

**Proposed Legislation Authorizing the Ohio Turnpike Commission  
to Additionally Engage in Public Railway Turnpike Provision**

**Bullet Point Summary  
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Current Midwest Transportation Congestion And Capacity Crises

- Ohio like many other states has lost approximately 50% of its rail network from the maximum buildout extent, and over 90% of its trolley and interurban networks.
- A number of Eastern US railroad companies downgraded and/or abandoned westbound routes to St. Louis in favor of consolidating their networks at Chicago. Now with traffic increases, the Chicago rail network is approaching gridlock, resulting in railroads offloading and trucking intermodal shipments across town to be reloaded on other trains, adding to costs, delivery times, and roadway traffic congestion.
- Rail line abandonments have caused and contributed to additional transportation problems including hazardous materials routing, homeland security, and national defense. The US Army's Strategic Rail Corridor Network agency "STRACNET" permitted Conrail, CSX, et al. to abandon and liquidate key rail line routes and segments since c.1970s, and now wants rail routes for war materiel transport from the East Coast ports to its Port Columbus depot.
- Indianapolis is promoting a West Coast-St. Louis-Indianapolis rail intermodal service route to bypass Chicago. However the Indianapolis railyards are too small and are currently too congested with regular freight traffic to accommodate being an East Coast intermodal hub/terminus.
- IN Gov. Mitch Daniels advocates a Midwest-wide I-70 truck-only lanes project projected to cost multiple \$Bs. The same corridor used to host intercity/interstate intermodal trains before Conrail and other railroad companies abandoned segments between Pittsburgh-Weirton and Dayton-Indianapolis.

Related Problems

- The modal shift away from rail use has increased our energy use, increased pollution, exposed travelers to the increased safety hazards of roadways, and hampers heavy industrial economic development.
- Our economy is now overly reliant upon international oil sources, the gasoline form of energy, and automobile and truck production.

- Governments are struggling to adequately finance roadway infrastructure without unpopular gasoline tax increases. The shorthanded Highway Trust Fund must therefore be subsidized from other funds.
- Railroads are advocating public subsidies as a means to relieve highway congestion. But public subsidies would sanction for-profit, monopolized private ways vs. non-profit, openly accessible competitive public ways.
- ODOT's Transportation Task Force recommendations will likely recommend increased fees, taxes, fares, and federal subsidies but not government nor industry restructuring. These recommendations will not more immediately impact most outstanding transportation and other issues particularly in the long term.
- OTC most likely does not want to construct a fourth lane on the existing turnpike to help solve transportation problems when it will soon need to rebuild its original underlying concrete base.
- A few highly publicized rail accidents have provided insurers questionable cause to increase rail passenger service liability coverage to the point where service is being constricted and other means of rail passenger service are being forced out of the market. Roadway incident rates are much higher than rail, yet motorist insurance is still relatively affordable.

### The Rail Mode of Transportation

- Technologically rail is the most efficient and optimal mode of transportation, and most effective in solving energy and pollution problems. Even greater energy efficiencies can be realized if motive power horsepower is scaled properly for the load (i.e., smaller, cheaper train engines used for shorter lighter trains) and motive power converted from diesel to fuel cells using alternative fuels.
- Rail lines are faster and cheaper to construct and maintain at approximately 10% of the cost of new highway lanes resulting in more immediate impacts.
- Two tracks are equivalent in capacity to 16 highway lanes (Ohio Legislature Local Transportation Needs and Funding Report).
- Properly constructed rail lines can haul train cars weighing over 150 tons each, or approximately equivalent to six trucks weighing 25 tons each.
- Rail line tracks naturally "channel" trains, thereby controlling their routing and easing metering, weight reporting, and accounting.

- Although rail cannot access all points, intermodal transfers can provide shippers and other users with preferred routing and competitive choices of modes for maximum supply chain efficiencies.

### Railroad Problems

- Large "Class I" railroad companies usually purchase their own rights of way, infrastructure, and certain facilities, and finance their own capital expenditures and maintenance. Smaller Class II & III railroad companies are more reliant upon public subsidies for these functions.
- The Ohio Rail Development Commission's ORC permits it to own and administer rail lines and finance capital expenditures with public revenue bonds. However ORDC relying upon its other ORC franchise-granting options and not wanting to "run a railroad" itself prefers to net lease railway operations to private railroad companies under a "Public Private Partnership" business and governance hybrid model, in effect sanctioning private sector monopolization of public rail lines.
- ORDC's underfunded and constantly endangered budget - a minute fraction of ODOT's budget - relies largely upon undervalued line leases, some carload revenues, state and federal subsidies and grants, cross-subsidies from other state agency "partners", and loans using its rail lines as collateral and the State as a guarantor.
- ORDC's ORC permits it to finance capital expenditures with public revenue bonds. However ORDC discourages using bonds most likely because their PPP monopolized model cannot achieve the necessary revenues required to satisfy bond counselors.
- ODOT per the Federal highway trust fund and apparently the Ohio Constitution cannot use gas tax revenues for railway purposes, and therefore largely leaves that mode to private railroad companies and ORDC.

### Ohio Turnpike Commission

- OTC owns and actively administers a freeway using a public turnpike business and governance model.
- In 1949 OTC issued \$326M of tax-free revenue bonds (equivalent to \$2.779B in 2007) to finance construction of the Ohio Turnpike's I-76/I-80/I-90 Project #1.
- OTC has repaid those initial bonds and repays new capital expenditures with closed-loop accounting featuring accurate ton-mile use metering for toll assessments to adequately offset

administration expenses and debt service, and from other turnpike-related revenue sources.

- OTC has been subsidized by the State with a small percentage of the state gas tax and by a past joint test program with ODOT to shift more trucks from roadways to the Turnpike, but has never been subsidized by the federal government.
- OTC is an independent commission.
- OTC is non-profit and property tax-free.
- OTC is considered superior investment grade and one of the world's best turnpikes.
- OTC provides openly accessible competitive free market roadway to all qualified users including private freight and passenger carriers and the traveling public without engaging in competitive carriage service.
- OTC provides Universal Service – access to all gates on the line, and Consist Neutrality – its tolls are based upon ton-miles and not upon the commodity values of the consists hauled by carriers, nor does OTC grant preferential treatment or service to one commodity type over another. Some oversized, hazmat, and other special consists require additional permits and considerations.

#### Alameda (CA) Corridor Transportation Authority

- The Alameda Corridor Transportation Authority is an independent government agency that owns and administers 20 miles of railway right of way, infrastructure, and certain facilities between the Ports of Long Beach and Los Angeles.
- ACTA used public revenue bonds and a US DOT \$400M loan to purchase a rail line, increase its capacity to three tracks, and trench it below ground to avoid over 200 street crossings and greatly improve throughput and safety.
- ACTA assesses participating railroad companies use fees based on the number of loaded and unloaded intermodal containers and other train cars they haul on each train to adequately offset administration expenses and debt service.
- ACTA is non-profit and property tax-free.
- ACTA is not subsidized by other entities and is independent from the State of California's budget.
- The ACTA route has significantly relieved congestion on the adjacent Long Beach Freeway (I-710).

- The route will be electrified and the railroad companies' train engines will be converted from onboard internal combustion diesel generators supplying electric motors to straight electric motor engines to further help reduce pollution.
- Although the railroad companies are responsible for dispatching and certain other functions, ACTA is essentially a quasi-public/private railway turnpike.

OTC's Public Highway Turnpike Business and Governance Model Could Also Be Utilized For Public Railway Turnpike Provision

- OTC's ORC is rather easy to revise authorizing it to additionally engage in public railway turnpike provision. Other ORC sections require slight revisions, while the ORC regarding passenger rail service liability requires significant revisions to permit carriers to negotiate liability with OTC and not necessarily be required to carry standard \$200M coverage that is a significant barrier to marketplace entry.
- Railway metering, train location, and dispatching can be nearly fully automated with existing railroad industry standard "Automatic Equipment Identification" tags already attached to all train cars, and lineside tag readers and weigh-in-motion scales that could be networked to control centers.
- OTC public railway turnpike provision would help restore abandoned main line routes, improve intermodal service and multimodal distribution availability, and restore badly needed network redundancy.
- OTC public railway turnpike provision would demonopolize the traditionally monopolized railroad industry – "Common Carriers" would be converted into competitive "For-Hire" and "Private Carriers" without required "Trackage", "Freight", or "Use" rights (discretionary line segment access and use terms and conditions imposed upon third parties by host railroads). Shippers and receivers could choose to self-carry or hire third party carriers – choices they already have in the trucking industry. Demonopolization would help eliminate natural- and government-sanctioned monopolistic pricing power by railroad companies over shippers to encourage more economic development.
- OTC public railway turnpike ton-mile use metering would promote Consist Neutrality and (at least on OTC routes) end railroads' rates based in part upon consist commodity values.
- OTC public railway turnpike provision would help restore intercity, commuter, excursion, and other special passenger service trains, with better-targeted liability responsibilities between OTC and passenger service providers.

OTC public railway turnpike provision could help prevent future problems for its public highway turnpike business and governance model

- OTC might require a Division of Highways and a Division of Railways to keep the two modes separate yet share certain resources for expediencies.
- Additional multi-modal public turnpike "product lines" would help OTC balance traffic shifts among other modes under different competitive business and governance models to preserve its revenues.
- Gov. Ted Strickland's proposed and enacted subsidies of CSX's "National Gateway" and Norfolk Southern's "Heartland Corridor" East Coast-Midwest intermodal rail projects will siphon that traffic from both ODOT and OTC Interstates – in particular CSX vs. OTC from the PA-OH state line to the OH-IN state line, and NS vs. OTC from Bellevue to the OH-IN state line.
- Increasing state and federal subsidies to ODOT to restore and improve their adjacent freeway networks may shift truck traffic away from OTC.
- The PA Turnpike Commission is exploring tolling other infrastructures including interstate freeways (if permitted by US DOT).
- OTC does currently offer excess right of way easements to private telecommunication, electric, pipeline, and other modal providers.
- Public railway turnpike provision could increase OTC presence in other areas of Ohio to enhance their socioeconomic development potentials with multi-modal infrastructure provision.
- Additional OTC multi-modal provision better counters privatization and PPP efforts by hedge funds, investment banks, and questionable international interests.
- Additional OTC multi-modal provision preserves more US infrastructure assets, and increases state sovereignty, autonomy, and control of those assets.
- Additional OTC multi-modal provision using the public turnpike business and governance model provides better immunity from state and federal governments looking to control such projects or grab their revenues to balance their budgets or subsidize other unrelated projects and programs.

Potential OTC Railway Turnpike Mission

- Acquire inactive or threatened lines, and upgrade those lines if necessary.

- Acquire abandoned main line intercity rights of way and restore at least one track; later upgrade to two tracks.
- Offer to purchase and administer active railroad companies' unwanted lines if made available.
- Provide non-profit, tax-free, consist-neutral, universal service, demonopolized, fair and competitive market-based, multi-modal, intermodal, and multiple-use rights of way, rail infrastructure, and certain facilities without engaging in competitive carriage service.

#### Potential OTC Railway Turnpike Projects

- Assume ownership and administration of ORDC's Mingo Jct.-Columbus Panhandle Rail Line.
- Restore the abandoned Dayton-Indianapolis and Pittsburgh-Weirton segments for a seamless Philadelphia-Columbus-St. Louis I-70 rail corridor again vs. the multi-\$B I-70 truck-only lanes proposal.
- Restore and acquire the Youngstown-Cleveland partially abandoned and active but downgraded segment to reduce congestion and increase redundancy into Cleveland.
- Request the US Surface Transportation Board convey NS's Pittsburgh-Canton-Crestline and CSX's Crestline-Lima-Chicago lines to OTC for seamless Pittsburgh-Canton-Lima-Chicago administration as it existed before CSX and NS bisected this former Conrail line. Amtrak's "Broadway Limited" could also be returned to this route where it originally operated.
- Request the City of Cincinnati convey its Cincinnati-Chattanooga Cincinnati Southern Rwy. to OTC for open access competitive freight service and for a potential Chicago-Cincinnati-Atlanta-Miami Amtrak route.

#### Other Features of the Proposed Legislation

- The revised liability language would lower the market entry barrier on public rail lines per the type of rail passenger service provided.
- Carriers' and users' liability coverages would depend upon various risk factors including number of passengers per trains, frequency of train service, train speeds, permitted track speeds and track maintenance, trip distances, passenger car equipment safety, commingling with freight and other trains on the same or adjacent tracks, operator qualifications, etc.

## Issues, Misinformation, and Clarifications

- Public railway provision is nationalistic, socialistic, communistic, and anti-free market.

A "free market" is traditionally considered privately provided, but in the public turnpike model a government agency owns the rights of way, infrastructures, and certain facilities, and administers them as an equal open access non-profit market for all qualified users. This guarantees free and fair competitive trade and distribution, if the government agency also refrains from competitive carriage service. Private railroads chose to abandon line segments most likely because under their required return-on-investment models they were "under-performing", so public agencies should be permitted to restore and provide those segments as non-profit public ways. The airway industry being similarly government owned and administered for the benefit of private carriers and other users is usually not referred to as being Socialistic even with significant subsidies to airports and airlines.

- OTC would unfairly buy out private railroads.

OTC should initially concentrate on acquiring public rail lines and routes abandoned by private railroads to help restore intercity routes and provide badly needed redundancy on all other rail lines. If private railroads (or per the recommendations of their stockholders and analysts) desire to abandon or sell unwanted main line segments, OTC could consider their acquisition. The railroads would still be welcome to access and provide carriage service over those OTC rail lines.

- Government railway provision would result in increased unemployment due to layoffs from affected railroad companies.

Affected railroad companies' maintenance of way departments would not be required under government railway provision, just like trucking companies do not need MOW departments to maintain highways. OTC would require a MOW department for small repairs, while large construction projects would be bid out to private construction firms, both of which would require additional labor for all of the necessary improvements. Some railroad companies' upper management officials might not be needed after a line conveyance to OTC, which would increase their shareholders' profits by downsizing.

- Government railway provision would result in the loss of property tax revenues railroads have traditionally paid to local governments.

True, public rights of way, infrastructures, and certain facilities would be property tax free. However railroads' real and personal property tax assessments have since c.1990 been decreasing annually compared to private, corporate, and

industrial rates, as readily admitted during a public meeting by ORDC and a Class II carrier. Local government agencies can recoup these losses with savings on product costs resulting from open access competition for carriage service on public turnpike railways, and from increased lineside economic development potentials (if they limit property tax abatement incentives) and employment opportunities. Example – AEP could save coal haulage costs from their mine to their power plant by having multiple third party carriers compete for the service, and would have an option to transport their own coal if third party carriers' prices were unacceptably high. Railroad property tax losses could then be compensated for by cheaper electric power costs.

### Conclusion

OTC being authorized by the Ohio General Assembly to provide a public turnpike railway would represent a bold initiative, yet is pro-active to counter current state and federal economic challenges with the fiscal responsibility of a proven business and governance model.

The public turnpike model provides an ideal compromise between private monopolies, public monopolies, and hybrid sanctioned PPP monopolies.

The public railway turnpike model has been proven on a smaller scale with ACTA; now the State should expand upon the concept with its own proven OTC.