this proposal. We thought it more appropriate to consider any changes during the transportation budget. If this issue comes before this committee in the form of an amendment, we ask you to reject it for reasons of modal competition, and out of respect for the massive investment made by Ohio railroads. There are other existing options for the statewide movement of heavy goods that do not require public subsidies.

And there is another reason that any amendment eliminating the cost for a second permit should be denied. Why should overweight vehicles, the most impactful to pavement and bridges, operating under a special privilege permit, and already enjoying an interpretation that stretches the intent of the law, be given a reduction in their costs while the state is facing a multi-billion dollar transportation infrastructure funding gap? ODOT's own study from 2009 suggests overweight vehicles, even after including the additional cost of the special permit, do not pay the full costs of their impacts on pavement and bridges. In fact, it found that overweight trucks are underpaying by \$144 million, or more than two cents worth of motor fuels tax revenue.

Excerpt from the 2019 Ohio State Rail Plan:

"Ohio has an extensive rail network that is closely integrated with the state's economy. At 5,187 miles, Ohio's network of active rail lines is the fourth most extensive in the nation, only behind that of Texas, Illinois, and California. Because Ohio is geographically much smaller than either Texas or California, its rail network is more concentrated. Rail infrastructure (unlike highway infrastructure) is often sold or abandoned if its use does not justify costs to maintain and operate. If Ohio businesses did not use the rail network, it would not be as extensive. The high mileage of rail lines in Ohio reflects the close integration of rail with Ohio's economy. Including the impact of employee spending and spending across industries, the freight rail industry contributes \$2.8 billion to Ohio's economy annually.

Rail service in Ohio competes more closely with trucking than in other parts of the country. Where the average rail shipment distance nationwide is 1,033 miles, the average shipment distance to or from Ohio is estimated to be 619 miles. Less than 25 percent of the ton-miles originating or terminating in Ohio (compared to 55 percent nationwide) are in shipments of over 60 carloads. Because the average length of haul is shorter and the average number of carloads per shipment is fewer, railroads shipping to and from Ohio compete more closely with trucking than elsewhere, all else being equal."

The Ohio Railroad Association and its members support a fair and competitive multi-modal freight marketplace in Ohio. The freight railroads of Ohio spend tens of millions of dollars every year to maintain and improve their own properties and assets, properties and assets used to ensure safe and efficient rail freight transportation is available to Ohio industry, agriculture, and mining. The competition between trucking and rail is real in Ohio. Continued easing of truck weight limits is viewed as an existential threat to the viability of the state's freight rail industry.

Thank you for the opportunity to share this information. I've attached background documents on safety statistics, the AAR's statement on federal taxes, and other relevant documents supporting or referenced in my testimony.