

State of Ohio Senate
Highways and Transportation Committee
Sen. Thomas F. Patton, Chair

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RE: Support of and Potential Amendment for SB 121

8-30-2009

Dear Chairman Patton and Committee Members:

I wish to express my support for SB 121 Transportation Innovation Authorities ("TIAs"). However to further rebuild and strengthen the State's surface transportation systems, I am offering for your consideration an amendment that would authorize the Ohio Turnpike Commission ("OTC") to additionally provide and administer the same surface transportation modes that SB 121 would authorize the TIAs to provide and administer.

Recall the Ohio Legislature Transportation Task Force once recommended the Ohio Department of Transportation create a 21st Century Transportation Priorities Task Force to further investigate intermodal, economic development, and financing issues. That new task force had been meeting most of last year and has since issued its final report. I had testified to both task forces regarding my proposal to authorize OTC to additionally engage in "public railway turnpike" provision and issue revenue bonds to construct new and reconstruct abandoned rail segments as a means to restore Ohio's rail network that has lost ~50% of its route mileage (**Attachments #1 Maximum Ohio Rail Network Map; #2 2004 Ohio Rail Network Map; #3 ODOT Maximum vs. Active Rail Network Map**). The Task Force generally concurred with my recommendation per the final report excerpt in **Attachment #4**.

HB 128-2 as introduced authorized ODOT to conduct toll projects for other modes including rail, water, and air. HB 128-2 as enrolled removed those other modes and now restricts ODOT to tolling highways (**Attachment #5 H.B. No. 2 As Introduced vs. Am. Sub. H.B. No. 2**). SB 121 authorizes TIAs to provide transportation projects including any road, highway, bridge, or other transportation facility as defined in section 5501.01 of the Revised Code ("Transportation facilities" means all publicly owned modes and means of transporting people and goods, including the physical facilities, garages, district offices, and other related buildings therefor, and including, but not limited to, highways, rights-of-way, roads and bridges, parking facilities, aviation facilities, port facilities, rail facilities, public transportation facilities, rest areas, and roadside parks); multimodal and intermodal transportation systems ("Multimodal and intermodal

transportation system" means a system of roads and highways, rail lines, water ports, airports, bicycle paths, pedestrian walkways, or public transit systems, including connections between them, and related facilities); and any freight or intercity passenger rail system.

Leaving OTC restricted to providing tolled highways while TIAs and ODOT (via TIAs) offer multiple transportation modes under both subsidized and tolled business models places OTC at a market disadvantage should users shift traffic to non-OTC modes. The following excerpts from Trains Magazine transportation reporter Don Phillips' column that appeared in the 3-2009 issue highlight the highway-to-rail traffic shift problem:

Railroads are expected to remain firmly profitable while small- and mid-size truck lines are going out of business by the bushel. Major trucking firms, the ones not going out of business, have nonetheless cut back capacity 20 to 30 percent. Sales of large trucks have almost ceased to exist for the time being. There are reports that many shippers are putting a greater percentage of freight on the rails now for two major reasons: Railroads are far more reliable and efficient than at any time in their history, and they are cheaper than trucks even at increased rail freight rates. So far, shippers seem to agree that the future belongs to rail. The assumption is that rail freight will grow faster than truck traffic for the foreseeable future.

Excerpts from Mr. Phillips' 6-24-2009 column provide an update of the railroad industry strategy:

Jim McClellan, a former Norfolk Southern senior vice president and now a part-time consultant with the Woodside Consulting Group, addressed a May 15 Michigan State University railroad management course held in Chicago. "After the recession, the world will change," there will be less "stuff" to move. Already, energy consumption is down, meaning somewhat less need for coal. Cars are smaller and more energy efficient, meaning less need for steel and plastics as well as fewer autos per railcar. Houses will be smaller and more energy efficient in the future, meaning less lumber, less furniture from Asia, and less electricity for heating and cooling. All of this means fewer imports from China, and railroads cannot count on coal and lumber to be their growth engines.

So what will be the new railroad growth engine if all these predictions come true? That answer appears to be here already: domestic intermodal. Even before McClellan's speech, I heard that J.B. Hunt and other big truckers are pushing to get more trailers and containers on rail – even more than they have in the past, and even as their traffic suffers because of the economy. The chronic driver shortage, coupled with the near certainty that fuel prices will again go sky-high and that road congestion will come back with a vengeance, have persuaded big truckers that

intermodal in the future is even more important than in the past. Therefore, even if ocean container shipping does not surge again, domestic intermodal may well take up the slack and then some.

Should the scenarios Mr. Phillips presented come true, OTC could unfairly encounter further losses since in this case it cannot additionally provide rail. **Attachments #6 and #7** from the OTC CFO's monthly reports show passenger car vehicle miles traveled from at least 4-2008 to 3-2009 were less than the respective times the year prior, though finally increased from 3-2009 to 6-2009. OTC reported at their 7-20-2009 meeting the mileage continued increasing to 4.8%. However **Attachments #8 and #9** show commercial vehicle miles were down significantly between 4-2008 to 5-2009, with 6-2009 levels having decreased 14.9%. OTC Executive Director George Distel admitted in past testimony that some traffic had been lost to rail, although the amount has not been quantified.

The additional modal "lines of business" could help OTC capture those traffic counts and toll revenues shifting to rail within OTC's corridor, particularly CSX's Baltimore-Pittsburgh-Youngstown-Toledo-Chicago "National Gateway" and Norfolk Southern's Norfolk, VA-Columbus-Bellevue-Toledo-Chicago "Heartland Corridor" and their NYC/Philadelphia-Pittsburgh-Cleveland-Toledo main lines that have recently received federal and state subsidies.

Should the traffic shifts continue, OTC might be forced in the near future to ask the Legislature for subsidies thereby affecting its debt ratings and ability to finance its independent administration, debt retirement, maintenance, and capital expenditures much less future projects (i.e., replacing the original Turnpike concrete base).

Authorizing OTC to engage in other surface transportation modes financed by revenue bonds repaid with tolls like its highway turnpike might not require federal or state subsidies thereby assisting both governments' budgets. Increased availability of public, openly accessible infrastructure for all qualified users would also help goods producers (including vehicle manufacturers) lower shipping costs to retain and create better jobs here necessary to recover our economy. Additional infrastructure would help rollout more modes to unserved and underserved areas across the state, ease traffic congestion in various Ohio regions, and provide additional route availability and redundancy for private providers' own networks. OTC would administer other modal projects like its current turnpike, and likewise would refrain from competitive carriage service against its users.

The proposed legislation is **Attachment #10: Proposed Amendment to HB 128-166/SB 128-121 "Transportation Innovation Authorities" Authorizing the Ohio Turnpike Commission to Additionally Engage in Multiple Modes of Surface Transportation Using OTC's Public Turnpike Business and Governance Model - Required Revisions to the Ohio Revised Code c.5-24-2009.** The required changes involve numerous related

chapters and sections, but are relatively minor and mostly replace "highways" with "other modes".

Thus I ask Chairman Patton and the Committee to consider my proposed amendment to enhance the state's transportation improvements in SB 121 and HB 2. Please contact me at your convenience for any questions.

Sincerely,

A handwritten signature in black ink that reads "Daniel L. Van Epps". The signature is written in a cursive, flowing style.

Daniel L. Van Epps

About the Author

Daniel L. Van Epps, 43, is the executive director of the Conotton-Sandy-Tuscarawas Valley Community Improvement Corp. he helped create that serves the NE Tuscarawas County area. The CSTVCIC is proposing projects ranging from restoring abandoned area rail lines with the CSTVCIC administering and operating them as an Ohio Turnpike-like public railway turnpike; an intermodal facility at Dennison; a public grain elevator/transload facility at Zoarville; and together with a new Akron-Uhrichsville I-77 corridor conduit and fiber line to help rollout backbone speed and dark fiber availability and increased network redundancy in the Pittsburgh-Cleveland-Columbus corridor, the repurposing of an apparently abandoned Pittsburgh-Columbus military conduit and fiber line for public use by the military, Homeland Security, telecommunication carriers, universities, supercomputer centers, and lineside end users. More information is available at <http://www.cstvcic.org>

Mr. Van Epps is currently an Ed.D. candidate in Technology Education/Systems Analysis at West Virginia University. He holds a fiber optic certificate from Lansing (MI) Community College, a BA and MA in Telecommunications/Information Systems and Technology from Michigan State University, a Masters Certificate in Intelligent Transportation Systems from the University of Michigan, and has taken a graduate railroad business course at Carnegie Mellon University. Originally from Detroit, MI and a graduate of Dover (OH) High School, he is also an independent researcher, lobbyist, and consultant.